16TH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

Senate
Office of the Secretary

'14 MAY 27 P6 :28

RECEIVED BY:

SENATE
Senate Bill No. 2249

Introduced by SENATOR SONNY ANGARA

AN ACT
TO STRENGTHEN THE SUSTAINABILITY AND COMPETITIVENESS OF THE PHILIPPINE MOTOR VEHICLE MANUFACTURING INDUSTRY

EXPLANATORY NOTE

The market for motor vehicles is expected to climb to as high as 5 to 6 million in 2022 and up to 12 million by 2030 in the ASEAN region, according to the projections of , an international consulting firm McKinsey & Company. In the Philippines alone, from a total turnover of 183,000 units in 2012, our institutional market is expected to climb to 310,000 units in 2016, and as high as 500,000 in 2022.

The prospect looks good. However, our automotive industry may not be able to respond to this demand given its current state.

Of the five car-making countries in the region, the Philippines is the smallest in terms of production volume, with an output of 72,000 units in 2012, versus 74,000 units produced by Vietnam and 2.4 million units of Thailand.

In 2002, the ratio between completely knocked down (CKD) and completely built units (CBU) was 98:2. After a decade, the ratio is now 39:61 in favor of CBUs.

According to estimates, it is 14% more expensive to manufacture a car in the Philippines compared to Thailand. To make a car in the Philipines, assembly cost is 16% of its total cost as against Thailand's 13%. While 23% of the cost of producing a car in the Philippines goes to locally produced parts, 49% are imported from Thailand. To produce a car in Thailand, on the other hand, only 7% of its cost goes to parts imported from the Philippines and a huge 67% is sourced locally.

Aside from the cost handicap, other problems faced by the local industry include smuggling, red tape in the bureaucracy and high power rate and its unreliable supply.

To top this, car manufacturers from Thailand, Malaysia, Indonesia and Vietnam enjoy aggressive fiscal support measures thereby helping them achieve a critical mass economies of scale and reducing their per unit production costs.[1]

Thus, the government is exhorted to extend able support to our car manufacturers, for them to be able to take advantage of the significant opportunities before us. Introducing policies and regulations to strenghten the automotive manufacturing industry is a sound approach towards generating quality jobs, increasing household income and government revenues.

This bill aims to provide fiscal and non-fiscal incentives both for the assemblers and parts makers in the automotive industry. By offering these incentives, it is hoped that the business environment shall be conducive to grow the ailing Philippine auto supply chain, make it as competitive as Thailand and capture a huge volume of the ASEAN and not just the domestic market.

In view of the foregoing, the early passage of this bill is earnestly sought.

SENATOR SONNY ANGARA

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[1] Expectations and Aspirations of the Philippine Automotive Manufacturing Industry, Presentation by PACCI Executive Director Ramon Vicente Kabigting

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Title.* – This Act shall be known as, "The Philippine Motor Vehicle Manufacturing Industry Competitiveness Act of 2014."

SECTION 2. *Declaration of Policy.* – The national economy shall be geared towards sustainable inclusive economic growth and will be developed by promoting industrialization through competitive industries and by encouraging enterprise. In recognition of the significant role in economic development and nation-building of the Philippine Motor Vehicle Manufacturing Industry, as well as its central function in the country's industrial and manufacturing sectors, the following are the declared policies of the State:

a) The State shall develop a comprehensive policy that will fast-track the sustainable development and competitiveness of the Philippine Motor Vehicle Manufacturing Industry, thereby effectively contributing to industrial capital formation and employment generation;

b) The State shall ensure a balanced transition phase to free trade at a minimized risk to the Philippine Motor Vehicle Manufacturing Industry by efficiently developing its capacities for competitiveness and promoting greater participation in a further globalized economy through increased export;

c) The State shall promote the maximum scale integration of vehicle manufacturing and the assembly of its respective parts and components;

d) The State shall encourage the effective and sustainable implementation of research and development activities, including, but not limited to, technology transfer, testing facilities and activities, and the promotion of automotive skills training and development as a means to enhance the competitiveness of the Philippine Motor Vehicle Manufacturing Industry; and

e) The State shall integrate motor vehicle manufacturing into the overall transport policies and programs of the national government to optimize the sustained growth and competitiveness of the Philippine Motor Vehicle Manufacturing Industry and to ensure the development of sustainable transportation systems in the country.

SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms are defined as follows:

a) "Board of Investments (BOI)" refers to the attached agency of the Department of Trade and Industry created under Republic Act No. 5186.

b) "Department of Trade and Industry (DTI)" refers to the government agency created pursuant to Executive Order No. 133, series of 1987.

c) "Investment Priorities Plan (IPP)" refers to the overall plan prepared by the BOI in accordance with the provisions of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, as amended.

d) "Motor Vehicle Manufacturing Industry" encompasses enterprises that are engaged in the manufacture of motor vehicles and its parts and accessories or components.

e) "Manufacture of Motor Vehicles" refers to the activities classified under Section D, Division 34, Group 341 of the United Nations (UN) International Standard Industrial Classification of All Economic Activities (ISIC) Revision (Rev.) 3, which includes the manufacture of passenger cars, commercial vehicles, buses, trolley-buses and coaches, motor vehicle engines, chassis fitted with engines and other motor vehicles.

This also refers to the activities classified under Section D, Division 35, Group 359, Class 3591 of UN ISIC Rev. 3, which includes the manufacture of motorcycles (including mopeds) and cycles fitted with an auxiliary engine, whether or not with attached side-car, and "delivery" or "sporting" motorcycles.

f) "Manufacture of Parts and Accessories of Motor Vehicles" refers to the activities classified under Section D, Division 34, Group 343 of the UN ISIC Rev. 3, which includes the manufacture of parts and accessories for motor vehicles, including their bodies and engines: brakes, gear boxes, axles, road wheels, suspension shock absorbers, radiators, silencers, exhaust pipes, clutches, steering wheels, steering columns and steering boxes and other parts and accessories not elsewhere classified.

This also refers to the manufacture of bodies (coachwork) for motor vehicles, engines for motorcycles, side-cars, and parts and accessories of motorcycles.

g) "Medium Term Philippine Development Plan (MTPDP)" refers to the master plan for economic development implemented by the National Economic Development Authority (NEDA), which identifies growth sectors for the next six (6) years and defines the programs, policies, strategies and action plans to the economic development goals of the government.

h) "Philippine Export Development Plan (PEDP)" refers to the rolling three (3) year export development plan prepared by the DTI, which defines the country's annual and medium-term export thrusts, strategies, programs and projects jointly implemented by the government, export sector and other concerned stakeholders.

SECTION 4. *National Motor Vehicle Manufacturing Development Plan (NMVMDP).* – The DTI, through the BOI, in consultation with the representatives from the private sector, the academe and other pertinent stakeholders, shall prepare and implement a rolling three (3) year National Motor Vehicle Manufacturing Development Plan, hereinafter referred to as the "Plan". This Plan shall be validated and updated annually by the BOI.

The Plan, which shall be integrated into the PEDP and the MTPDP, will define the Philippine Motor Vehicle Manufacturing Industry's annual and medium-term manufacturing and export targets, as well as its programs and strategies to support the country's manufacturing and export thrusts. The Plan shall also identify priority development products, which shall be characterized by high manufacturing value-added and with high potential for economic efficiency, as primary focus of incentives.

SECTION 5. *Fiscal Incentives for Manufacturers of Motor Vehicles, Parts and Accessories.* – Enterprises engaged in the manufacture of motor vehicles, parts and accessories duly registered with the BOI as participant under the National Motor Vehicle Manufacturing Development Plan (NMVMDP), shall be entitled to the following incentives:

a) Income tax-based - A manufacturer may choose any of the following options as its income tax-based incentive, subject to the condition that its choice shall be final and cannot be changed:

i. 7% Gross Income Earned – A manufacturer may avail of the seven percent (7%) tax on GIE in lieu of all national and local taxes, except Value Added Tax (VAT) and Real Property Tax on land owned by private developers.

OR

ii. 15% Reduced Income Tax - A manufacturer may be entitled to a reduced income tax rate of fifteen percent (15%) instead of the regular income tax rate provided for in the National Income Revenue Code, as amended.

b) *Net Operating Loss Cary-Over (NOLCO).* – A net operating loss incurred during the first three (3) years of operations shall be carried over as a deduction from taxable income for the seven (7) consecutive taxable years immediately following the year of such loss. *Provided, however,* That the net operating shall be computed in accordance with the provisions of the National Internal Revenue Code and its Implementing Revenue Regulations, any provision of this Act to the contrary notwithstanding, except that income not taxable either in whole or in part under thus or other laws shall be included in gross income.

c) *Accelerated Depreciation.* – At the option of the taxpayer and in accordance with the procedure established by the Bureau of Internal Revenue (BIR), fixed assets may be (1) depreciated to the extent of not more than twice as fast as normal rate of depreciation or depreciated at normal rate of depreciation if expected life is ten (10) years or less; or (2) depreciated over any number of years between five (5) years and expected life if the latter is more than ten (10) years; and the depreciation thereon allowed as a deduction from taxable income *Provided,* That the taxpayer notifies the BIR at the beginning of the depreciation period which depreciation rate allowed by thus section will be used by it.

d) *Deduction on Training Expenses.* – In addition to the allowable ordinary and necessary expenses on training which are fully deductible under the provisions of the National Internal Revenue Code, expenses incurred in training schemes approved by the appropriate agency shall be eligible for deduction during the financial year the expenses were incurred:

i. Expenses incurred in providing employees training shall be eligible for single deduction; and
ii. Expenses incurred in providing training to Small and Medium Enterprise (SME) parts manufacturers shall be eligible for double deduction;

e) *Double Deduction on Research and Development.* – Expenses incurred for research and development activities shall be eligible for double deduction from taxable income.

f) *Tax and Duty Free Importation of Capital Equipment.* – The importation of machinery, equipment and its accompanying spare parts imported in the name of the manufacturer as consignee shall be exempt to the extent of one hundred percent (100%) of the duties and taxes payable thereon, *Provided,* That the importation complies with the following conditions:

i. These are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;
ii. These are reasonably needed and will be used exclusively in the manufacture of motor vehicles; and
iii. Prior approval of the BOI was obtained for the importation of such machinery, equipment and its accompanying spare parts.

Provided further, That such machinery, equipment and accompanying spare parts shall not be sold, transferred or disposed without the prior approval of the BOI within five (5) years from date of acquisition, in which case the manufacturer as consignee and the vendee, transferee, or assignee shall be solely liable to pay twice the amount of the duty and tax exemption given it.

g) *Tax and Duty Free Importation of Training Equipment.* – The importation of equipment, tools and implements for in-house training projects and imported in the name of the manufacturer as consignee shall be exempt to the extent of one hundred percent (100%) of the duties and taxes payable thereon, *Provided,* That the importation comply with the following conditions:

i. These are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;
ii. These are reasonably needed and will be used exclusively for training projects; and
iii. Prior approval of the BOI was obtained for the importation of such equipment, tools and implements.

Provided further, That such equipment, tools and implements shall not be sold, transferred or disposed without the prior approval of the BOI within five (5) years from date of acquisition, in which case the manufacturer as consignee and the vendee, transferee, or assignee shall be solely liable to pay twice the amount of the duty and tax exemption given it.

h) Qualified enterprises availing of incentives provided under this Act and its Implementing Rules and Regulations shall be eligible to incentives and privileges provided for by other special laws:

i. Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, *Provided,* That the manufacture of motor vehicles shall regularly form part of the IPP as a preferred area for investments, unless otherwise declared by law;
ii. Republic Act No. 7844, otherwise known as the Export Development Act of 1994;
iii. Republic Act No. 7916, otherwise known as the Special Economic Zone Act of 1995, as amended; and
iv. Issuances related to the implementation of the NMVMDP.

Provided, That the enterprise shall register under the aforementioned laws and that there is no double availment of the same incentives.

SECTION 6. *Period of Availment of Incentives.* – The total period of availment of all tax incentives enjoyed by a manufacturer provided herein shall in no case exceed twenty (20) years.

SECTION 7. *Congressional Oversight Committee on the Competitiveness of the Motor Vehicle Manufacturing Industry.* - To ensure the effective implementation of this Act, a

Congressional Oversight Committee on the Competitiveness of the Motor Vehicle Manufacturing Industry is hereby created to be composed of the Chairs of the Committee on Trade of both Houses, six (6) members of the House of Representatives and six (6) members of the Senate, to be designated respectively by the Speaker of the House and by the President of the Senate, who shall endeavour to have the various stakeholders of the Philippine Motor Vehicle Manufacturing Industry represented.

The Chairs of the Committees on Trade in the Senate and House of Representatives shall be, respectively, the Chair and Co-Chair of the Oversight Committee. The other members shall receive no compensation; however, traveling and other necessary expenses shall be allowed. The Committee shall oversee and monitor the implementation of the National Motor Vehicle Manufacturing Development Plan, as well as all programs, projects and activities related to the competitiveness of the Philippine Motor Vehicle Manufacturing Industry, and its aligned concerns in both public and private sectors, with a view to providing all legislative support and assistance within the powers of Congress to ensure their inclusion, wherever feasible, in the national, regional, provincial, municipal, and sectoral development plans, and to see them through their successful implementation.

SECTION 8. *Powers and Functions of the Committee.* – The Congressional Oversight Committee on the Competitiveness of the Motor Vehicle Manufacturing Industry shall have the following powers and functions:

a) Prescribe and adopt guidelines that will govern its work;

b) Hold hearings, receive testimonies and reports pertinent to its specified concerns;

c) Secure from any department, bureau, office or instrumentality of the Government such assistance as may be needed, including technical information, preparation and production of reports and submission of recommendations or plans as it may require;

d) Summon by *subpoena* any public or private citizen to testify before it, or require by *subpoena duces tecum* to produce before it such records, reports or other documents as may be necessary in the performance of its functions;

e) Use resource persons from the public and private sectors as may be needed;

f) Approve the budget for the work of the Committee and all disbursements therefrom, including compensation of all personnel;

g) Organize its staff and hire and appoint such employees and personnel whether temporary, contractual or on consultancy, subject to applicable rules; and

h) Generally, to exercise all the powers necessary to attain the purposes for which it is created.

SECTION 9. *Periodic Reports.* – The Committee shall submit periodic reports on its findings and make recommendations on actions to be taken by Congress and the appropriate departments, and that in order to carry out the objectives of this Act, an initial amount of Twenty Million Pesos (P20,000,000.00) is hereby appropriated for the Oversight Committee for the first year of its operation.

SECTION 10. *Automatic Review.* – Every five (3) years after the effectivity of this Act, the oversight committee shall review the policies and programs in the National Motor Vehicle Manufacturing Development Plan and shall make recommendations, based on its findings, to the President and to both Houses of Congress.

SECTION 11. *Rationalization Measures.* – In general, the Government shall formulate and implement rationalization measures in specific areas in need of adjustment, or where existing policies are challenged, rendered inefficient or obsolete by varying business climate with the end view of promoting economies of scale, efficiency, productivity and competitiveness.

SECTION 12. *Harmonization with Non-Fiscal Support Measures.* – The Government shall formulate and implement industry-wide non-fiscal support measures that will harmonize the goals of the Philippine Motor Vehicle Manufacturing Industry towards effective and consistent regulation, transparency in its rules, and sustaining efficiency, productivity, cost-reduction and competitiveness. These aforementioned measures should address the strengthening of supporting and complementing industries such as, but not limited to, steel, plastic and electrical in order to establish a strong and sustained foundation for the aforementioned industry.

SECTION 13. *Implementing Rules and Regulations (IRR).* – The Secretary of the DTI, within ninety (90) working days after the effectivity of this Act, in consultation with the Department of Finance (DOF), the National Economic and Development Authority (NEDA) and other agencies concerned, the private sector and other concerned stakeholders, and in coordination with the Congressional Oversight Committee on the Competitiveness of the Motor Vehicle Manufacturing Industry, shall promulgate the rules and regulations for the effective implementation of this Act. The Secretary of the DTI shall submit to the Committee on Trade of both Houses of Congress copies of the IRR within thirty (30) days after their promulgation.

Any violation of this section shall render the official/s concerned liable under Republic Act No. 6713 otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees" and other existing administrative and/or criminal laws.

SECTION 14. *Repealing Clause.* – All laws, decrees, executive issuance, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 15. *Separability Clause.* – The provisions of this Act are hereby declared to be separable, and in the event one or more of such provisions are held unconstitutional, the validity of the other provisions shall not be affected thereby.

SECTION 16. *Effectivity*. – This Act shall take effect thirty (30) days from the date of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,