

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

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SENATE

S. No. 1612

Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

In 1995, Congress ratified the Philippines' accession to the World Trade Organization, (WTO), emboldened by the projected gains from free trade that, it was claimed, the Philippines would reap under the aegis of the WTO.

Six years after that important milestone, the prognosis is that globalization under the WTO has failed to deliver on the benefits promised to domestic producers. Numerous studies have been conducted in response to calls to reevaluate the globalization paradigm and its implications on the domestic economy and on public welfare from a better-informed perspective. The most striking finding is that while the government made extremely liberal commitments to the WTO, and did its utmost to comply with those commitments, it fell short of many of its commitments to domestic producers in terms of safety nets, supportive legislation, and the provision of adequate public goods to support competitive markets.

Free trade under the WTO is a game that we have to play well, if we are as a nation, to gain benefits from free trade. Sadly, our participation in the WTO has thus far been flawed by half-hearted efforts at consensus building on the domestic front and poorly prepared negotiating positions in international trade fora. In order to succeed, the promotion of Philippine products in global markets needs to be championed by a competent negotiator and statesman at its helm and supported by an aggressive policy stance. With such a helmsman, domestic production policies can then more easily focus on the development of competitiveness among our industries.

This bill seeks to create the Office of the Philippine Trade Representative under the Office of the President. As the country's chief negotiator, the Philippine Trade representative will coordinate all trade-related policies, wage the trade game for us against the other governments of the world, and win market access for our products. Without this organization to marshal the resources needed to wage the trade game, our membership in the WTO could well turn out to be a liability and a burden to our people.

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


MANUEL "LITO" M. LAPID
Senator

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**AN ACT
CREATING THE OFFICE OF THE TRADE REPRESENTATIVE,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

SECTION 1. Short Title. - This Act shall be known as the "*Charter of the Office of the Philippine Trade Representative*".

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State to pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity. For this purpose, the State shall ensure that a single office shall, with competence, coordinate all government policies, positions and measures with respect to international trade relations and negotiations.

SEC. 3. Creation. - There is hereby created within the Office of the President the Office of the Philippine Trade Representative, hereinafter referred to as the "Office".

The Office shall be headed by the Philippine Trade Representative who shall be appointed by the President, subject to confirmation by the Commission on Appointments (CA).

The Philippine Trade Representative shall hold office at the pleasure of the President, shall be entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

There shall be in the Office three (3) Deputy Philippine Trade Representatives who shall be appointed by the President, subject to confirmation by the Commission on

Appointments. Each Deputy Philippine Trade Representative shall hold office at the pleasure of the president and shall have the rank of Ambassador.

SEC. 4. *Limitation on Appointments.* - A person who has directly represented, aided or advised a foreign entity in any trade negotiation or trade dispute with the Philippines may not be appointed as Philippine Trade Representative or as a Deputy Philippine Trade Representative.

SEC. 5. *Functions and Responsibilities of the Philippine Trade Representative.* The Philippine Trade Representative shall:

- (a) Have primary responsibility for developing, and for coordinating the implementation of Philippine international trade policy, including commodity matters, and to the extent they are related to international trade policy, direct investment matters;
- (b) Serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the Philippine Government on international trade;
- (c) Have lead responsibility for the conduct of, and shall be the chief representative of the Philippines for international trade negotiations, including all negotiations on any matter considered under the auspices of the World Trade Organization, commodity and direct investment negotiations, in which the Philippines participates;
- (d) Issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions including any matter considered under the auspices of the World Trade Organization, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;
- (e) Act as the principal spokesman of the President on international trade;
- (f) Report directly to the President and Congress regarding, and be responsible to the President and Congress for the administration of trade agreement programs;

- (g) Advise the President and Congress with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreement programs;
- (h) Be responsible for making reports to Congress with respect to matters referred to in sub-paragraphs (c) and (f);
- (i) Be chairman of the interagency committee on Trade-Related Investment Matters (TRIMS); and
- (j) Be responsible for such other functions as the President may direct.

SEC. 6. *Ex-officio positions and functions of the Philippine Trade Representative.* - The Philippine Trade Representative shall:

- (a) Be the senior representative on any body that the President may establish for the purpose of providing to the President advise on overall economic policies in which international trade matters predominate; and
- (b) Be included as a participant in all economic summit and other international meetings at which international trade is a major topic.

SEC. 7. *Authorities of the Philippine Trade Representative.* - The Philippine Trade Representative may:

- (a) Delegate any of his functions, powers and duties to such officers and employees of the Office as he may designate; and
- (b) Authorize such successive re-delegations of such functions, powers and duties to such officers and employees of the Office as he may deem appropriate.

SEC. 8. *Functions of Deputy Philippine Trade Representatives.* - Each Deputy Philippine Trade Representative shall have as his/her principal function the conduct of trade negotiations under this Act and shall have such other functions as the Philippine Trade Representative may direct.

SEC. 9. *Inter-Agency Coordination.* - In carrying out his functions and responsibilities with respect to unfair trade practices, the Philippine Trade Representative shall:

- (a) coordinate the application of interagency resources to specific unfair trade practice cases;
- (b) identify, and refer to the appropriate department or agency of the national government for consideration with respect to action, act, policy or practice referred to in the required report or otherwise known to the Philippine Trade Representative on the basis of other available information, that may be an unfair trade practice that either:
 - i. is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on Philippine commerce, or
 - ii. has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws.
- c) identify practices having a significant adverse impact on Philippine commerce that the attainment of Philippine negotiating objectives would eliminate; and
- d) identify, on a biennial basis, those Philippine government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under Philippine law.

For purposes of carrying out the above functions, the Philippine Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Philippine Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

- a) the National Economic Development Authority;
- b) the Department of Trade and Industry; and
- c) the Department of Agriculture.

The Philippine Trade Representative may, for the purpose of carrying out his functions in this section:

- (1) subject to the civil service and classification laws, select, appoint, employ and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties;
- (2) employ experts and consultants in accordance with laws and compensate individuals so employed for each day;
- (3) promulgate such rules and regulations as may be necessary to carry out the functions, powers and duties vested in him;
- (4) utilize, with their consent, the services, personnel and facilities of other national agencies;
- (5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Philippine Trade Representative may deem appropriate, with any agency or instrumentality of the Philippine government, or with any public or private person, firm, association, corporation or institution;
- (6) accept voluntary and uncompensated services, notwithstanding the provisions of the Civil Service Code;
- (7) adopt an official seal, which shall be judicially noticed; and
- (8) accept, hold, administer, and utilize gifts, devises and bequests of property, both real and personal for the purpose of aiding or facilitating the work of the Office.

The Philippine Trade Representative shall, to the extent he deems necessary for the proper administration and execution of the trade agreement programs of the Philippines, draw upon the resources of, and consult with, national agencies in connection with the performance of his functions.

SEC. 10. *Transfer of Functions.* - The Foreign Trade Service Corps Coordinating Office, the Bureau of Export Trade Promotion and the Bureau of International Trade Relations under the Department of Trade and Industry are hereby transferred to the Office of the Philippine Trade Representative.

The rules and regulations for the implementation of the transfer of the above agencies shall be promulgated jointly by the Office and the Department of Trade and Industry (DTI).

SEC. 11. *Appropriations.* - The sum of Ten Million Pesos (Php10,000,000.00) is hereby authorized to be appropriated to the Office for the purposes of carrying out its functions. Thereafter, there is hereby authorized to be appropriated to the Office for the salaries of its officers and employees such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Salary Standardization Act.

SEC. 12. *Implementing Rules and Regulations (IRR).* - Within 60 days of the effectivity of this Act, the President shall appoint the Philippine Trade Representative, who shall, in consultation with the Departments of Trade and Industry, Agriculture, Foreign Affairs and the National Economic Development Authority, issue the necessary rules and regulations to implement the provisions of this Act.

SEC. 13. *Separability Clause.* - If any section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions not affected thereby shall continue to be in full force and effect.

SEC. 14. *Repealing Clause.* - Laws, rules and regulations and other issuances inconsistent with the provisions of this Act are deemed modified, revoked or repealed accordingly.

SEC. 15. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved,