


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

7 JUN 30 2016

SENATE

RECEIVED BY: 

S. No. 252

INTRODUCED BY THE HONORABLE MAR ROXAS

EXPLANATORY NOTE

This bill seeks to create the Philippine Trade Representative Office which shall be the central government agency that will handle international trade policy formulation and negotiations, while maintaining effective coordination with other branches of government.

The globalized world has been marked by closer political and economic integration among different countries, the most significant manifestations of which are the multilateral and bilateral trade agreements which inevitably affect the member economies. The Philippines is a signatory to the WTO, takes part in the ASEAN Free Trade Area (AFTA), and acceded to the Early Harvest Program under the China-ASEAN FTA. Recently, the Philippine government concluded bilateral negotiations with Japan, pending ratification by the Senate, and is considering bilateral talks with the US, Australia, Korea, and India. In this milieu of trade negotiations, the importance of a well-defined national policy and coherent negotiating position cannot be overemphasized. Sadly, there are undeniable deficiencies in the manner by which the Philippine government currently formulates its trade policies and conducts its negotiations.

Unlike other countries, the Philippines has no single authoritative agency that handles trade policy development and negotiations. Instead, it has several line agencies and *ad hoc* committees with overlapping functions and responsibilities. The Trade and Related Matters Committee (TRMC) is the body tasked to coordinate agency positions and recommend national positions for international and economic negotiations. It has a Technical Committee composed of different line agencies, which handles trade and investment agreements, among others. It receives technical and administrative support from a NEDA-based secretariat. The TRMC also has a separate Technical Committee on WTO Matters (TCWM), which is supported by the WTO Desk of the Bureau of International Trade Relations (BITR) of the DTI. The TCWM has technical subcommittees on agriculture, services, industrial goods, and other rules, which are headed by the DA, NEDA, DTI-BOI, and DTI respectively. The TRMC, however, has no jurisdiction over ASEAN and APEC matters as it is handled by the Philippine Council on ASEAN and APEC Cooperation (PCAAC). And yet, the BITR-DTI maintains desks for ASEAN and APEC concerns. Just in 2003, another committee, the Philippine Coordinating Committee (PCC), was created to take the lead in the talks for the Japan-Philippines Economic Partnership Agreement (JPEPA). Its Secretariat falls under BITR-DTI. Finally, the Department of Foreign Affairs – being the primary agency involved in international relations – is likewise involved in the functions of these committees.

Clearly, there is in the current structure a replication of functions and fragmentation of authority, which does not serve the country's interests. The research conducted by the Philippine Institute of Development Studies (PIDS) in September 2005 notes that the different line agencies sitting in the TRMC tend to be caught up in a turf mentality that prevents the creation of a cohesive cross-industry strategy. In the absence of a central authority, the line agencies always insist upon the protection of the sectors or industries they represent leading to divided attention in negotiations and a less than optimal final proposal. That there is no clear-cut hierarchy, mandate, and delineation of authority in the current structure is highlighted by the fact that the government still had to create the PCC for the JPEPA negotiations despite the existence of the TRMC and PCAAC. Aside from these institutional flaws, not enough resources are put into trade research, which makes line agencies dependent and vulnerable to the studies and analyses of private sector lobbyists.

With the creation of the Trade Representative Office, it is hoped that the country will have a more cohesive position and well-formulated policies in its trade negotiations. It will consolidate all the agencies, committees, and bodies currently engaged in trade policy formulation and negotiations into one comprehensive institution. Budgetary support shall be granted to trade policy research and skill and capacity building of trade negotiators. Private sector participation will be tapped to identify the different issues affecting the industries that are necessary inputs in the trade policy development and negotiation process. All of these are aimed at institutionalizing the competence, efficacy, and competitiveness of the country in the arena of multilateral and bilateral trade talks.

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



M A R ROXAS
Senator

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

7 JUN 30 1976

SENATE

RECEIVED BY: WA

S. No. 252

INTRODUCED BY THE HONORABLE MAR ROXAS

AN ACT
CREATING THE PHILIPPINE TRADE REPRESENTATIVE OFFICE,
APPROPRIATING FUNDS THEREOF, AND FOR OTHER PURPOSES

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

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

3 SEC. 2. Declaration of Policy. It is hereby declared the policy of the State to pursue a
4 trade policy that serves the general welfare, promotes and supports domestic agriculture and
5 industry, and pursues national interest. For this purpose, the State shall ensure that a single,
6 competent, and accountable office shall coordinate all government policies, positions, and
7 measures with respect to international trade relations and negotiations.

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

10 The Trade Office shall be headed by the Philippine Trade Representative who shall be
11 appointed by the President, subject to confirmation by the Commission on Appointments.
12 He shall hold a fixed term of six (6) years, shall be entitled to receive the same allowances as
13 a Chief-of-Mission, and shall have the rank and emoluments of Ambassador Extraordinary
14 and Plenipotentiary.

1 Further, the Trade Office shall have three (3) Deputy Philippine Trade
2 Representatives who shall be appointed by the President with the confirmation of the
3 Commission on Appointments. Each Deputy Philippine Trade Representative shall hold
4 office at the pleasure of the President and shall have the rank of Ambassador.

5 The Deputies shall have a term of six (6) years each. The first set of Deputies shall
6 have six-, four-, and two-year terms respectively so that, thereafter, a Deputy shall be
7 replaced every two years. They can be re-appointed for no more than a second term.

8 **SEC. 4. Limitation on Appointments.** Persons who have directly represented, aided,
9 or advised a foreign entity in any trade negotiation or trade dispute with the Philippines,
10 may not be appointed as Philippine Trade Representative or as a Deputy Philippine Trade
11 Representative.

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

- 14 a) Formulate the Philippine trade position based on a national development agenda that is a
15 product of regular and meaningful consultation with industrial and agricultural
16 producers as well as exporters.
- 17 b) Develop and coordinate, monitor and ensure the implementation of Philippine
18 international trade policy, including direct investment matters, to the extent that they
19 are related to international trade policy.
- 20 c) Asserting and protect the rights and interests of the Philippines under all bilateral,
21 regional and multilateral trade agreements.
- 22 d) Serve as the principal advisor to the President on international trade policy and shall
23 advise the President on the impact of other policies of the Philippine Government on
24 international trade.

- 1 e) Act as the chief spokesperson for the President on international trade agreements and
2 trade policy.
- 3 f) Represent the Philippines in all international trade negotiations, including, but not
4 limited to, any matter considered under the auspices of the World Trade Organization,
5 and other regional and bilateral commodity and direct investment negotiations, in which
6 the Philippines participates.
- 7 g) Report directly to the President and Congress the implementation, operation, and
8 effectiveness of any trade agreement entered into, the administration of trade agreement
9 programs, including the status of on-going trade and direct investment negotiations, non-
10 tariff barriers, international commodity agreements, and other matters relating to the
11 trade agreement programs.
- 12 h) Issue policy guidance to government departments and agencies on basic issues of policy
13 and interpretation arising from the exercise of international trade functions including,
14 but not limited to, any matter considered under the auspices of the World Trade
15 Organization and other regional and bilateral trade agreements, to the extent necessary
16 to assure the coordination of international trade policy and its consistency with other
17 laws.
- 18 i) Coordinate quick and decisive inter-agency response to specific cases of unfair trade
19 practices and import surges.
- 20 j) Be the chairperson of the inter-agency committee on Tariff and Related Matters (TRM).
- 21 k) Perform such other functions as the President may direct.

22 **SEC. 6 . Ex-officio positions and functions of the Philippine Trade Representative.**

23 The Philippine Trade Representative shall:

- 1 a) Be the senior representative on any body that the President may establish for the purpose
2 of advising the President on overall economic policies in which international trade
3 matters predominate; and
- 4 b) Be included as a participant in all economic summits and other international meetings at
5 which international trade is a major topic.

6 **SEC. 7. Powers of the Philippine Trade Representative.** The Philippine Trade
7 Representative may:

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

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

- 14 (1) Select, appoint, employ, and fix the compensation of the officers and employees of
15 the Trade Office *as* are necessary, subject to the civil service and classification laws.
- 16 (2) Employ experts and consultants in accordance with the relevant laws and compensate
17 individuals so employed for each day.
- 18 (3) Promulgate such rules and regulations as may be necessary to carry out the functions,
19 powers and duties vested in him;
- 20 (4) Utilize the services, personnel, and facilities of other national agencies, upon the
21 latter's consent, whose functions are related to or affect trade and investments, and
22 consult with national agencies in connection with the performance of his functions;
- 23 (5) Enter into and perform such contracts, cooperative agreements, or other transactions
24 as may be necessary in the conduct of the work of the Trade Office and on such terms
25 as the Philippine Trade Representative may deem appropriate, with any agency or

1 instrumentality of the Philippine government or with any public or private person,
2 firm, association, corporation, or institution.

3 (6) Accept voluntary and uncompensated services, notwithstanding the provisions of the
4 Civil Service Code;

5 (7) Adopt an official seal, which shall be judicially noticed.

6 **SEC. 8. Research and Training.** The Trade Office shall undertake research and study
7 on trade and trade-related issues affecting various sectors before, during, and after trade
8 negotiations, as well as on issues confronting the implementation of multilateral and bilateral
9 trade agreements, to aid in the formulation of trade policies and in the conduct of trade
10 negotiations.

11 The Trade Office shall conduct, or facilitate the conduct of, trainings and courses for
12 the benefit of the technical staff of the Trade Office in order to build, improve, and enhance
13 their capacity and competence in trade negotiations.

14 **SEC. 9. Functions of Deputy Philippine Trade Representatives.** Each Deputy
15 Philippine Trade Representative shall have as his principal function the conduct of trade
16 negotiations under this Act and shall have such other functions as the Philippine Trade
17 Representative may direct.

18 **SEC. 10. Inter-Agency and Private Sector Coordination on Unfair Trade Practices.** In
19 carrying out his functions and responsibilities with respect to unfair trade practices and
20 import surges, the Philippine Trade Representative shall:

- 21 a) Create agriculture and industry desks that will facilitate complaints, information and
22 concerns pertaining to unfair trade practices and import surges;
- 23 b) Coordinate the use of inter-agency resources to identify, address, and resolve specific
24 cases of unfair trade practice;

- 1 c) Identify and refer to the appropriate department or agency of the national government
2 for action any act, policy, or practice identified in the report required under Section 5(g)
3 hereof, or otherwise known to the Philippine Trade Representative on the basis of other
4 available information, that may be an unfair trade practice because it is either:
- 5 i. considered to be inconsistent with the provisions of any trade agreement, or
 - 6 ii. has a significant adverse impact on Philippine commerce, including on domestic
7 firms or industries that are either too small or financially weak to initiate proceedings
8 under the trade laws.
- 9 d) Identify on a biennial basis, those Philippine government policies and practices that, if
10 engaged in by a foreign government, might constitute unfair trade practices under
11 Philippine law.

12 For purposes of carrying out the above functions, the Philippine Trade Representative
13 shall be assisted by an inter-agency advisory committee on unfair trade practices and import
14 surges composed of the Philippine Trade Representative as chairman, and senior
15 representatives of the following agencies, appointed by their respective heads, as members:

- 16 a) the National Economic Development Authority
- 17 b) the Department of Trade and Industry
- 18 c) the Department of Agriculture
- 19 d) the Department of Finance
- 20 e) Bureau of Customs
- 21 f) Tariff Commission; and
- 22 g) the Administrator of the Export Processing Zone Authority

23 The Philippine Trade Representative shall likewise seek assistance from Philippine
24 industrial and agricultural producers and exporters on matters affecting unfair trade practices
25 and import surges.

1 **SEC. 11. Inter-Agency Technical Committee.** There is hereby created an Inter-
2 Agency Technical Committee to assist the Trade Representative in his function of developing
3 and coordinating Philippine positions on international trade and trade-related investment
4 issues. The Technical Committee shall be composed of the Philippine Trade Representative
5 as chairman, and senior representatives of the following agencies, appointed by their
6 respective heads, as members:

- 7 (a) Department of Trade and Industry
- 8 (b) National Economic Development Authority
- 9 (c) Department of Finance
- 10 (d) Department of Agriculture
- 11 (e) Department of Environment and Natural Resources
- 12 (f) Department of Foreign Affairs
- 13 (g) Bangko Sentral ng Pilipinas
- 14 (h) Tariff Commission
- 15 (i) National Statistical Coordination Board
- 16 (j) Bureau of Customs
- 17 (k) Maritime Industry Authority
- 18 (l) Board of Investments

19 The Philippine Representative may include in the Technical Committee additional
20 members from such other agencies whose functions have direct relation to trade and
21 investments to ensure that there is a consolidated governmental position on trade and trade-
22 related investment issues.

23 **SEC. 12. Transfer of Functions.** The Foreign Trade Service Corps Coordinating Office,
24 the Bureau of International Trade Relations under the Department of Trade and Industry,
25 and the Bureaus and Offices under the Department of Agriculture, the Department of

1 Foreign Affairs, the National Economic Development Authority, and such other agencies
2 that are involved in trade policy formulation and negotiations, are hereby transferred to the
3 Office of the Philippine Trade Representative.

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

6 **SEC. 13. Advisory Committee for Trade Policy and Negotiations.** There is hereby
7 created an Advisory Committee for Trade Policy and Negotiations.

8 The Advisory Committee shall consist of not more than 20 members consisting of
9 representatives of industry, agriculture, labor, small business, service industries, retailers, and
10 consumers. The Advisory Committee shall be broadly representative of key economic
11 sectors and groups affected by trade. Members of the Advisory Committee shall be
12 appointed by the Philippine Trade Representative alone or in conjunction with the
13 concerned Cabinet officers. The Philippine Trade Representative shall preside over the
14 Advisory Committee.

15 **SEC. 14. Duties and Functions.** The Committee shall have the primary duty and
16 function to:

- 17 a. Provide the Philippine Trade Representative overall policy advice on trade and trade-
18 related matters;
- 19 b. Provide technical support to the Philippine Trade Representative by drawing upon the
20 knowledge and expertise of its members;
- 21 c. Prior to any trade negotiation, participate in the development of the negotiation
22 objectives and bargaining positions of the country and at the conclusion of negotiations
23 for each trade agreement entered into, provide a report to the Philippine Trade
24 Representative to form part of the latter's report to the President and Congress, pursuant
25 to Section 5(g) hereof. The report of the Committee shall include an assessment and

1 evaluation of whether and to what extent the agreement promotes Philippine economic
2 interest and achieves the applicable overall and principal negotiating objectives set forth;

- 3 d. Recommend to the Philippine Trade Representative the participation of private sector
4 representative to accompany the *Philippine delegation in an observer capacity in trade*
5 *negotiations. All expenses incurred by the private sector representative shall be borne by*
6 *the same and/or his/her organization;*

7 The Committee shall consult with and seek recommendatory information and advice
8 from, representatives of the private sector and non-government organizations working on
9 trade policy with respect to:

- 10 a. The principal multilateral, regional, and bilateral trade negotiating objectives and
11 *bargaining positions, and the progress being made toward their achievement;*
- 12 b. The implementation, operation, and effectiveness of concluded multilateral and bilateral
13 *agreements, including the resolution of trade disputes;*
- 14 c. The actions taken pursuant to trade remedy laws of the Philippines and the effectiveness
15 *of such actions in achieving trade policy objectives; and*
- 16 d. Important developments in other areas of trade for which a proper policy response must
17 *be developed.*

18 In order to carry out the foregoing functions, the Philippine Trade Representative
19 shall identify and accredit groups or networks of local industrial and agricultural producers
20 and exporters whose assistance may be availed of.

21 **SEC. 15. Administrative Provisions.**

- 22 a. The Philippine Trade Representative will have the responsibility for prior approval of the
23 *agenda for all Advisory Committee meetings;*
- 24 b. The Office of the Philippine Trade Representative will provide clerical and other
25 *necessary staff support for the Advisory Committee;*

1 c. Members of the committee shall serve without either compensation or reimbursement of
2 expenses.

3 d. The committee will meet as needed at the call of the Philippine Trade Representative
4 depending on various factors such as the level of activity of trade negotiations.

5 **SEC. 16. Appropriations.** The sum of Twenty Million Pesos (Php 20,000,000) is
6 hereby authorized to be appropriated to the Office for the purposes of carrying out its
7 functions for the first fiscal year after the effectivity of this Act.

8 For each fiscal year thereafter, there is authorized to be appropriated to the Office
9 such additional sums as may be provided by law for the salaries of its officers and employees
10 to reflect pay rate changes made in accordance with the Salary Standardization Act.

11 **SEC. 17. Implementing Rules and Regulations.** Within 60 days from the effectivity of
12 this Act, the President shall appoint the Philippine Trade Representative who shall, in
13 consultation with the Departments of Trade and Industry, Agriculture, and Foreign Affairs
14 and the National Economic Development Authority, issue the necessary rules and
15 regulations to implement the provisions of this Act.

16 **SEC. 18. Separability Clause.** If any section or provision of this Act shall be declared
17 unconstitutional or invalid, the other sections or provisions not affected thereby shall
18 continue to be in full force and effect.

19 **SEC. 19. Repealing Clause.** - All laws, decrees and orders or parts thereof inconsistent
20 herewith are deemed repealed or modified accordingly.

21 **SEC. 20. Effectivity.** - This Act shall take effect fifteen (15) days following its
22 publication in a newspaper of general circulation in the Philippines.

Approved,