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SENATE
S.B. NO. 2762

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Prepared by the Committees on National Defense and Security, Public Order and Dangerous Drugs, and Finance with Senators Trillanes, Poe, Escudero and Villar as authors

**AN ACT
PREVENTING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION BY
MANAGING THE TRADE IN STRATEGIC GOODS, THE PROVISION OF
RELATED SERVICES, AND FOR OTHER PURPOSES**

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

**CHAPTER I:
GENERAL PROVISIONS**

1 SECTION 1. *Title.* This Act shall be known as the "Strategic Trade
2 Management Act (STMA)".

3
4 SEC. 2. *Declaration of Policy.* It is declared a policy of the State to be free
5 from Weapons of Mass Destruction (WMD) in its territory, consistent with the
6 national interest, to fulfill its international commitments and obligations, including
7 United Nations Security Council Resolution (UNSCR) 1540, to take and enforce
8 effective measures to establish domestic controls to prevent the proliferation of
9 WMDs and their means of delivery; and to maintain international peace and security
10 and promote economic growth by facilitating trade and investment through the
11 responsible management of strategic goods and the provision of related services.

12
13 Toward this end and consistent with its foreign policy and national security
14 interests, and in support of efforts to counter terrorism, control crime, and safeguard
15 public safety, the State shall manage the trade of strategic goods and provision of
16 related services in accordance with international standards and best practices.

17
18 SEC. 3. *Scope and Coverage.* This Act shall apply to:

19
20 Any natural or juridical person operating within the Philippines who engages or
21 intends to engage in the export of strategic goods from the Philippines,

1 including designated special economic and free port zones, the import of
2 strategic goods into the Philippines; or the transit or transshipment of strategic
3 goods through the territory of the Philippines and the provision of related
4 services; and all Filipino persons providing these services wherever located; and
5

6 The re-export of strategic goods that have been imported from the Philippines to
7 a foreign country, and the reassignment of strategic goods imported from the
8 Philippines to a new end user in the country of import subject to authorization under
9 this Act.

10
11 **SEC. 4. *The National Strategic Goods List.*** There shall be a National
12 Strategic Goods List (NSGL) to describe with specificity the strategic goods
13 subject to authorization. The NSGL shall be in conformity with international
14 commitments and nonproliferation obligations pursuant to bilateral and
15 multilateral treaties, international conventions and international non-proliferation
16 regimes.

17
18 Upon its establishment, the NSGL shall be published in the Official Gazette
19 and in at least two (2) newspapers of general circulation. The NSGL shall be
20 reviewed and updated on a regular basis.

21
22 Updates and revisions to the NSGL shall also be published in the Official
23 Gazette and in at least two (2) newspapers of general circulation. The NSGL may
24 include strategic goods that may be placed under unilateral controls for reasons of
25 national security, foreign policy, anti-terrorism, crime control, and public safety, *to be*
26 *known as "Nationally Controlled Goods"*.

27 The NSGL shall comprise three annexes: Military Goods (Annex 1), Dual Use
28 Goods (Annex 2), and Nationally Controlled Goods (Annex 3).

29
30 **SEC. 5. *Definition of Terms.*** As used in this act:

31
32 a. *Authorization* refers to an individual, global or general license issued by
33 the Strategic Trade Management Office (STMO) for the export, import, re-
34 export, reassignment, transit, transshipment of strategic goods and provision
35 of related services.

36
37 b. *Carrier* refers to any vessel, train, vehicle, aircraft or other modes of
38 transportation.

1
2 c. *Document* refers to any record on paper, in electronic form, kept on any
3 magnetic, optical, chemical or other medium; photograph map, plan, graph,
4 picture or drawing or device.

5
6 d. *End-use controls* refers to a specific procedure authorizing the
7 establishment of controls over any item, software, and technology not listed in
8 the NSGL (unlisted goods) based on concerns related to weapons of mass
9 destruction, their means of delivery, or military end-use in destinations
10 subject to embargoes decided by the UN Security Council, or to
11 prohibited/restricted end-users.

12
13 e. *End-user* refers to a person who is outside or inside the Philippines and
14 is the recipient and ultimate user of the strategic goods and related services
15 that are exported from or imported to the Philippines.

16
17 f. *End-user certificate* refers to a document which, contains
18 confirmation of the following: a) that the end-user has undertaken to
19 import the goods with specific value and amount; b) the purpose of the
20 use of the goods; and c) that the end-user shall not re-export or re-assign
21 the goods without prior written authorization. The certificate likewise
22 refers to a document that verifies the end use and end user of military and
23 dual use items as defined by this law.

24
25 g. *Export* refers to an actual shipment of strategic goods out of the
26 Philippines, OR to a transmission of software and technology by electronic
27 media, including by fax, telephone, electronic mail or any other electronic
28 means to an ultimate destination outside the Philippines. The term includes
29 making available in electronic form such software and technology to
30 persons outside the Philippines. It also applies to non-electronic
31 reassignments of software or technology through face-to-face
32 communication, personal demonstration, or handing over material or
33 information to a foreign person wherever located.

34
35 h. *Financing* refers to making available or providing funds to facilitate the
36 movement/flow of (a) strategic goods and/or related service if this
37 contributes to weapons of mass destruction or their means of delivery, or

1 (b) military goods if destined for a destination subject to a UN Security
2 Council embargo or to prohibited/restricted end users.

3
4 *i. Import* refers to the shipment of strategic goods or transmission of
5 software or technology by any means from a foreign country into the
6 Philippines;

7
8 *j. Juridical person* refers to either (a) a partnership, a cooperative,
9 and a private corporation, to which the law grants a juridical personality,
10 separate and distinct from that of each shareholder, partner, or
11 member, or (b) a government-owned-and-controlled-corporation
12 created by law that engages or intends to engage in the trade of
13 strategic goods or provision of related services.

14
15 *k. Knowledge* refers to awareness or cognizance that a circumstance
16 exists or is substantially certain to occur. It is also an awareness or
17 cognizance of facts and circumstances that would lead a reasonable
18 person to believe its existence or factual occurrence. It also refers to the
19 willful disregard of facts known to a person or willful avoidance of facts.

20
21 *l. Military goods* refers to items, software, and technology that are
22 specifically designed, developed, configured, adapted, or modified for a
23 military end use. These goods are listed at Annex 1 of the NSGL.

24
25 *m. Military end-use* refers to (a) incorporation into "military goods" listed in
26 the NSGL; (b) use of production, test or analytical equipment and its
27 components for the development, production or maintenance of "military
28 goods" listed in the NSGL; (c) use of any unfinished products in a plant
29 for the production of "military goods" listed in the NSGL.

30
31 *n. Premises* refers to any land, place or building, whether open or
32 enclosed, and whether built on or not, including any free trade zones within
33 the territory of the Philippines.

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35 *o. Reassignment* refers to the reallocation of strategic goods previously
36 exported from the Philippines from one person to another within a single
37 foreign country by any means, including the electronic transmission of
38 software and technology.

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p. *Re-export* refers to the export to a foreign country of strategic goods either previously imported to or exported from the Philippines.

q. *Registration* refers to the act of entering the exporters, importers and brokers of strategic goods and providers of services into the registry established by the STMO.

r. *Related services* refers to brokering, financing, and transporting in relation to the movement of strategic goods between two foreign countries and providing technical assistance. For this purpose, brokering refers to activities such as (a) negotiating or arranging transactions that involve the shipment of strategic goods from a foreign country to any other foreign country; or (b) selling or buying with the intent to move strategic goods that are in a broker's possession or control from a foreign country to any other foreign country.

s. *Software* refers to a collection of one or more programs or micro programs fixed in any tangible medium of expression.

t. *Strategic goods* refers to goods listed in the NSGL under Annex 1 (military goods); Annex 2 (dual use goods); Annex 3 (Nationally Controlled Goods); and any unlisted goods as provided for in Section 11. Dual-use goods refers to items, software, and technology which can be used for both civil and military end use or in connection with development, production, handling, operation, maintenance, storage, detection, identification, or dissemination of weapons of mass destruction or their means of delivery. These goods are listed in Annex 2 of the NSGL.

u. *Technical assistance* refers to any support provided in relation to strategic goods such as repair, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take such forms as instruction, training, transmission of working knowledge or skills, or consulting services. Technical assistance can be provided by *inter alia* verbal communication or electronic means.

v. *Technology* refers to specific information and processes necessary for the development, production, or use of strategic goods, and may take

1 such forms as blueprints, plans, diagrams, models, formulae, tables,
2 engineering designs and specifications, manuals, and instructions written or
3 recorded on other media or devices such as disk, tape, read-only memories.

4
5 *w. Transporting* refers to the act of moving the strategic goods, agreeing
6 to move them, any supporting services being provided to the transport
7 provider, and any act calculated to promote their supply or delivery if this
8 contributes to weapons of mass destruction, or means of their delivery, or
9 military goods if destined to an embargoed destination subject to a UN
10 Security Council embargo, or to prohibited/ restricted end users.

11
12 *x. Transit* refers to a shipment of strategic goods entering and passing
13 through the territory of the Philippines with an ultimate destination outside
14 the Philippines in such a manner that the strategic goods remain at all times
15 in or on the same carrier.

16
17 *y. Transshipment* refers to a mode of shipping a good on a carrier which
18 enters the territory of the Philippines, wherein the good is unloaded from
19 the carrier and reloaded in the same or on another carrier that is bound for
20 an ultimate destination outside the Philippines.

21
22 *z. Unlisted Goods* refers to goods that are not on the NSGL and may be
23 subject to an authorization requirement under this Act.

24
25 *aa. Weapon of mass destruction (WMD)* refers to any destructive
26 device or weapon that is designed or intended to cause death or
27 serious bodily injury through the release, dissemination, or impact of
28 toxic or poisonous chemicals, or their precursors, any weapon involving a
29 biological agent, toxin, or vector, or any weapon that is designed to
30 release radiation or radioactivity at a level dangerous to human life. This
31 includes: (a) Nuclear and radiological explosive devices and their major
32 sub-systems; (b) Chemicals covered by Schedule I, II and III of the
33 Chemical Weapons Convention; and (c) Biological agents and
34 biologically derived substances specifically developed, configured,
35 adapted, or modified for the purpose of increasing their capability to
36 produce casualties in humans or livestock, degrade equipment, or damage
37 crops.

1 CHAPTER II:
2 IMPLEMENTING STRUCTURE AND MECHANISM
3

4 SEC. 6. *Central Authority.* A permanent committee under the National
5 Security Council (NSC), to be known as the NSC-Strategic Trade Management
6 Committee (NSC-STMCom), is hereby constituted and deemed the central
7 authority on any and all matters relating to strategic trade management with the
8 following composition: (1) the Executive Secretary, as Chairperson; (2) the Secretary of
9 Trade and Industry, as Vice Chairperson; and (3) the Secretary of Foreign Affairs; (4) the
10 Secretary of Justice; (5) the Secretary of National Defense; (6) the Secretary of the
11 Interior and Local Government; (7) the Secretary of Finance; (8) the Secretary of
12 Transportation and Communications; (9) the National Security Advisor; (10) the
13 Secretary of Environment And Natural Resources; (11) the Secretary of Science and
14 Technology; (12) the Secretary of Agriculture; (13) the Secretary of Health; And (14)
15 the National Security Advisor, as Members. The Anti-Terrorism Council (ATC) –
16 Program Management Center (PMC) shall serve as the Secretariat.
17

18 The members may designate a representative to the NSC-STMCom, who shall
19 have a rank not lower than an Undersecretary. Five (5) members of the NSC-STMCom
20 shall constitute a quorum for the transaction of business.
21

22 For purposes of this Act, the NSC-STMCom shall be complemented by the
23 following support agencies and bureaus:

- 24 a.) Department of Environment And Natural Resources (DENR)
- 25 b.) Department of Science And Technology (DOST)
- 26 c.) Department of Agriculture (DA)
- 27 d.) Department of Health (DOH)
- 28 e.) Bureau of Customs (DOF-BOC)
- 29 f.) Bureau of Animal Industry (DA-BAI)
- 30 g.) Food and Drug Administration (DOH-FDA)
- 31 h.) Bureau of Quarantine (DOH-BOQ)
- 32 i.) Philippine Nuclear Research Institute (DOST-PNRI)
- 33 j.) Information and Communication Office (DOST-ICTO)
- 34 k.) Armed Forces of The Philippines (AFP)
- 35 l.) Philippine National Police (PNP)
- 36 m.) Philippine Coast Guard (PCG)
- 37 n.) Office of Transport Security (DOST-OTS)

- 1 o.) National Bureau of Investigation (DOJ-NBI)
- 2 p.) Presidential Legislative Liaison Office (OP-PLLO)
- 3 q.) Office Of Special Envoy on Transnational Crime (OSETC)
- 4 r.) Such other offices, agencies or units as necessary

5

6 *SEC. 7. Powers and Functions of the NSC-STMCom.* As the central authority
7 focused on the country's international commitment towards the promotion of a
8 secured and safe environment for trade in strategic goods consistent with the
9 objectives of this Act, the NSC-STMCom shall have the following powers and
10 functions:

- 11 a) Formulate and adopt strategies, policies and guidelines for the effective
12 implementation of this Act;
- 13 b) Establish, publish, review and update the National Strategic Goods List;
- 14 c) Develop a standard end-users' certification;
- 15 d) Monitor and evaluate the implementation of plans, programs and
16 activities of the STMO;
- 17 e) Review and decide appeals on decisions made by the STMO;
- 18 f) Establish exemptions from an authorization requirement as provided for
19 in Section 15, and taking into consideration national security, foreign policy and
20 law enforcement concerns. These exemptions shall be published, reviewed
21 and updated;
- 22 g) Create working groups on specific issues by enlisting the assistance
23 and support of government agencies, the academe, as well as private
24 institutions, or persons to carry out its functions;
- 25 h) Establish and maintain coordination, cooperation, assistance and
26 information sharing with government agencies in the implementation of this Act;
- 27 i) Establish and maintain coordination, cooperation, assistance and
28 information sharing with other nations in the regulation of strategic goods;
- 29 j) Perform such other tasks and functions it may deem necessary to
30 effectively carry out the provisions of the Act.

31 *SEC. 8. Executive and Technical Arm.* The Strategic Trade Management
32 Office (STMO) is hereby created as a bureau under the administrative supervision of

1 the Department of Trade and Industry (DTI) to serve as the executive and technical
2 agency of the national government for the establishment of the management
3 systems for the trade in strategic goods pursuant to this Act. The STMO shall be
4 headed by a Director who shall be responsible for the pursuit of the office mandate, the
5 discharge of its duties and functions and the exercise of supervision and control over
6 the STMO and its constituent units. The STMO, through the Secretary of Trade and
7 Industry, shall submit periodic updates to NSC-STMCom.

8

9 The organizational structure and staffing pattern of the STMO shall be formulated
10 by the DTI Secretary in coordination with the NSC-STMCom, subject to the approval by
11 the Department of Budget and Management (DBM) in accordance with Executive Order
12 No. 292 (Administrative Code of 1987).

13

14 SEC. 9. *Powers and Functions of the STMO.* The STMO shall have the
15 following powers and functions:

16 a) Implement strategies, policies and guidelines formulated by the NSC-
17 STMCom and develop, evaluate, and monitor corresponding programs and
18 activities;

19 b) Develop and maintain the register and carry out registration
20 activities to include registration, registration with conditions, denial of
21 registration, modification, suspension, revocation or annulment of registration;

22 c) Establish and maintain a comprehensive data-base information system on
23 strategic goods and on persons engaged in the trade of strategic goods and
24 the provision of related services;

25 d) Issue or deny issuance of authorizations for the trade of strategic goods
26 and the provision of related services;

27 e) Modify, condition, limit, suspend, revoke, or annul authorizations that
28 have been issued as circumstances warrant in consultation with NSC-
29 STMCom;

30 f) Issue, modify, suspend and revoke governmental end use assurances
31 in consultation with NSC-STMCom;

32 g) Ensure and operate end use/end-user controls and establish
33 compliance checks and exercise authority to enter premises for such
34 purposes;

- 1 h) Issue warning letters and orders for corrective action;
- 2 i) Conduct investigation into violations committed under this Act;
- 3 j) Undertake the enforcement of the provisions of this Act in cooperation
4 with other agencies;
- 5 k) Coordinate, cooperate, provide assistance and share information with
6 ATC and other Departments/Agencies in the implementation of this Act;
- 7 l) Conduct capacity building and training of personnel for the effective
8 implementation of this Act;
- 9 m) Coordinate with the industry and the public regarding their obligations
10 under this Act;
- 11 n) Encourage and facilitate international cooperation, including the
12 exchange of assistance such as information on matters regarding the
13 implementation and application of this Act or its Implementing Rules And
14 Regulations (IRR); and
- 15 o) Perform such other tasks and functions necessary to effectively carry
16 out the provisions of the Act.

17 CHAPTER III:

18 RESPONSIBILITIES OF PERSONS
19 IN STRATEGIC TRADE TRANSACTIONS
20

21 *SEC. 10. Responsibilities of Persons.* It shall be the responsibility of any
22 person, subject to this Act, to ascertain whether certain goods fall under the NSGL
23 or is subject to authorization under this Act. Any person who intends to engage
24 in the export, import, transit, and transshipment of strategic goods, or the provision
25 of related services shall be required to obtain an authorization from the STMO as
26 provided in this Act and its implementing rules and regulations. In addition, any
27 person who intends to engage in the re-export or reassignment of strategic goods is
28 required to obtain an authorization when this has been made a condition for the
29 authorization of the exports from the Philippines.
30

31 No person shall be allowed to place any strategic good in or on any carrier
32 located within the territorial and economic jurisdiction of the Philippines without the
33 consent of the owner or operator of the carrier. Such owners and operators shall

1 be prohibited from allowing the placement of strategic goods in or on any carrier
2 unless the person presents an authorization issued by the STMO to export, import,
3 transit or trans-ship strategic goods.

4
5 All persons engaged in the business involving strategic goods are required to
6 keep at their principal place of business, in the manner prescribed by the
7 Implementing Rules and Regulations (IRR) TO BE ISSUED BY THE NSC-
8 STMCom, for a period of ten (10) years from the date of the completion of the
9 transaction, all records of the transaction and/or books of accounts, business and
10 computer systems and all commercial and technical data related to the transaction
11 including:

- 12 a) the description of the strategic goods or related services;
- 13 b) the quantity and the value of the strategic goods or value of the
14 related service provided;
- 15 c) the name and address of the parties in the transaction or activity;
- 16 d) the end-use and end-user of the strategic goods or related services; and
- 17 e) the date of the transaction or activity.

18 The customs broker shall submit to the Bureau of Customs, a copy of the
19 authorization and a copy of the extract of the manifest of the carrier, in or on which the
20 strategic goods were loaded prior to its departure or arrival.

21 SEC. 11. *End Use Controls*. End use controls may be imposed on strategic
22 goods that are not on the NSGL (unlisted goods) and related services, and shall apply
23 as follows:

- 24 a) an individual license shall be required for the export, re-export,
25 reassignment, transit and transshipment of unlisted goods, the provision of
26 technical assistance or related services if the exporter or principal party has
27 been informed by the STMO that the goods or services are or may be used,
28 partly or entirely, in connection with the acquisition, development, production,
29 handling, operation, maintenance, storage, detection, identification or
30 dissemination of WMDs or their means of delivery;
- 31 b) an individual license shall also be required for the export, re-export,
32 reassignment, transit and transshipment of unlisted goods, or the provision of
33 technical assistance or related services if the purchasing country or country of

1 destination or juridical or natural person receiving the goods is subject to an
2 international sanction or an arms embargo imposed by a binding resolution of
3 the Security Council of the United Nations and if the exporter or principal party
4 has been informed by STMO in close consultation with NSC-STMCom that the
5 goods in question are or may be used, partly or entirely, for a military end-use;

6 c) an individual license shall also be required for the export of unlisted
7 goods, or the provision of related services if the exporter has been informed by
8 the STMO that the goods in question are or may be used, partly or entirely, as
9 parts or components of military items listed in the NSGL, that have been
10 exported from the territory of Philippines without license or in violation of a
11 license; and

12 d) if an exporter or principal party has knowledge or has grounds for
13 suspecting that unlisted goods proposed for export are or may be used, partly
14 or entirely, for any of the uses referred to in paragraphs a), and b), or for
15 suspecting that the provision of related services will facilitate that use, the
16 exporter or principal party must notify the STMO. The STMO shall decide
17 whether or not such goods are subject to a license.

18 *SEC. 12. Control Over End Use of Strategic Goods in the Philippines*
19 *Under Governmental End Use Assurances.* The STMO, in consultation with the
20 NSC-STMCom as may be necessary, is authorized to certify the end use of
21 strategic goods in the Philippines based on the International Import Certificate,
22 End Use Certificate and Delivery Verification Certificate.

23
24 The STMO, within the limits of its competence on the basis of end use
25 licensing documents, shall exercise the function of certification of the end use of
26 strategic goods. In addition to the standard end use certification assurances
27 contained in the end use documents, the STMO, in consultation with the NSC-
28 STMCom, may add other terms and conditions in order to meet the requirements of
29 the exporting country of the goods and the security interest of the Philippines.

30 The STMO shall be responsible for informing the competent authority of the
31 end use country and all countries through which the goods will be transshipped or
32 transited. In fulfilling this responsibility, the STMO may request additional documents
33 such as declarations of the shippers or refer to other relevant information obtained in
34 the course of performing their functions under this Act.

35

1 The application, issuance, modification, suspension, or revocation
2 procedures of end use certification documentation shall be in accordance with the
3 Implementing Rules and Regulations (IRR) and in consultation with the NSC-
4 STMCom as may be necessary.

5
6 SEC. 13. *Registration.* Any person who engages or intends to engage in the
7 export, import, and re-export of strategic goods or provide related services shall
8 register directly with the STMO.

9
10 SEC. 14. *Issuance of Authorization.* Any person, prior to engaging in the
11 export, import, re-export, reassignment, transit, transshipment of strategic goods, or
12 provision of related services shall apply for an authorization from the STMO. the
13 application shall be in the manner and form prescribed under the IRR of this Act.
14 The STMO is authorized to collect fees to cover the cost to be incurred in the
15 processing of applications for authorization.

16
17 The STMO may issue an authorization to an applicant subject to conditions it
18 may deem fit. It may renew an authorization with or without conditions.

19
20 The STMO may deny, issue with or without conditions, modify, limit, suspend,
21 revoke, or annul the authorization based on its discretionary powers as specified in
22 the IRR.

23
24 SEC. 15. *Exemption from Authorization Requirement.* An authorization is not
25 required under the following circumstances:

- 26 a) import of strategic goods by the Government for the use of the Philippine
27 military or police forces;
- 28 b) temporary export of strategic goods by the Government for the use of the
29 Philippine military or police forces assigned outside of Philippine jurisdiction;
- 30 c) export, transit, and transshipment of strategic goods which are provided
31 in connection with a military, peacekeeping, or government humanitarian
32 mission;
- 33 d) export, import, transit and transshipment of strategic goods by the
34 Government in connection with law enforcement activities; and

1 e) any other circumstances as provided by the NSC-STMCom pursuant to
2 Section 8 (g) of this Act.

3 SEC. 16. *Administrative Appeals.* Any person whose registration or
4 authorization has been denied, suspended, modified, limited, revoked, or annulled, and
5 any person upon whom administrative penalties have been imposed shall have the
6 right to appeal in accordance with the IRR. The decision on the appeal is final and
7 executory.

8 SEC. 17. *Liability Limitation.* If the STMO denies, suspends, limits, revokes
9 or annuls an authorization or registration, it shall not be liable for damages that may
10 be caused by such acts.

11
12 SEC. 18. *Confidentiality of Business Proprietary Information.* Any
13 information obtained under this Act that are marked as confidential business
14 information shall not be disclosed to any other party except in the furtherance of
15 justice and law enforcement, national security or foreign policy interest, as
16 determined by the STMO, unless the party providing such information has consented
17 to its disclosure.

18 CHAPTER IV:

19 LIABILITIES, VIOLATIONS, PENALTIES AND SANCTIONS

20
21 SEC. 19. *Unlawful Act and Penalties.*

22
23 (a) Any person who willfully and intentionally engages in any of the following activities
24 shall be imprisoned for a period from six (6) years and one (1) day to twelve (12)
25 years imprisonment, and a fine from one million (Php 1,000,000.00) pesos to five
26 million (Php 5,000,000.00) pesos:

27 1. To engage in any of the regulated activity prohibited by, or in
28 contravention of, this Act, including: failure to register; acts without an
29 authorization; or acts in breach of the conditions and terms of an
30 authorization or governmental end use assurances;

31 2. To make false or misleading representations or conceal any material
32 fact, including in the submission of any documents, to the NSC-STMCom or
33 the STMO or any other Philippine government agency;

1 3. To engage in any activity prohibited by, or in contravention of,
2 any orders or regulations issued by the NSC-STMCom to implement the
3 provisions of this Act;

4 4. To conspire or act in concert with one or more persons in any
5 manner or for any purpose to bring about or to do any act that constitutes a
6 violation of this Act, or any order, regulation, or authorization issued
7 thereunder;

8 5. To forge or alter any authorization, registration, certificates or any or
9 other document issued under the provisions of this Act;

10 6. To obstruct or hinder the NSC-STMCom or any government agency in
11 the execution of its powers conferred under this Act; or

12 7. To induce a violation of this Act or any order, regulation, or
13 authorization issued thereunder.

14 (b) Any person found guilty of committing any of the following shall be
15 imprisoned for a period from six (6) months and one (1) day to six (6) years
16 imprisonment, and a fine from One hundred thousand (Php 100,000.00) pesos
17 to One million (Php 1,000,000.00) pesos:

18 1. To fail to report or notify the STMO as required by this Act;

19 2. To fail to comply with record keeping requirements as
20 provided in this Act; or

21 3. To engage in any activity with intent to evade the provisions of this
22 Act, or any order, regulation, or authorization issued thereunder.

23 *SEC. 20. Attempt to Commit Violations of this Act.* Any attempt to commit any
24 crime under Section 19(a) of this Act shall be penalized by imprisonment for a period
25 from six (6) months and one (1) day to six (6) years, and a fine from One hundred
26 thousand (PhP 100,000.00) to One million (PhP 1,000,000.00) pesos.

27
28 *SEC. 21. Investigation.* If in the course of conducting an investigation for
29 violations committed under this Act, the STMO comes across evidence of possible
30 criminal violations, it shall refer the matter and turn over all available evidence to the
31 following agencies:

1 a) Bureau of Customs on matters involving violations of import and export
2 provisions of this Act as well as the Tariff and Customs Code;

3 b) Coast Guard on matters involving violations that pertain to physical or
4 outright smuggling on border security; or

5 c) Philippine National Police / National Bureau of Investigation on acts
6 involving violations outside the jurisdiction of the BOC and Coast Guard.

7 After a finding that a *prima facie* case exists, the aforementioned agencies shall
8 refer such case to the Department of Justice for preliminary investigation.

9
10 Appropriate forfeiture proceedings for materials and goods confiscated shall be
11 filed in accordance with existing laws, rules and regulations.

12
13 **SEC. 22. *Administrative Penalties.*** The STMO shall impose on any person
14 found to have committed violations under this Act the following administrative
15 penalties:

16 1. Limitation, revocation or annulment of any authorization and/or
17 registration;

18 2. Imposition of fines of up to PhP 250,000.00 or twice the value of the
19 strategic good or related service under the contract or as assessed by the
20 STMO; and

21 3. Upon request by the Securities and Exchange Commission and/or
22 the Department of Trade and Industry or any other relevant agencies, order
23 the cancellation or suspension of the registration and authorization/license
24 to operate of the partnership, corporation, association and other juridical
25 entity.

26 The imposition of the penalty shall be without prejudice to the filing of
27 appropriate criminal charges against the persons responsible for the violation.

28
29 **SEC. 23. *Criminal Liability of Officers of Partnerships, Corporations, and***
30 ***Other Juridical Entities.*** In case any of the violations of this Act is committed by
31 a partnership, corporation, association, or any other juridical persons, the
32 partner, president, director, manager, trustee, administrator, or officer who
33 willfully and intentionally consents to, or tolerates such violation shall be held
34 criminally liable as a co-principal. The penalty provided for the offense shall be

1 imposed upon the responsible officers who participated in the commission of the
2 crime or who have willfully and intentionally permitted its commission.

3 SEC. 24. *Administrative Liability of Government Officials and Employees.*
4 Any government official or employee who commits, or facilitates the commission of,
5 any violation under Section 20 of this Act shall be administratively liable under Civil
6 Service rules, without prejudice to criminal liability under this Act. The concerned
7 government official or employee shall, upon conviction, be dismissed from the
8 service.

9
10 SEC. 25. *Additional Penalty if Offender is an Alien/Foreign National.* In
11 addition to the penalties prescribed in this Act, any alien/foreign national who
12 violates any provision of this act shall, after service of sentence, be deported
13 immediately without further proceedings, and be barred permanently from entering
14 the country.

15 SEC. 26. *Forfeiture.* In addition to imprisonment and fine, the strategic goods
16 subject of the offense, including the proceeds derived therefrom, shall be forfeited
17 in favor of the Government.

18
19 After conviction, the Regional Trial Court shall enter a judgment of forfeiture
20 of the goods, including its proceeds, in favor of the Government of the Philippines
21 and shall authorize the forfeiture of the seized goods.

22
23 Following the seizure of the strategic goods, the relevant government agency
24 shall direct the disposition of the property by sale or other commercially feasible
25 means. The offender or any person acting on behalf of the offender shall not be
26 eligible to purchase the forfeited property. The proceeds of any sale or disposition
27 of any property confiscated or forfeited under this Section shall be paid directly to the
28 National Treasury. All proper expenses incurred in the proceedings for the
29 confiscation, forfeiture, custody and maintenance of the property pending
30 disposition, as well as expenses for publication and court costs shall be taken from
31 the General Appropriations Act (GAA).

32
33 If the strategic goods are located outside of the Philippines, the court
34 may order the convicted offender to pay to the National Treasury the amount
35 equal to the value of the strategic goods or related services under the contract or
36 as assessed by the STMO, whichever is greater.

1
2 SEC. 27. *Protection of Officers.* No action or prosecution shall be brought,
3 instituted or maintained against the NSC-STMCom or the STMO or an authorized
4 officer for or on account of or in respect of any act ordered or done for the purpose
5 of carrying into effect this Act or IRR if the act was done in good faith and under a
6 reasonable belief that it was necessary for the purpose intended to be served
7 thereby.

8
9 SEC. 28. *Jurisdiction.* The Regional Trial Court shall have jurisdiction over
10 criminal prosecutions for violation of any provision of this Act, as well as over
11 applications for the issuance and grant of applicable provisional remedies under the
12 Rules of Court.

13 SEC. 29. *International Legal Cooperation.*

14
15 For the purposes of this section, the Department of Justice (DOJ) shall
16 make and receive requests for assistance and to execute or arrange for the
17 execution of such requests.

18 (a) Types of assistance. - the DOJ may execute or make a request for
19 assistance from a foreign state to: (1) take evidence or obtaining voluntary
20 statements from persons; (2) make arrangements for persons to give evidence
21 or to assist in criminal matters; (3) effect service of judicial documents; (4)
22 execute searches and seizures; (5) examine objects and sites; (6) provide or
23 obtain original or certified true copies of relevant documents, records and items
24 of evidence; (7) identify or trace property derived from the commission of an
25 offense and instrumentalities of crime; (8) restrain dealings in property or freeze
26 property derived from the commission of an offense that may be recovered,
27 forfeited or confiscated; (9) recover, forfeit or confiscate property derived from
28 the commission of an offense; and (10) locate and identifying witnesses and
29 suspects.

30 (b) Request for legal assistance from a foreign state - where a foreign state
31 makes a request for assistance in the investigation or prosecution for violation of
32 any of the regulated activities under this act, or in related criminal proceedings,
33 the DOJ may execute the request or refuse to execute the request, and inform
34 the foreign state of valid reason for not executing the request or for delaying its
35 execution. The DOJ may refuse a request for assistance where the action
36 sought by the request contravenes any provision of the constitution or the
37 execution of a request is likely to prejudice the national interest of the

1 Philippines, unless there is an existing treaty on mutual legal assistance
2 between the Philippines and the requesting state.

3 (c) Requirements for requests for mutual assistance from foreign states. - a
4 request for mutual assistance from foreign states must contain the following: (1)
5 name of the authority conducting the investigation, prosecution or judicial
6 proceeding to which the request relates, including contact details of the person
7 capable of responding to enquiries concerning the request; (2) specific
8 purpose of the request and the nature of the assistance sought; (3) confirmation
9 that an investigation or prosecution is being conducted in respect to the person
10 named therein or that the person has been convicted for violation of any of the
11 regulated particulars, if known; (4) specify the manner in which and to whom
12 said information, document, material or object obtained pursuant to the request,
13 is to be produced; (5) all the particulars necessary for the issuance by the court
14 in the requested state of the writs, orders or processes needed by the
15 requesting state; and (6) such other information as may assist in the execution
16 of the request.

17 (d) Authentication of documents. – any documents submitted by the foreign
18 state pursuant to this section, shall be admissible as evidence in any
19 proceeding, without need for further authentication.

20 Subject to the provisions of the extradition law and the applicable extradition
21 treaty, the offenses defined in this act shall be deemed included as extraditable
22 offenses in an extradition treaty in which the Philippines is a party.

23
24
25 CHAPTER V:
26 FINAL PROVISIONS
27

28 SEC. 30. *Implementing Rules and Regulations.* Within six (6) months from
29 the effectivity of this Act, the Implementing Rules and Regulations Committee to be
30 composed of the member-agencies of the NSC-STMCom shall draft and issue the
31 IRR for its effective implementation, after public consultations with stakeholders:
32 *Provided, That the non-issuance of the IRR shall not prevent the coming into force of*
33 *the Act.*

34
35 SEC. 31. *Appropriations.* The amount needed for the initial implementation of
36 this Act shall be charged against the current year's appropriations of the Department

1 of Trade and Industry. Thereafter, such sums as may be necessary for the
2 implementation of this Act shall be included in the annual General Appropriations Act.

3 SEC. 32. *Separability Clause.* If any provision of this Act is held to be invalid
4 or unconstitutional, the provisions not otherwise affected shall remain valid and
5 subsisting.

6
7 SEC. 33. *Suppletory Application.* For purposes of this Act, the Revised Penal
8 Code and other applicable laws shall have suppletory application.

9
10 SEC. 34. *Repealing Clause.* All laws, decrees, executive orders, rules and
11 regulations and other issuances or parts thereof which are inconsistent with the
12 provisions of this Act are hereby repealed, amended or modified accordingly.

13
14 SEC. 35. *Effectivity Clause.* This Act shall take effect after fifteen (15) days
15 from its publication in the Official Gazette or in a newspaper of general circulation.

16
17 *Approved,*