

## REPUBLIC ACT No. 1789

### **AN ACT PRESCRIBING THE NATIONAL POLICY IN THE PROCUREMENT AND UTILIZATION OF REPARATIONS AND DEVELOPMENT LOANS FROM JAPAN, CREATING A REPARATIONS COMMISSION TO IMPLEMENT THE POLICY, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.**

**Section 1. *Policy.*** It shall be the policy of the Government of the Philippines to utilize all reparations payments procured in whatever form from Japan under the terms of the Reparations Agreement between the Republic of the Philippines and Japan signed on May nine, nineteen hundred and fifty-six, in such manner as shall assure the maximum possible economic benefit to the Filipino people and in as equitable and widespread a manner as possible.

**Section 2. *Implementation.*** To implement the policy declared in Section one hereof, the procurement, disposition and utilization of all goods and services procured from Japan under the terms of the Reparations Agreement shall be carried out as closely as possible to promote the economic rehabilitation and development of the country and in accordance with the broad program, criteria and priorities established but the National Economic Council, in addition to the following criteria:

(a) Capital goods and services. Pursuant to the policy declared in Section One hereof, the capital goods and services received as reparations shall be made available to approved government projects for each year included in the National Economic Rehabilitation and Development Program upon application from the agency concerned and duly endorsed by the proper department head concerned and the National Economic Council, as well as to Filipino citizens and entities wholly owned by Filipino citizens, who will themselves utilize such goods and/or services as bona fide producers or manufacturers: *Provided*, That the government shall not procure or utilize reparations goods for the purpose of entering into business in competition with private industries, where such industries have shown their capacity and readiness to serve the public fairly and adequately: *Provided, further*, That reparations intended for electrification, firefighting equipment, telecommunications, railroad, base metal mining, steel and cement manufacturing, logging and shipping shall be given top priority. The list of projects shall, upon approval of the President, be given the widest dissemination and publicity possible.

(b) Goods other than capital goods. Goods other than capital goods that may be procured from reparations shall be limited to such goods as may not be obtainable from normal sources of imports and to highly essential consumer goods and construction materials not classified as capital goods, the total value and detailed listing of which shall be made by the Commission created in section 5 hereof and approved by the President upon recommendation of the National Economic Council. Such goods shall be sold through the National Marketing Corporation (NAMARCO) or in case of its inability, through any other agency selected by the Commission, only to bona fide retailers who are Filipino citizens or entities wholly owned by Filipino citizens who shall resell the same directly to consumers or end-users.

(c) Limitations. In any case, no goods or services shall be procured under the Agreement if the domestic supply thereof is adequate. No goods except those that are brand new and of the latest model shall be procured.

(d) Cash payment. The twenty million dollars cash payment shall accrue to a Trust Fund to be used exclusively for the benefit and rehabilitation of veterans of

the Philippines in World War II, and their widows and orphans, as Congress may from time to time provide.

(e) Private sector preferred. In general, preference in the procurement of reparations goods and services shall be given to private productive projects: *Provided*, That during the first year of the effectivity of the Agreement all reparations goods and services which may be procured shall be earmarked exclusively for government projects, and, thereafter, government projects shall be given preference only if they concern electrification, firefighting equipment, telecommunication or railroad or would foster the growth of private productive capacity, or are needed in the performance of essential public services, or involve productive projects which private enterprise is not yet capable or desirous of developing but which are urgently necessary in the interest of overall national economic growth: *Provided, further*, That where goods are procurable under the Agreement in sufficient quantities, no dollar allocation shall be made, nor any bond, debenture, or bond issues be floated for the importation of such goods for use in any government projects: *Provided, further*, That not more than sixty percent of the total value of the reparations to be paid by Japan during the twenty-year period shall be allocated to the private sector: *Provided, further*, That if the private sector does not or cannot make full use of its allocation, then the portion not so used shall be made available to the government.

(f) Disposition of proceeds from sale of reparations goods. The proceeds from the sale of reparations goods or the utilization of services shall be placed in a Special Economic Development Fund and shall be used only for the purpose specified hereunder.

**Section 3. *Special Economic Development Fund.*** The proceeds from the sale of reparations goods and utilization of services (excluding the sum referred to in Section two par. (d) hereof, together with interests earned, shall be constituted into a Special Economic Development Fund, out of which Congress may appropriate, from time to time, such amounts as may be necessary to constitute a Special Trust Fund which shall be available to the Rehabilitation Finance Corporation and the Philippine National Bank for loans for economic and industrial development projects as well as for construction, reconstruction, repair and/or improvement of public school buildings in amounts not exceeding eighty percent of the value of the securities and payable within a period not exceeding twenty years depending upon the kind of the loan and with interest at a rate not exceeding four percent per annum: *Provided*, That the Rehabilitation Finance Corporation and the Philippine National Bank shall charge for their services only the actual cost thereof and shall not make any profit therefrom: *Provided, further*, That fifty percent of such Special Trust Fund shall be available for industrial loans, thirty percent, for agricultural loans (but not more than twenty percent of such agricultural loans may be granted on any single agricultural crop), and the remaining twenty percent for public school building construction, reconstruction, repair and/or improvement, as Congress may provide from time to time. The sum of twenty million pesos shall likewise be set aside from the said Special Economic Development Fund to constitute a revolving fund which shall be used exclusively to aid in the establishment of rural banks, subject to the provisions of Republic Act Numbered Seven Hundred twenty, otherwise known as the "Rural Banks Act", as amended; and the further sum of fifty million pesos for the purchase of landed estates as provided for in the Land Tenure Act and such other landed estates as provided for by other special Acts.

**Section 4. *Procurement of services.*** Unless otherwise provided in this Act, the services to be procured from Japan shall be limited to such services of Japanese technicians as are needed in the installation of the capital goods and in the initial operation thereof, and in other specialized fields in industry and agriculture, and such services shall continue only as long as there exists definite need therefor: *Provided*, That the services of the

Japanese technicians concerned shall be utilized within one month after their arrival in the Philippines: *Provided, further*, That no Japanese technicians shall be allowed to enter the Philippines if any qualified and equally competent Filipino citizen is available for the work to be performed by the Japanese technician: *Provided, finally*, That the entry of Japanese technicians shall be subject to the immigration laws, rules and regulations.

**Section 5. *The implementing machinery.*** (a) For the purpose of implementing the provisions of this Act, the Reparations Agreement, and the exchange of notes on reparations loans, there is hereby created the Reparations Commission, hereinafter referred to as the Commission, which shall be composed of a Chairman and two other members appointed by the President of the Philippines, with the consent of the Commission on Appointments, who shall serve until removed for cause or by reason of death or disability. The Chairman shall receive a salary of eighteen thousand pesos per annum and the other members, fifteen thousand pesos per annum each.

(b) Subject to the provisions of the Reparations Agreement, there is hereby also created a Mission in Japan, hereinafter referred to as the Mission, to be composed of a Chief of Mission and such senior officials as may be necessary to effectivity undertake the work of the Mission. The Chief of Mission and the senior officials thereof shall be appointed by the President of the Philippines with the consent of the Commission on Appointments. The Chief of Mission shall receive a compensation of twelve thousand pesos per annum, and shall be a career Minister of the Philippine Foreign Service. The compensation and corresponding diplomatic ranks of the senior officials shall be determined and fixed by the President of the Philippines: *Provided*, That the Chief of the legal Section of the Mission shall not be accorded any diplomatic rank or status.

(c) All subordinate officials and employees of the Commission shall be appointed, and their compensation fixed, by the Commission. All subordinate officials and employees of the Mission shall be appointed by the Chief of Mission, and their compensation fixed by the Commission upon recommendation of the Chief of Mission. All subordinate officials and employees of both the Commission and the Mission, except those whose positions and policy determining, primarily confidential or highly technical in nature, shall be subject to the Civil Service law.

(d) All officials and employees of both the Commission and the Mission shall be properly bonded in the amount to be determined by the Commission according to the rank and responsibilities of the position of each official and employee. They shall, before assuming their office and every six months thereafter, file with the office of the President a schedule under of their assets and liabilities.

(e) The officials and employees of the Mission shall be granted allowances similar to those granted members of the Foreign Service of equal or similar rank, pursuant to the provisions of the Foreign Service Act, except the Chief of Mission who shall enjoy allowances equal to that of an Ambassador.

(f) The Chairman and the other members of the Commission, as well as the Chief and the senior officials of the Mission, shall devote their full time to their duties and shall not, during their continuance in office, nor after separation therefrom, be interested, financially or otherwise, directly or indirectly, in any business or transaction relating to the goods and services that may be received by the Philippine Government as reparations from Japan nor in any loans that may be effectuated under the exchange of notes on reparations loans. The relatives of such officials within the third degree of consanguinity or affinity shall likewise be prohibited from having any interest, financial or otherwise, direct or indirect, in any business or transaction relating to such reparations goods or services.

**Section 6. Powers, functions and duties of the Commission.** The Commission shall administer the acquisition, utilization and distribution of reparations goods and/or services subject to the provisions of the Reparations Agreement and this Act. In line with the overall economic program and the policy set in this Act, the Commission shall prepare and submit for the approval of the President of the Philippines, upon recommendation of the National Economic Council, (a) a five-year reparations program to be revised yearly as conditions warrant consisting of a broad list of eligible projects, undertakings or activities, of which the first year shall be made as firm as possible and in sufficient detail to form the preliminary basis for the schedule of goods and services called for in Article four of the Reparations Agreement; (b) the amount, extent, and conditions including the terms of payment under which reparations shall be procured, distributed and utilized; (c) the rules and regulations to be followed in administering the procurement, distribution, and utilization of reparations, including the procedure and forms of application thereof. Such reparations program, conditions of procurement, distribution and utilization, and rules and regulations governing the administration, distribution and utilization of reparations shall be duly published once a week for three consecutive weeks, in two newspapers, one in Tagalog and another in English, of general circulation in the Philippines; *Provided, however,* That the Commission may submit proposed amendments to the rules and regulations, the reparations program and the yearly schedule, as circumstances in the future may require, for approval of the President of the Philippines, upon recommendation by the National Economic Council.

In addition, the Commission shall have the following specific powers, functions, and duties:

(a) To prepare sufficiently in advance of need, on the basis of the previously approved reparations program and approved applications for reparations goods and services, a tentative schedule of goods and services to be procured from Japan every year which, when approved by the President of the Philippines upon recommendation of the National Economic Council, shall form the basis of consultation between the Philippines and Japanese Governments towards the formulation of the schedule called for in Article four of the Reparations Agreement.

(b) To verify, alter and approve all proposed contracts and bids between the Mission in Japan and Japanese firms before the Mission accepts any bid, concludes any contract or sends it to the representative of the Japanese Government, so as to ascertain their compliance with terms of the Reparations Agreement with Japan, and with all the provisions of this Act, and to give opportunity to the Philippine entity or persons for whom the goods or services are being procured as reparations to examine all bids, make selections thereon, with the cooperation of the Commission's technical staff, and verify the final contract specifications and terms thereof.

(c) To accept all goods and services and cash which may be procured by the Philippine government as reparations.

(d) To provide for the care, custody, protection and proper delivery to end-users of all such reparations goods as provided in this Act. In the performance of this function, the Commission and the Mission together shall endeavor to have the end-user inspect the goods, accept them, and provide for their expeditious shipment from Japan to the point of installation in the Philippines in order to minimize, if not altogether eliminate, storage costs, extra handling costs, deterioration and damage of transit.

(e) To collect and accept all moneys due by way of payment for reparations goods and services delivered to end-users and to deposit the same with the Central Bank which is hereby authorized upon consultation with the Commission, to determine whatever portion thereof may be placed as time deposit with such commercial bank as the Central Bank may designate.

(f) To enter into contract and to sue and be sued in Philippine courts.

(g) To publish every month in two newspapers, one in Tagalog and another in English, of general circulation in the Philippines a list of the goods disposed of by it and services required, including those remain undisposed of, indicating the nature of the goods, the names and addresses of the persons in whose favor the disposition was effected, and the amount of the consideration.

(h) To hear and decide all questions and controversies regarding the rules and regulations which it shall issue to carry out the purposes of this Act, its decisions in all such cases being appealable directly to the President.

(i) To perform such other functions as may be found necessary or as may be imposed upon it by law or executive order.

**Section 7. Powers, functions and duties of the Mission.** The Mission shall be, pursuant to paragraph one, Article seven, of the Reparations Agreement, the sole and exclusive agent of the Philippine Government in Japan charged with the implementation of the said Agreement, including the conclusion and performance of reparations contracts, and as such shall serve as the procurement branch of the Commission and shall undertake the procurement of all goods and services requisitioned from reparations by the Commission, including calling for bids, verification of bids against approved plans and specifications, inspections, award and contracts and supervision of shipment to the Philippines, subject to the direct supervision and control of the Commission: *Provided*, That the Mission shall cooperate with and, in appropriate cases, consult the Embassy where its work requires high level diplomatic intervention beyond its powers. To this and the Mission shall keep the Embassy fully informed of its activities, maintain constant liaison therewith and furnish it with copies of its reports to the Commission.

In addition, the Mission shall have the following specific powers, functions and duties:

(a) To negotiate and conclude with the Japanese Government the agreed annual schedule on the basis and within the limits of the tentative annual schedule of goods and services prepared by the Commission.

(b) To conclude, on behalf of the Philippine Government, contracts directly with any Japanese nationals or any Japanese entity controlled by Japanese nationals in order to procure the desired goods and/or services. The Mission shall procure goods and services on the basis of the agreed schedule and the procurement order received from the Commission.

(c) To exercise the necessary supervision and control in the selection, inspection and shipment of the goods.

(d) To conduct public bidding or to procure directly from specific manufacturers, producers, or suppliers concerned as provided herein. With respect to the procurement orders of Philippine Government offices, agencies and instrumentalities, including government-owned or controlled corporations, the Mission shall award the contract after a public bidding with sealed bids: *Provided*, That where the bids are unsatisfactory, as when the goods are unduly overpriced,

or of inferior quality, or when the suppliers combine to defeat the purpose of public bidding, or for any other like reason, the Mission may conduct another public bidding or procure the goods by negotiated sale. With respect to the procurement orders of private parties, the Mission shall, as a general rule procure the same from the manufacturer, producer, or supplier expressly chosen by the private parties concerned if any: *Provided*, That the Mission may reject the procurement of the goods from the specific manufacturer producer or supplier, and secure the desired goods from another source or conduct public bidding if this action is necessary for the purpose of protecting the interest of the party concerned, as when the goods are unduly overpriced, or reputed to be of inferior quality or from any other similar reason. The Mission shall endeavor to procure the goods directly from the manufacturers or producers or through their duly authorized representatives.

(e) To fix, in consultation with authorized representative of the Japanese Government, the details of the cash payment (in pesos) of twenty million dollars under the Agreement.

(f) To enter into payments agreements with authorized Japanese foreign exchange banks.

(g) To conduct such negotiations with the Japanese Government, as may be necessary to effect the expeditious and satisfactory survey and salvage of sunken vessels in Philippine waters.

(h) To conduct negotiations with authorized representatives of the Japanese Government for the purpose of fixing such other details as may be necessary for the purpose of implementing the Agreement. The Chief and senior officials of the Mission shall be the members of the Philippines panel to the Joint Committee created under Article ten of the Agreement. The Chief of Mission may designate from the other members of the staff of the Mission such additional members of the Philippine panel to this Committee as he may deem necessary to meet the exigencies of the service.

(i) Only the Chief of the Legal Section may sue and be sued in Japanese courts.

(j) To submit an annual report of its operations and such other reports as may be required from time to time to the Commission.

(k) To procure under the Agreement the necessary immovable property, equipment, supplies and other goods and services, which it shall need exclusively for its official use.

(l) To perform such other function as may be imposed upon it by law or executive order.

**Section 8. *Technical Personnel.*** The Commission shall provide itself with a competent technical staff to determine the soundness and technical feasibility of projects involved in applications for reparations goods and services, evaluate them in accordance with the criteria or program approved by the National Economic Council, evaluate plans and/or specifications in terms of suitability for bidding purposes, and submit its findings and recommendations for appropriate action by the Commission. The Mission in Japan shall likewise be provided with a competent staff of engineers, inspectors and economists, supplemented wherever and whenever necessary by use of inspection and testing services of internationally recognized licensed commercial organizations, in order to insure compliance with plans and specifications. Until such time as the Commission and

the Mission shall have their own trained technicians, the technical staffs of other government offices or institutions shall be utilized and the corresponding expenditures shall be provided for in the budget of the Commission and the Mission.

**Section 9. *Preparation of Annual Budget.*** The Commission shall prepare and submit for approval by the President of the Philippines its plantilla and annual budget for the first year. Thereafter, the Commission shall prepare and submit through the Budget Commission to the President of the Philippines for inclusion in the budget to be submitted to Congress, its plantilla and annual budget: *Provided*, That the preparation of the plantilla and the portion of the budget pertaining to the Mission shall be made upon the recommendation of the Chief of the Mission. That portion of the budget of the Mission payable in Japanese yen shall be included in the agreed schedule. All financial transactions of the Commission and the Mission shall be subject to existing budgetary and fiscal controls, including accounting and auditing as provided by law.

**Section 10. *Operating Funds.*** The funds for the approved budget of the Commission shall be taken out of the proceeds from reparations by imposing a service fee not greater than two percent on all transactions except those where government agencies are the end-users of reparations goods and services. For its initial operating fund the Commission is hereby authorized to obtain from the Central Bank temporary advances not exceeding a total sum of P1,000,000, which shall be reimbursed out of the proceeds from reparations.

**Section 11. *Terms of procurement.*** As a general rule, reparations goods shall be procured on an f.o.b. (free-on-board) Japanese port basis: *Provided*, That the Mission may, if circumstances so warrant, procure such goods on c. and f. (cost and freight) Philippine port, or c.i.f. (cost, insurance and freight) Philippine port basis, in which case the suppliers shall be required to quote separately expenses for freight. When reparations goods shall be paid in installments, only the f.o.b. cost thereof, exclusive of the insurance, ocean freight and other expenses incident to importation shall be considered in computing the amount of the installments. The insurance shall be obtained from domestic insurance companies hereinafter qualified in this Section subject to the condition that no dollar remittance would be involved: *Provided*, That if domestic insurance companies cannot cover, whether wholly or partially, such insurance without any dollar remittance, then such insurance may be obtained from any foreign insurance company having a reinsurance agreement with a domestic insurance company, with preference to entities wholly or substantially owned by Filipino citizens, the order to preference to be determined in accordance with the proportionate participation of Filipino capital in such domestic entities but in no case shall such insurance be obtained if the Filipino participation in the capital of the domestic insurance company is less than sixty percent. The insurance, ocean freight and other expenses incident to importation shall be paid by the end-user in accordance with usual business practices. As much as possible, in the transportation of reparations goods from Japan to the Philippines, carriers of Philippine Registry shall be preferred. The inspection and testing of reparations goods, whether intended for the government or for the private sector, shall be undertaken only by agencies specifically designated by the Philippine Government through the Mission. Nothing herein shall be construed as exempting the end-user from paying in full all the necessary costs, charges and expenses incident to the application for, and the procurement, production, delivery and acquisition of, the goods concerned.

**Section 12. *Terms of Sale.*** Capital goods and complementary services intended for non-revenue producing government projects shall be transferred to the agencies concerned without cost, and those intended for revenue producing government projects at cost. Capital goods and complementary services disposed of to private parties as provided for in subsection (a) of Section two hereof shall be sold on a cash or credit basis, under rules and regulations as may be determined by the Commission. Sales on a credit basis shall be payable in installments: *Provided*, That the first installment shall be paid within twenty-

four months after complete delivery of the capital goods and the balance within a period not exceeding ten years, at landed cost or at factory cost if delivery is ex-factory, plus the service fee provided for in section ten hereof: *Provided, further*, That the unpaid balance of the price thereof shall bear interest at the rate of not more than three percent per annum. Goods other than capital goods procured as reparations shall be sold for cash only at prevailing market prices for similar goods.

In all transactions involving the transfer of capital goods and/or services from reparations to the authorized private parties specified in this Act, the sale shall be directly to end-users and not through middlemen. The contract of sale shall bear the conditions that no capital goods thus acquired shall be resold, leased or in any other manner disposed of within five years from the date of acquisition except when the resale, lease, or other disposition is to Filipino citizens or to entities wholly owned by Filipino citizens, who shall continue the utilization thereof in the projects for which the goods were originally intended or in similar projects included in the economic development program of a similar priority, subject, however, to the further condition that the resale, lease or other disposition is approved by the Commission, on good and reasonable grounds, such as death or bankruptcy of the original buyer. It shall include the further condition that groups, associations and corporations which are recipients of such goods shall not permit subsequent change in ownership or control as shall at any time after change the control or ownership wholly held therein by Filipino citizens. It shall further contain a provision that any transfer of ownership, whether by virtue of a private contract or through court proceedings, shall be to Filipino citizens or entities wholly owned by Filipino citizens who shall begin utilizing them in such projects as the National Economic Council shall determine within one year from notice of the Council's decision.

**Section 13. *Award of Contract.*** In evaluating bids received from prospective manufacturers and suppliers of reparations goods and services or in negotiations with the Government of Japan for the procurement of goods and services not to be procured through contracts, the Mission in Japan shall consider as a basis for award such factors as (1) prevailing export prices in Japan for similar goods and services, (2) world market prices for similar goods and services, (3) delivery dates, and (4) availability of spare parts and service arrangements. In all awards of contracts, and in accordance with commercial practice normally observed in such transactions, the Mission shall require the awardee to provide a suitable guarantee for faithful performance of the contract.

**Section 14. *Exemption from Tax.*** All reparations goods obtained by the government shall be exempt from the payment of all duties, fees and taxes. Reparations goods obtained by private parties shall be exempt only from the payment of customs duties, consular fees and the special import tax.

**Section 15. *Relation to the Foreign Exchange Budget.*** Reparations should be regarded as part of the foreign exchange resources and should be allocated as part of the foreign exchange budget, according to principles and priorities laid down for foreign exchange policy as a whole.

In order that the foreign exchange budget and the time-table for implementing the economic development program may not be adversely affected in case the aggregate value of reparations goods and services may fall in any years substantially below the yearly totals envisioned in the Reparations Agreement, it is hereby provided that if at the end of any year during the effectivity of the said Agreement it is found that the aggregate value of the reparations goods and services received during that year is lower by fifteen per cent or more than the average yearly total receivable for that year under the same, provided that the deficiency is not due to a lack of demand on the part of the Philippine Government, the Central Bank of the Philippines shall reduce the allocation for the ensuing year of foreign exchange for the importation of Japanese goods and services not chargeable to reparations by an amount equal to the difference between the aggregate



value of reparations goods and services actually received and the applicable average total annual amount provided for in the Agreement, and the Central Bank shall then make the corresponding foreign exchange available for importation from other sources of the goods and services that would have been received under reparations but were not received.

**Section 16. *Designation of Japanese Foreign Exchange Banks.*** Reparations payments to be made by the Japanese Government to the Philippine Government shall be deposited in any authorized Japanese foreign exchange bank as the official depository of the Philippine Government in Japan, which may be ready, willing and able to help finance the reparations requirement of the Philippine Government to the extent not covered or coverable by Japanese Government payments in any single year, at the prevailing rate of discount and for a period of time not exceeding the period of reparations payments. The Mission shall, subject to the approval of the Commission, designate the Japanese banks which shall act as official depositories of the Philippine Government in Japan.

**Section 17. *End-Use Checks.*** The Commission shall conduct field examinations and evaluate actual utilization of reparations goods and services obtained. It shall submit to the President of the Philippines, to the Senate through its President, to the House of Representatives through its Speaker, and to the National Economic Council through its Chairman, an annual report of the status and progress of the distribution and utilization of reparations, including an analysis of results and whatever recommendations are necessary. The Commission may also be requested to prepare such other periodical reports as may be necessary.

**Section 18. *Economic Development Loans.*** It shall be the policy of the Philippine Government not to authorize any development loan in capital goods under the executive agreement contained in the exchange of notes on development loans, where such capital goods can be procured by way of reparations. Pursuant thereto the Commission shall not authorize, sanction or abet any development loan in capital goods, where such capital goods are procurable by way of reparations.

The Commission shall determine the fields of investment in the various industries for which the loans may be granted under the criteria and priorities established in the economic development program of the government. In determining the field of investment for which development loans may be granted, the Commission shall include and give priority to private financial institutions and industries liquidated and commandeered by the Japanese Imperial Army of occupation and/or Japanese military administration and which private financial institutions and industries have not as yet been rehabilitated or otherwise granted benefits: *Provided*, That the activities to be financed with such loans shall not result in unwise depletion of the country's natural resources: *And Provided, further*, That the recipients of such loans shall be Filipino citizens or entities wholly owned by Filipino citizens. To such effect, it shall be the duty of the Commission: (a) to publish as often as may be deemed necessary the fields of investment and projects for which the Government will be prepared to expedite the extension of development loans from Japanese financing agencies under the terms of the exchange of notes on development loans and (b) the conditions under which the government shall facilitate the extension of development loans and the fields of investment in which the loans may be utilized.

**Section 19. *Violations and penalties.*** (a) Any person who fails to utilize any capital goods acquired from the Commission for the purpose for which they were intended within a period of twenty-four months after actual complete physical delivery or does not continue to utilize the same without any reasonable cause as long as they are serviceable after having started operations, shall be subject to a fine of five per cent of the value of such goods for every year of default or fraction thereof. In addition thereto the goods, as well

as the payments already made thereon, shall be subject to confiscation and forfeiture by the government.

(b) Any person who does not utilize the services of any technician within one month after his arrival in the Philippines, or who utilizes his services, whether partly or wholly, for any purpose other than that for which he was allowed entry, shall be punished by a fine of not less than five thousand pesos nor more than ten thousand pesos and the technician concerned shall be subject to immediate deportation, and in addition thereto, whatever payments already made for such services shall be deemed forfeited to the government.

(c) It shall be unlawful for any member of the Commission or Mission, or for any employee, agent, or clerk of the Commission or Mission, to divulge, or to make known in any manner whatsoever not provided for by law, to any person, the trade secrets or processes of any person, firm copartnership, corporation, or association embraced in any examination or investigation conducted by the Commission or by order of the Commission or by order of any member thereof. Any offense against this provision shall be penalized by dismissal from the service with prejudice to reinstatement subject to whatever action the aggrieved party may take against the offender.

(d) No fee, charge, or commission in any form shall be exacted, demanded or paid for obtaining reparations, directly or indirectly, by any person, officer, member, employee or agent of the Commission, of the Mission in Japan, or of banks or financial institutions handling reparations funds, except as authorized in this Act. Any such person, officer, member, employee or agent who violates or permits the violation of this subsection or any person aiding or abetting such violations, shall be punished by a fine of not less than ten thousand pesos nor more than thirty thousand pesos and imprisonment of not less than five years nor more than fifteen years.

(e) No official or employee of the government, its subdivisions and instrumentalities shall appear as counsel for, or act as agent or representative or in any manner whatsoever shall intervene or intercede, directly or indirectly, in behalf of, any party in any transaction with the Commission regarding the procurement and utilization of reparations goods and/or services and loans. Neither shall such official or employee of the government, its subdivisions and instrumentalities, directly or indirectly, be interested, financially or otherwise, in any transaction with the Commission involving reparations goods and/or services. Any person violating this provision shall be subject to the penalty provided in subsection (c) of this section.

(f) Any person violating or aiding or abetting the violation of any provision of this Act or any of the rules and regulations issued pursuant to the provisions of this Act in any other manner shall be punished by a fine of not less than four thousand pesos nor more than eight thousand pesos and/or imprisonment of not less than four nor more than eight years with subsidiary imprisonment in case of insolvency, and if the guilty party were an appointive officer or employee, he shall, in addition, be dismissed from the service with prejudice to appointment to any public office.

In all cases, the guilty parties shall, in addition, be disqualified from subsequently applying for and/or utilizing any reparations or loans, whether in the form of goods or services, or the proceeds from the sale of reparations goods or the utilization of services.

**Section 20. *Anti-Dummy.*** In all cases in which any provision of this Act requires Philippine or any other specific citizenship as a requisite for the exercise or enjoyment of right, franchise, privilege, reparations goods, machinery, equipment or services, of whatever nature, any citizen of the Philippines or of any other specific country who allows his name or citizenship to be used for the purpose of evading such provision, and any alien or foreigner profiting thereby, shall be punished by imprisonment of not less than five nor more than fifteen years, and by a fine of not less than the value of the right, franchise, privilege, reparations goods, machinery, equipment or services, which is enjoyed or acquired in violation of the provisions hereof but in no case less than ten thousand pesos. In all cases of violations hereof, the pertinent provisions of Commonwealth Act Numbered one hundred eight, as amended by Republic Act Numbered One hundred thirty-four and Republic Act Numbered Eleven hundred thirty, whenever applicable, are hereby extended thereto.

**Section 21.** *This Act shall take effect upon its approval.*

Approved: June 21, 1957

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