

115TH CONGRESS
1ST SESSION

S. 1055

To restrict the exportation of certain defense articles to the Philippine National Police, to work with the Philippines to support civil society and a public health approach to substance abuse, to report on Chinese and other sources of narcotics to the Republic of the Philippines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2017

Mr. CARDIN (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To restrict the exportation of certain defense articles to the Philippine National Police, to work with the Philippines to support civil society and a public health approach to substance abuse, to report on Chinese and other sources of narcotics to the Republic of the Philippines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Philippines Human Rights Accountability and Counter-
6 narcotics Act of 2017”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Policy statements.
- Sec. 4. Definition.
- Sec. 5. Restriction on assistance to the Philippine National Police.
- Sec. 6. Leahy vetting report on foreign assistance cases related to the Philippine National Police.
- Sec. 7. Report on Chinese and other sources of narcotics to the Philippines.
- Sec. 8. Human rights, democracy, and public health promotion.
- Sec. 9. Report on United States military assistance and arms transfers to the Philippines.
- Sec. 10. Report on plans for Philippines partner capacity building.

3 **SEC. 2. FINDINGS.**

4 (1) On August 28, 2016, Archbishop of Manila
 5 Luis Antonio Cardinal Tagle said, in response to the
 6 extrajudicial killings in the Philippines, “I know that
 7 the big issue nowadays is the recent spate of
 8 killings—which, they say, afflicts even those not
 9 guilty, the innocent—but whether a person is guilty
 10 or not, life should be cared for and respected.”.

11 (2) The Department of State’s 2017 Human
 12 Rights Report, released on March 3, 2017—

13 (A) states that “police and unknown vigi-
 14 lantes have killed more than 6,000 suspected
 15 drug dealers and users” in the Philippines be-
 16 tween July and December 2016, a period dur-
 17 ing which extrajudicial killings “increased
 18 sharply”; and

19 (B) chronicles the environment for
 20 extrajudicial killings allegedly undertaken by

1 vigilantes, security forces, and insurgents and
2 the “apparent governmental disregard for
3 human rights and due process; and a weak and
4 overburdened criminal justice system”.

5 (3) On January 31, 2017, Amnesty Inter-
6 national reported, “Since President Rodrigo Duterte
7 took office in June 2016, there has been a relentless
8 campaign of violence against alleged drug offenders,
9 incited by the President and his administration.
10 More than 7,000 people have been killed, roughly
11 one-third during formal police operations and the
12 rest by unknown shooters who often arrive masked
13 and on motorbike to kill specific people.”.

14 (4) Human Rights Watch has reported that
15 since President Duterte took office, police and un-
16 identified gunmen together have killed more than
17 7,000 suspected drug users and dealers, with police
18 officials themselves claiming to have killed almost
19 3,000 in “encounters” with supposed drug sellers or
20 users. The police have attributed 3,271 other killings
21 to “vigilantes” and drug gangs, although Human
22 Rights Watch research suggests that many of these
23 cases may also entail police and police agent involve-
24 ment in extrajudicial executions.

1 (5) On February 14, 2017, national police chief
2 Ronald Dela Rosa announced that he was sus-
3 pending anti-narcotics operations after a South Ko-
4 rean businessman was killed at national police head-
5 quarters.

6 (6) On February 23, 2017, an arrest warrant
7 was issued against Philippines Senator Leila de
8 Lima for alleged involvement in drug trafficking.
9 The prosecution of de Lima came following her re-
10 peated criticism of the Duterte administration for its
11 conduct of the drug war, her holding of Senate hear-
12 ings where alleged former members of a death squad
13 testified that Duterte participated in extrajudicial
14 killings in Davao City when he was mayor, and re-
15 peated threats against her from Duterte and his al-
16 lies.

17 (7) On December 16, 2016, Reuters reported,
18 “China isn’t only a source of meth expertise—it is
19 also the biggest source of the meth and of the pre-
20 cursor chemicals used to produce the synthetic drug
21 that are being smuggled into the Philippines, accord-
22 ing to local drug enforcement officials. ‘It’s safe to
23 say that the majority of the meth we have comes
24 from China,’ said Philippine Drug Enforcement
25 Agency spokesman Derrick Carreon.”.

1 **SEC. 3. POLICY STATEMENTS.**

2 It is the policy of the United States—

3 (1) to reaffirm its commitment and support for
4 the Philippines, including the longstanding United
5 States policy regarding Article V of the United
6 States-Philippines Mutual Defense Treaty, signed at
7 Washington August 30, 1951 (3 UST 3947);

8 (2) to work with the Philippines to promote
9 economic growth and development through—

10 (A) programs such as the Partnership for
11 Growth, which seeks to strengthen regulatory
12 quality, fiscal management, and human capac-
13 ity development in the Philippines; and

14 (B) other appropriate bilateral and multi-
15 lateral economic development and trade initia-
16 tives;

17 (3) to work with the Philippines to support a
18 public health approach to substance abuse, drug ad-
19 diction, and the illegal use of narcotics utilizing com-
20 prehensive, voluntary, and community-based treat-
21 ment and rehabilitation programs in line with inter-
22 national standards;

23 (4) to support the people of the Philippines in
24 their efforts—

25 (A) to strengthen the rule of law and anti-
26 corruption measures;

1 (B) to further effective judicial and legal
2 institutions; and

3 (C) to promote human rights and civil soci-
4 ety.

5 (5) to expand opportunities for more robust co-
6 operative security assistance programs, particularly
7 programs involving maritime security and maritime
8 domain awareness;

9 (6) to pursue and coordinate robust cooperative
10 security assistance programs for capacity building of
11 the Philippines to establish a credible defense pos-
12 ture, and to support counter-terrorism and maritime
13 law enforcement;

14 (7) to coordinate closely on the implementation
15 of the Enhanced Defense Cooperation Agreement, a
16 mutually beneficial agreement that will—

17 (A) enhance the United States ability to
18 provide rapid humanitarian assistance; and

19 (B) help build capacity for the moderniza-
20 tion of the Armed Forces of the Philippines;

21 (8) to enhance military-to-military cooperation
22 and inter-operability through joint exercises, capac-
23 ity-building, and intelligence sharing and support
24 work to establish a robust information security pro-

1 gram, which will lead to achieving a General Secu-
2 rity of Military Information Agreement; and

3 (9) to enhance cybersecurity cooperation be-
4 tween the United States and the Philippines.

5 **SEC. 4. DEFINITION.**

6 In this Act, the term “appropriate congressional com-
7 mittees” means—

8 (1) the Committee on Foreign Relations of the
9 Senate;

10 (2) the Committee on Armed Services of the
11 Senate;

12 (3) the Committee on Appropriations of the
13 Senate;

14 (4) the Committee on Foreign Affairs of the
15 House of Representatives;

16 (5) the Committee on Armed Services of the
17 House of Representatives; and

18 (6) the Committee on Appropriations of the
19 House of Representatives.

20 **SEC. 5. RESTRICTION ON ASSISTANCE TO THE PHILIPPINE**
21 **NATIONAL POLICE.**

22 (a) IN GENERAL.—Subject to subsections (b)
23 through (d), no defense articles or defense services may
24 be exported, and no licenses for export of any item con-
25 trolled by the United States for law enforcement, riot con-

1 trol, or related purposes may be issued, for the use of the
 2 Philippine National Police or entities associated with the
 3 Philippine National Police.

4 (b) EXCEPTIONS.—The restrictions under subsection
 5 (a) shall not apply to the exportation of defense articles
 6 or the provision of training for maritime law enforcement
 7 (Coast Guard drug interdiction), criminal justice pro-
 8 grams, human rights training, and counter-terrorism pro-
 9 grams for use of the Philippine National Police.

10 (c) WAIVER.—The President may waive the restric-
 11 tions under subsection (a), on a case-by-case basis, if—

12 (1) the President determines that the export of
 13 such item or service is in the national interest of the
 14 United States; and

15 (2) the President notifies the appropriate con-
 16 gressional committees of the determination under
 17 paragraph (1), including the justification for such
 18 determination, at least 30 days before invoking such
 19 waiver.

20 (d) SUNSET.—

21 (1) IN GENERAL.—The restrictions under sub-
 22 section (a) shall terminate on—

23 (A) the date that is 5 years after the date
 24 of the enactment of this Act; or

1 (B) the date set forth in paragraph (2) if
 2 the President determines that—

3 (i) the Philippine National Police and
 4 its associated entities have been sufficiently
 5 reformed; and

6 (ii) sufficient safeguards, reporting,
 7 investigatory, and judicial measures have
 8 been established to prevent recurrent
 9 human rights abuses.

10 (2) NOTICE.—The date set forth in this para-
 11 graph is 30 days after the President notifies the
 12 Committee on Foreign Relations of the Senate and
 13 the Committee on Foreign Affairs of the House of
 14 Representatives that the President has made the de-
 15 termination described in paragraph (1)(B) and pro-
 16 vides such committees with justification for such de-
 17 termination.

18 **SEC. 6. LEAHY VETTING REPORT ON FOREIGN ASSISTANCE**
 19 **CASES RELATED TO THE PHILIPPINE NA-**
 20 **TIONAL POLICE.**

21 (a) IN GENERAL.—Not later than 90 days after the
 22 date of the enactment of this Act, and annually thereafter
 23 until 5 years after the date of the enactment of this Act,
 24 the Secretary of State shall submit a report to the appro-
 25 priate congressional committees on foreign assistance

1 cases related to the Philippine National Police, or entities
2 associated with the Philippine National Police, submitted
3 for vetting for purposes of section 620M of the Foreign
4 Assistance Act of 1961 (22 U.S.C. 2378d) during the pre-
5 ceding fiscal year, including—

6 (1) the total number of cases related to the
7 Philippine National Police submitted, approved, sus-
8 pended, or rejected for human rights reasons; and

9 (2) for cases rejected, a description of the steps
10 taken to assist the foreign government in taking ef-
11 fective measures to bring the responsible members of
12 the security forces to justice, in accordance with sec-
13 tion 620M(c) of such Act.

14 (b) FORM.—The report required under subsection (a)
15 shall be submitted in unclassified form, but may be accom-
16 panied by a classified annex.

17 **SEC. 7. REPORT ON CHINESE AND OTHER SOURCES OF**
18 **NARCOTICS TO THE PHILIPPINES.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date of the enactment of this Act, and annually thereafter,
21 the Secretary of State, with the concurrence of the Admin-
22 istrator of the Drug Enforcement Administration and the
23 Secretary of Defense, shall submit a report to the appro-
24 priate congressional committees that describes, for the
25 previous calendar year—

1 (1) Chinese and other sources of narcotics and
2 precursor chemicals to produce narcotics in the Phil-
3ippines; and

4 (2) Chinese and other sources of expertise for
5 the production of narcotics in the Philippines.

6 (b) FORM.—Each report under subsection (a) shall
7 be submitted in unclassified form, but may include a clas-
8sified annex.

9 **SEC. 8. HUMAN RIGHTS, DEMOCRACY, AND PUBLIC HEALTH**
10 **PROMOTION.**

11 Of the amounts made available for the Department
12 of State and the United States Agency for International
13 Development to support global health and civil society, in-
14cluding human rights defenders, and to promote the rule
15 of law and good governance in fiscal years 2017 and 2018,
16 up to \$25,000,000 may be used to support human rights,
17 democracy, and public health in the Philippines, includ-
18ing—

19 (1) supporting Filipino defenders of human
20 rights;

21 (2) assisting victims of human rights violations;

22 (3) responding to human rights emergencies;

23 (4) promoting and encouraging the rule of law,
24 including the support for nongovernmental organiza-
25 tions in the Philippines;

1 (5) promoting a public health approach to sub-
2 stance abuse, drug addiction, and the illegal use of
3 narcotics utilizing comprehensive, voluntary, and
4 community-based treatment and rehabilitation pro-
5 grams that are consistent with international stand-
6 ards; and

7 (6) carrying out such other related activities as
8 are consistent with paragraphs (1) through (5).

9 **SEC. 9. REPORT ON UNITED STATES MILITARY ASSISTANCE**
10 **AND ARMS TRANSFERS TO THE PHILIPPINES.**

11 (a) IN GENERAL.—Not later than 180 days after the
12 date of the enactment of this Act, the Secretary of State,
13 with the concurrence of the Secretary of Defense, shall
14 submit a classified report to the appropriate congressional
15 committees on whether—

16 (1) United States military assistance, coopera-
17 tion, security assistance, and arms transfers (includ-
18 ing items prohibited under section 5, and any de-
19 fense or other items or services controlled for export
20 by the United States that have been provided for the
21 use of the Philippine National Police and its associ-
22 ated entities) are used by the Philippine National
23 Police and its associated entities—

24 (A) to commit gross violations of human
25 rights; or

1 (B) in violation of other United States
2 laws applicable to United States military or se-
3 curity assistance, cooperation, and arms trans-
4 fers that are related to human rights and pre-
5 venting human rights violations; and

6 (2) the United States has the ability—

7 (A) to determine whether United States
8 military assistance and arms transfers are used
9 to commit gross violations of human rights;

10 (B) to detect other violations of United
11 States law concerning United States military or
12 security assistance, cooperation, and arms
13 transfers, including the diversion of such assist-
14 ance or the use of such assistance by security
15 force or police units credibly implicated in gross
16 human rights violations; and

17 (C) to determine whether individuals or
18 units that have received United States military,
19 security, or police training or have participated
20 or are scheduled to participate in joint exercises
21 with United States forces have been credibly
22 implicated in gross human rights violations.

23 (b) TECHNOLOGY TRANSFER STATUS REPORT.—Not
24 later than 90 days after the date of the enactment of this
25 Act, the Secretary of State shall submit a report to the

1 appropriate congressional committees, in unclassified form
2 to the maximum extent possible, that summarizes the sta-
3 tus of the Defense Security Cooperation Agency's efforts
4 to implement the End-Use Monitoring Enhancement Plan
5 relating to government-to-government transfers and com-
6 mercial sales of defense articles, defense services, law en-
7 forcement articles, law enforcement services, and related
8 technologies.

9 **SEC. 10. REPORT ON PLANS FOR PHILIPPINES PARTNER**
10 **CAPACITY BUILDING.**

11 Not later than 180 days after the date of the enact-
12 ment of this Act, the Secretary of State, with the concur-
13 rence of the Secretary of Defense, shall submit a classified
14 report to the appropriate congressional committees that
15 includes a plan that describes, for each of the 6-month,
16 1-year, and 5-year periods beginning on the date of such
17 report—

18 (1) partner capacity building assistance to the
19 Philippines to enhance maritime capabilities, re-
20 spond to emerging threats, and maintain freedom of
21 operations in international waters and airspace in
22 the Asia-Pacific maritime domains;

23 (2) recommendations, if any, for additional for-
24 eign military sales, foreign military financing, and

1 international military education and training to be
2 made available to the Philippines, including—

3 (A) any necessary updates to the report
4 detailing steps taken by the Government of the
5 Philippines to investigate and prosecute army
6 personnel involved in human rights violations,
7 as required by Senate Report 114–79; and

8 (B) an assessment of the commitment of
9 the Government of the Philippines to inter-
10 national human rights conventions; and

11 (3) how the assistance referred to in paragraph
12 (1) will be implemented in accordance with appro-
13 priate human rights laws, including—

14 (A) the regular process for vetting partici-
15 pants in security assistance and training pro-
16 grams funded by the United States under sec-
17 tion 620M of the Foreign Assistance Act of
18 1961 (22 U.S.C. 2378d); and

19 (B) the restrictions on assistance to for-
20 eign security forces set forth in section 362 of
21 title 10, United States Code.

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