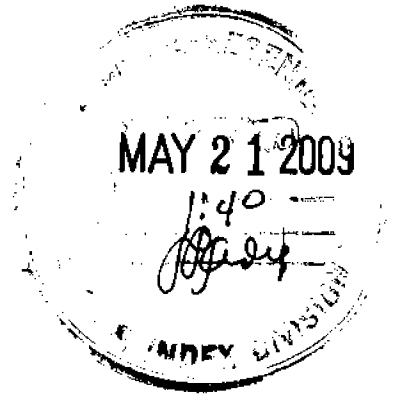


**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**FOURTEENTH CONGRESS
Second Regular Session**

HOUSE BILL NO. 6393



Introduced by **Bayan Muna Reps. TEODORO A. CASIÑO** and **SATUR OCAMPO**, and **NERI JAVIER COLMENARES**, **Anakpawis Rep. RAFAEL V. MARIANO** and **JOEL MAGLUNGSOD**, **Gabriela Women's Party Reps. LIZA LARGOZA-MAZA** and **LUZVIMINDA ILAGAN**, **Kabataan Party Rep. RAYMOND PALATINO**

Explanatory Note

Government policy on Official Development Assistance (ODA) is defined by the ODA Act of 1996 (R.A. 8182, as amended by R.A. 8555). The law identifies the criteria for what counts as ODA or aid, defines oversight bodies and functions, and sets parameters for the use of aid. The underdeveloped Philippine economy certainly has scarce capacity to generate capital resources. Aid however is ultimately just a means to development and not an end in itself. The amount of aid is not in and of itself desirable and this is most appropriately viewed in terms of actual development outcomes.

Foreign aid can potentially contribute to national development, to the realization of economic, social, cultural and political rights, and to the achievement of the Millennium Development Goals (MDG). In principle it can add greatly to the financial and technical resources for programs and projects of the national government, local government units and civil society. Yet while ODA is potentially valuable in practice there is still much to be done for it to more fully contribute to developmental ends.

Various reforms in the country's ODA system are necessary. Aid to the Philippines still unduly reflects collective donor preferences and not the country's social and development imperatives. The recent high-profile cases of corruption and rent-seeking in the aid system are also cause for serious concern. Ironically, aid has tended to reinforce rather than remedy basic distributive problems in the country's official development strategies. The largest part of aid goes to infrastructure in areas of the

country with relatively high-value economic activity or to projects with direct economic returns rather than to social services or to rural areas where outcomes are less visible or not immediately measurable. Infrastructure projects, aside from often being implemented by contractors from donor countries, also tend to locate where transnational firms can most benefit from their use. In the most severe instances aid projects have been implemented in ways that violate the human rights of communities, that economically and physically displace marginalized sectors, and that have adverse impacts on the environment.

There is aid that has gone to useful and productive ends in the country. However basic reforms are still needed in ODA and the aid system if these are to contribute to the right to development and to building rather than eroding national democratic processes. The general direction must be to build democratic ownership as well as greatly improve transparency and accountability. It is also vital to assert the country's sovereignty and by doing so greatly improve our negotiating leverage vis-à-vis donors and lenders. These will ensure that the benefits of aid are maximized and the adverse effects minimized.


Constructive steps towards addressing some of these problems can be taken with amendments to the current ODA Law. There must be a more explicit human rights-based approach to ODA and development policy to enable more rights-focused planning, monitoring and evaluation of aid. Loans should count as aid upon even lighter debt servicing especially in consideration of how rich country donors have already for so long benefited from our human and natural resources. There must be more equitable regional distribution and more socially desirable sectoral distribution of aid. The major stakeholders must as much as possible work together throughout the programming, appraisal, implementation, monitoring and evaluation process. This means not just the executive but also parliament, civil society and the communities. There must be more determined preference for and use of Filipino suppliers, manufacturers, consultants, professionals, workers and others.


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



Rep. TEODORO A. CASIÑO
Bayan Muna Party List



Rep. SATUR C. OCAMPO
Bayan Muna Party List


Rep. NERI JAVIER COLMENARES
Bayan Muna Party List


Rep. RAFAEL V. MARIANO
Anakpawis Party List


Rep. JOEL B. MAGLUNGSOD
Anakpawis Party List


Rep. LIZA LARGOZA MAZA
Gabriela Women's Party


Rep. LUVIMINDA C. ILAGAN
Gabriela Women's Party


Rep. RAYMOND B. PALATINO
Kabataan Party

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FOURTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 6393

Introduced by **Bayan Muna Reps. TEODORO A. CASIÑO** and **SATUR OCAMPO**, and **NERI JAVIER COLMENARES**, **Anakpawis Rep. RAFAEL V. MARIANO** and **JOEL MAGLUNGSOD**, **Gabriela Women's Party Reps. LIZA LARGOZA-MAZA** and **LUZVIMINDA ILAGAN**, **Kabataan Party Rep. RAYMOND PALATINO**

AN ACT
ENSURING THE EFFECTIVENESS OF ALL OFFICIAL
DEVELOPMENT ASSISTANCE (ODA) LOANS AND LOANS AND
GRANTS AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8182
OTHERWISE KNOWN AS THE OFFICIAL DEVELOPMENT
ASSISTANCE ACT OF 1996, AS AMENDED,
AND FOR OTHER PURPOSES.

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

Section 1. Section 1 of Republic Act No. 8182 is hereby amended to read as follows:

“Section 1. Title. — THIS ACT SHALL BE KNOWN AS THE
“OFFICIAL DEVELOPMENT ASSISTANCE EFFECTIVENESS ACT OF
2009.”

Sec. 2. Sec. 2 of Republic Act No. 8182 is hereby amended to read as follows:

“Sec. 2. Official Development Assistance (ODA) AND AID EFFECTIVENESS. — For purposes of this Act, ODA is a loan or loan and grant, which MEETS all of the following criteria FOR ODA TO BE EFFECTIVE:

- (a) IT MUST BE ADMINISTERED WITH THE OBJECTIVES OF PROMOTING AND ACHIEVING SUSTAINED REDUCTION OF POVERTY AND INEQUALITY, SUPPORTING THE ENJOYMENT OF HUMAN RIGHTS, DEMOCRACY, ENVIRONMENTAL SUSTAINABILITY AND GENDER EQUALITY FOR THE FILIPINO PEOPLE;
- (b) IT MUST BE CONTRACTED WITH GOVERNMENTS OF FOREIGN COUNTRIES WITH WHOM THE PHILIPPINES HAS DIPLOMATIC, TRADE RELATIONS OR BILATERAL AGREEMENTS OR WHICH ARE MEMBERS OF THE UNITED NATIONS, THEIR AGENCIES AND INTERNATIONAL OR MULTILATERAL LENDING INSTITUTIONS BASED ON THE PRINCIPLES OF DEMOCRATIC OR COUNTRY OWNERSHIP AND MUTUAL ACCOUNTABILITY WITH THE UTMOST INTENTION OF UPLIFTING THE ECONOMIC, SOCIAL AND CULTURAL CONDITION OF THE FILIPINO PEOPLE;
- (c) There are no available comparable financial instruments in the capital market; and
- (d) It must contain a grant element of at least twenty five percent. Grant element under this Act is the reduction enjoyed by the borrower whenever the debt service payments which shall include both principal and interest and expressed at their present values discounted at ten percent (10%) OR AT THE YIELD ON COMPARABLE COMMERCIAL BONDS MOST RECENTLY ISSUED BY THE NATIONAL GOVERNMENT, WHICHEVER IS LOWER, are less than the face value of the loan or loan and grant. The grant element of a loan or loan and grant is computed at the ratio of (i) the difference between the face value of the loan or loan and grant and the debt service payments to (ii) the face value of the loan or loan and grant."

Sec. 3. Sec. 4 of Republic Act No. 8182, as amended, is hereby further amended to read as follows:

"Sec. 4. Use of ODA for Equitable Development. — The proceeds of ODA shall be used to achieve equitable growth and development in all provinces through priority development projects for the improvement of economic and social service facilities taking into account such factors as land area, population, scarcity of resources, low literacy rate, infant mortality and poverty incidence in the area: *Provided*, That rural infrastructure, countryside development and economic zones established under the PEZA law shall be given preference in the

utilization of ODA funds: *PROVIDED, FURTHER*, THAT STUDIES ON THE SOCIAL AND ECONOMIC IMPACT OF THE DEVELOPMENT PROJECT ARE EXHAUSTED AND THE INTENDED TARGET GROUPS OF THE PROJECT ARE CONSULTED.

Towards this end, the National Economic and Development Authority (NEDA) shall endeavor to obtain ODA funds from donor countries, which shall approximately be five percent (5%) of the total ODA loan from the immediately preceding year. Said funds shall be administered by the NEDA for project identification, feasibility studies, master planning at local and regional levels, and monitoring and evaluation: *Provided, further*, That ODA shall not be availed of or utilized directly or indirectly for the following:

(a) Telephone programs contracted as of 1 January 1996 except basic telephone programs and projects for rural areas not adequately serviced and/or currently developed by private enterprises shall be entitled to ODA loan availments;

(b) Projects mandated primarily by law to be served by the private sector; and

(c) Financing for private corporations with access to commercial credit.

The NEDA shall ensure that the ODA obtained shall be for previously identified national priority projects which are urgent or necessary. ODA shall not be accepted or utilized solely because of its availability, convenience, or accessibility.

Sec. 4. Sec. 6 of Republic Act No. 8182 is hereby amended to read as follows:

“Sec. 6. Mechanism for the Distribution and Utilization of ODA Funds. — The President of the Republic of the Philippines, upon recommendation of the NEDA AND UPON APPROVAL OF THE CONGRESS, shall develop and formulate the mechanism for the equitable distribution and utilization of ODA funds to all provinces consistent with the provisions of this Act.”

Sec. 5. Sec. 8 of Republic Act No. 8182 is hereby amended to read as follows:

Sec. 8. Oversight. — Pursuant to its constitutional duties, the Executive Department, particularly NEDA, the Commission on Audit and Congress shall discharge Oversight functions, to wit:

(a) The NEDA shall conduct annual review of the status of all projects financed by ODA, identify causes of delays, reasons for bottlenecks, cost overruns, both actual and prospective, and continued viability, and report to Congress not later than June 30 of each year;

(b) The Commission on Audit shall conduct an audit on each ongoing and completed project and report to Congress not later than June 30 each year; and

(c) There shall be a Congressional Oversight Committee composed of the Chairmen of the Committee on Ways and Means of both the Senate and the House of Representatives, five (5) members each from the Senate and the House representing the majority and two (2) members each from the Senate and the House representing the minority to be designated by the leaders of the majority and minority in the respective chambers.

THE CONGRESSIONAL OVERSIGHT COMMITTEE SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES, AMONG OTHERS:

- (1) MONITOR AND ENSURE THE PROPER IMPLEMENTATION OF THIS ACT;
- (2) REVIEW ODA LOANS OR LOANS AND GRANTS INCURRED AND ENTERED INTO BY THE PHILIPPINE GOVERNMENT;
- (3) ENSURE THAT MECHANISMS ARE IN PLACE THAT WILL ALLOW CONGRESS TO ASSESS AND REJECT AID CONDITIONALITY, IF NEED BE, WHEN THESE CONDITIONS RUN COUNTER TO THE COUNTRY'S INTEREST;
- (4) REVIEW THE IMPLEMENTATION AND STUDY THE IMPACT OF ODA-ASSISTED DEVELOPMENT PROJECTS; AND
- (5) INITIATE INDEPENDENT IMPACT STUDY OF ODA PROJECTS.

IN FURTHERANCE THEREOF, THE COMMITTEE IS EMPOWERED TO REQUIRE GOVERNMENT ENTITIES IMPLEMENTING ODA-ASSISTED PROJECTS, THE SUBMISSION OF ALL PERTINENT INFORMATION ABOUT THE MATTER.

Sec. 6. Republic Act No. 8182 is hereby further amended to include a new Sec. 8-A to read follows:

“SEC. 8-A. INDEPENDENT CIVIL SOCIETY ORGANIZATIONS-INITIATED OVERSIGHT FUNCTION – THIS ACT ENCOURAGES A WIDE RANGE OF STAKEHOLDERS AND A PARTICIPATORY PROCESS OF INVOLVEMENT. IN THE MATTER OF MONITORING AND EVALUATION ODA PROJECTS, CIVIL SOCIETY ORGANIZATIONS SHALL PLAY IMPORTANT ROLES IN THE FOLLOWING, AMONG OTHERS:

- (1) IN DETERMINING MORE APPROPRIATE INDICATORS AND MEASUREMENTS OF AID EFFECTIVENESS IMPACT; AND
- (2) AS WATCHDOG IN THE EFFICIENT, EFFECTIVE, AND TRANSPARENT IMPLEMENTATION OF ODA PROJECTS FROM THE PROJECT CONCEPTUALIZATION UNTIL ITS COMPLETION.”

Sec. 7. Sec. 10 of Republic Act No. 8182 is hereby amended to read as follows:

“Sec. 10. Report. — It shall be the duty of the President of the Republic of the Philippines to submit, within thirty (30) days after the opening of every regular session, a separate report to each member of Congress on the amount of ODA loans and grants incurred under this Act, INCLUDING THE RECEIPT AND DISBURSEMENT OF AID FLOWS IN THE NATIONAL BUDGET.”

Sec. 8. Sec. 11 of Republic Act No. 8182 is hereby amended to read as follows:

“Sec. 11. Implementation, Restrictions, Rules and Regulations. — In the implementation of the projects: (a) Consultants for the feasibility and design aspects of the project may not participate, directly or indirectly, in any subsequent phase of project implementation; (b) Project execution shall not be delegated by the implementing agency except where the latter does not have the capacity to implement such project; (c) In the hiring of consultants, contractors, architects, engineers, and other professionals necessary for a project's implementation, Filipinos shall be given preferences; (d) In the purchase of supplies and materials, preference shall be given to Filipino suppliers and manufacturers, [so long as the same shall not adversely alter or affect the project, and such supplies and materials are to the] WHO MEET the standards specified by the consultants, contractors, architects, engineers, and other professionals connected with the projects; and (e) ODA projects shall not be exempt from the requirement of first obtaining an Environmental

Compliance Certificate (ECC), or other such certificates and clearances necessary or required by law for the purpose of environmental protection, from the Department of Environment and Natural Resources (DENR) or proper government agency, as the case may be.

The NEDA shall promulgate the Implementing Rules and Regulations (IRR) to implement this Act within thirty (30) days from its approval.

The Implementing Rules and Regulations shall take effect five (5) days after publication in a newspaper of general circulation.”

Sec. 9. Separability. — Provisions herein which may be declared unconstitutional shall not affect the effectivity and enforcement of other provisions of this Act.

Sec. 10. Repealing Clause. — All laws, decrees, executive orders, rules and regulations and other issuances inconsistent with this Act are hereby repealed or amended accordingly.

Sec. 11. Effectivity. — This Act shall take effect after five (5) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,