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SENATE

S. NO. 3395

FILED IN 100

Introduced by Senator Antonio "Sonny" F. Trillanes IV

Explanatory Note

The creation of a Special Economic Zone in the province of Sarangani is an effective response to the urgent national effort to minimize, if not eradicate poverty among our citizenry, especially for those who live in our country's distant rural areas like Sarangani and its neighboring towns and barangays.

This bill will fulfill the objective of providing jobs to our people, especially those in the countryside, increase their productivity and individual incomes, and improve the level and quality of their living conditions thru the creation of the Maasim-Kiamba-Maitum Industrial Triangle Special Economic Zone (MAKIMA-IT) in the province of Sarangani. The Zone shall be developed into a self-sustaining, industrial, commercial, financial, investment and tourism/recreational center, in order to create employment opportunities in and around the Zone; and to effectively encourage and attract legitimate foreign investment therein.

This bill seeks to institutionalize MAKIMA-IT as a Special Economic Zone of Sarangani Province; establish its Management Organization to be known as the MAKIMA-IT Ecozone Authority; provide for its capitalization, development and continuing operation. Once enacted, great potential for socio-economic progress in Sarangani will manifest in increased economic activity and improved quality of life for the Sarangans.

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

ANTONIO "SONNY" F. TRILLANES IV
Senator

SENATE

S. NO. 3395

REG. NO. 14

Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT

ESTABLISHING THE MAASIM-KIAMBA-MAITUM INDUSTRIAL TRIANGLE SPECIAL ECONOMIC ZONE IN THE PROVINCE OF SARANGANI, CREATING FOR THE PURPOSE THE MAASIM-KIAMBA-MAITUM INDUSTRIAL TRIANGLE SPECIAL ECONOMIC ZONE AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

1 **SECTION 1. *Short Title.***- This Act shall be known as the "Maasim-Kiamba-Maitum
2 Industrial Triangle Special Economic Zone Act".

3

4 **SEC. 2. *Declaration of Policy.***- It is hereby declared the policy of the State to actively
5 encourage, promote, induce and accelerate the sound and balanced industrial, economic and
6 social development of the country in order to provide jobs to the people especially those in the
7 rural area, increase their productivity and their individual and family income, and thereby
8 improve the level and quality of their living conditions through the establishment, among others,
9 of special economic zones in suitable and strategic locations in the country and through measures
10 that shall effectively attract legitimate and productive foreign investments.

11

12 **SEC. 3. *Creation of the Maasim-Kiamba-Maitum Industrial Special Economic Zone.***-

13 In pursuit of the foregoing declared policy and subject to the concurrence of the concerned local
14 government units (LGUs) of Sarangani Province affected by the zone, there is hereby established
15 a special economic zone in the Province of Sarangani, hereinafter referred to as the Maasim-

1 Kiamba-Maitum Industrial Triangle Special Economic Zone or the MAKIMA-IT Ecozone. The
2 MAKIMA-IT Ecozone shall cover the entire area embraced by: Sitio Seguil, Barangay Tinoto
3 and Barangays Kamanga, Malbang and Colon in the Municipality of Maasim; Kling Plantation
4 and Barangays Nalu and Tambilil in the Municipality of Kiamba; and Barangays Kalaong,
5 Mabay and Old Poblacion in the Municipality of Maitum. The specific metes and bounds of the
6 MAKIMA-IT Ecozone shall be more particularly described and defined as follows:

7

8 (a) IN THE MUNICIPALITY MAASIM:

9 Sitio Seguil, Barangay Tinoto with a land area of 573.9409 hectares - its perimeter
10 beginning at a point marked "1" on the mouth of Tapat creek (125.15, 5.55) following its
11 course upstream to point 2 with a distance of 1,398.1924 meters. Thence 4,737.5478 meters
12 due north to point 3. Thence 2,598.9690 meters on the course downstream to point 4 at the
13 mouth of Seguil River. Thence 4,558.4607 meters following the coastal line southward to the
14 point of beginning.

15 Portions of Barangay Kamanga, Malabang and Colon with an aggregate land area of
16 1,637.8349 hectares - its perimeter beginning at a point marked "1" (125.05, 5.416666)
17 336.1009 meters due north to point 2. Thence N76-00W 3,409.0859 meters to point 3. Thence
18 647.7688 meters due north to point 4. Thence 4,684.8956 meters due east to point 5. Thence
19 N65-00E 3,281.8566 meters to point 6. Thence S65-00E 2,148.52 meters to point 7. Thence
20 3,433.6432 meters following the coastal line westward to point 8. Thence 383.8778 meters due
21 north to point 9. Thence 1,129.2888 meters due west to point 10. Thence 430.3896 meters
22 following Kamanga River downstream to point 11. Thence 2,864.7673 meters following the
23 coastal line westward to the point of beginning.

24

25 (b) IN THE MUNICIPALITY OF KIAMBA

1 Kling Plantation, Barangay Kling, with a land area of 458.6395 hectares – its perimeter
2 beginning at a point marked “1” thence S22-50W 2,380.06 meters to point 2. Thence N69-40E
3 592.87 meters to point 3. Thence S23-09E 571.11 meters to point 4. Thence N39-53W 848.33
4 meters to point 5. Thence S27-06W 1,401.22 meters to point 6. Thence S89-58W 417.78 meters
5 to point 7. Thence S57-55W 300.86 meters to point 8. Thence S45- 02E 269.33 meters to point
6 9. Thence S59-31W 666.45 meters to point 10. Thence S85-19W 416.08 meters to point
7 11. Thence S63-52E 390.16 meters to point 12. Thence S04-57W 354.57 meters to point 13.
8 Thence N88-04W 448.77 meters to point 14. Thence S76-37E 754.78 meters to point 15. Thence
9 S59-39W 480.49 meters to point 16. Thence S26-22W 428.59 meters to point 17. Thence S10-
10 55E 325.30 meters to point 18. Thence S73-00E 986.32 meters to point 19. Thence N61-22W
11 1,204.25 meters to point 20. Thence N61-29W 1,272.89 meters to point 21. Thence N17-46E
12 522.61 meters to point 22. Thence N49-48E 524.77 meters to point 23. Thence N27-14E
13 1,261.13 meters to point 24. Thence S80-55W 292.41 meters to point 25. Thence N57-30W
14 834.24 meters to point 26. Thence N59-39W 1,135.82 meters to point 27. Thence N31-11E
15 373.53 meters to point 28. Thence N52-47E 320.08 meters to point 29. Thence N08-33E 226.76
16 meters to point 30. Thence N44-35E 314.95 meters to point 31. Thence N87-34W 716.37 meters
17 to point 32. Thence N10-20E 359.07 meters to point 33. Thence N19-46E 372.12 meters to point
18 34. Thence N56-09E 347.59 meters to point 35. Thence S77-26E 295.86 meters to point 36.
19 Thence N79-32E 356.06 meters to point 37. Thence S67-03E 417.05 meters to point 38. Thence
20 N70-41E 781.05 meters to point 39. Thence S48-50E 195.91 meters to point 40. Thence S73-
21 02E 1,355.47 meters to point 41. Thence N81-51E 1,129.46 meters to the point of beginning.

22 Portions of Barangay Nalus with an aggregate land area of 249.1030 hectares – its
23 perimeter beginning at a point marked “1” thence N33-35W 361.33 meters to point 2. Thence
24 S89-23E 3,435.03 meters to point 3. Thence S84-32E 806.26 meters to point 4. Thence S00-51E
25 2,478.97 meters to point 5. Thence S73-03W 379.35 meters to point 6. Thence N38-28W 988.61

1 Meters to point 7. Thence N62-18W 2,181.01 meters to point 8. Thence N62-12W 1,317.44
2 meters to the point of beginning.

3 Portions of Barangay Tambilil with an aggregate land area of 503.7911 hectares - its
4 perimeter beginning at a point marked "1". Thence S76-36E 1,641.96 meters to point 2. Thence
5 S33-23E 603.15 meters to point 3. Thence S00-42W 1,477.55 meters to point 4. Thence S60-35E
6 2,468.84 meters to point 5. Thence SO5-44W 1,379.94 meters to point 6. Thence N81-32W
7 2,332.38 meters to point 7. Thence N47-54W 517.59 meters to point 8. Thence N89-53W
8 1,425.27 meters to point 9. Thence N71-29W 550.76 meters to point 10. Thence N60-01W
9 1,702.29 meters to point 11. Thence N34-08E 3,900.98 meters to the point of beginning.

10

11 (c) IN THE MUNICIPALITY OF MAITUM:

12 Portions of Barangay Kalaong with an aggregate land area of 151.5394 hectares - its
13 perimeter beginning at a point marked "1". Thence N11-19E 1,381.30 meters to point 2. Thence
14 S80-16E 564.58 meters to point 3. Thence N59-27E 839.24 meters to point 4. Thence N48-38E
15 524.90 meters to point 5. Thence S34-38E 1,400.29 meters to point 6. Thence N78-16W 494.26
16 meters to point 7. Thence S19-28E 700.50 meters to point 8. Thence S32-40W 587.22 meters to
17 point 9. Thence S83-32W 597.25 meters to point 10. Thence SO5-03W 666.02 meters to point
18 11. Thence S01-31E 801.96 meters to point 12. Thence N76-26W 262.49 meters to point 13.
19 Thence N46-30W 910.83 meters to point 14. Thence N11-31W 783.73 meters to point 15.
20 Thence N79-34W 578.38 meters to the point of beginning.

21 Portions of Barangay Mabay with an aggregate land areas of 168.7388 hectares - its
22 perimeter beginning at a point marked "1" thence S02-45E 507.39 meters to point 2. Thence
23 N31-40E 328.29 meters to point 3. Thence N86-15E 560.80 meters to point 4. Thence N70-
24 58W 744.74 meters to point 5. Thence N54-04E 1,940.88 meters to point 6. Thence N19-00E
25 321.55 meters to point 7. Thence N88-54W 162.98 meters to point 8. Thence S72-49E 395.78
26 meters to point 9. Thence S73-23E 1,150.48 meters to point 10. Thence S33-22W 1,603.10

1 meters to point 11. Thence N86-37W 1,102.62 meters to point 12. Thence S18-57W 464.35
2 meters to point 13. Thence N26-01W 567.47 meters to point 14. Thence N35-09W 101.43
3 meters to point 15. Thence N83-37W 609.47 meters to the point of beginning.

4 Portions of Barangay Old Poblacion with an aggregate land area of 164.9358 hectares
5 -its perimeter beginning at a point marked "1" thence S52-24E 2,296.72 meters to point 2.
6 Thence S34-47W 792.71 meters to point 3. Thence S74-20W 386.33 meters to point 4. Thence
7 N89-59W 212.16 meters to point 5. Thence S34-33W 2,050.56 meters to point 6. Thence N62-
8 28E 784.01 meters to point 7. Thence N17-03W 282.765 meters to point 8. Thence N77-41W
9 2,394.85 meters to point 9. Thence N31-21E 981.65 meters to point 10. Thence S23-58E 121.02
10 meters to point 11. Thence N77-14E 416.20 meters to point 12. Thence N62-42E 1,218.16
11 meters to point 13. Thence N05-26E 1,366.79 meters to the point of beginning.

12

13 **SEC. 4. Governing Principles.-** The MAKIMA-IT Special Economic Zone shall be
14 managed by the MAKIMA-IT Special Economic Zone Authority, hereinafter referred to as the
15 MITSEZA, created under Section 10 of this Act under the following principles:

16 (a) *Within the framework and limitation of the Constitution and applicable provisions of*
17 *the Local Government Code, the MAKIMA-IT Ecozone shall be developed into and operated as*
18 *a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial,*
19 *tourist, banking, financial and investment center with residential areas.*

20 (b) The MAKIMA-IT Ecozone shall be provided with transportation, telecommunications
21 and other facilities needed to attract legitimate and productive investments, generate linkage
22 industries and employment opportunities for the people of Sarangani and its neighboring towns
23 and cities.

24 (c) The MAKIMA-IT Ecozone may establish mutually beneficial economic relations

1 with other entities or enterprises within the country or, subject to the administrative guidance of
2 the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA)
3 and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.

4 (d) Foreign citizens and companies owned by non-Filipinos in whatever proportions
5 may set up enterprises in the MAKIMA-IT Ecozone, either by themselves or in joint venture
6 with Filipinos in any sector of industry, international trade and commerce within the MAKIMA-
7 IT Ecozone.

8 (e) The areas comprising the MAKIMA-IT Ecozone may be expanded or reduced when
9 necessary. For this purpose, the MITSEZA, in consultation with the LGUs, shall have the power
10 to acquire either by purchase, negotiation or condemnation proceedings, any private land within
11 or adjacent to the MAKIMA-IT Ecozone for the following purpose: (1) consolidation of lands
12 for MAKIMA-IT Ecozone development; (2) acquisition of right of way to the MAKIMA-IT
13 Ecozone; and (3) the protection of watershed areas and natural assets valuable to the prosperity
14 of the MAKIMA-IT Ecozone.

15 (f) Goods manufactured by a MAKIMA-IT Ecozone enterprise shall be made for
16 immediate retail sale in the domestic market, subject to the payment of corresponding taxes on
17 raw materials and other regulations that maybe formulated by the MITSEZA, together with the
18 PEZA, the Bureau of Customs, and the DTI. However, in order to protect domestic industries, a
19 negative list of industries shall be drawn up and regularly updated by the PEZA. Enterprises
20 engaged in industries included in such negative list shall be allowed to sell their products locally.

21 (g) The national government shall maintain its ability to coordinate with the MAKIMAIT
22 Ecozone and the local government units.

23
24 **SEC. 5. Incentives to Registered Enterprises.-** MAKIMA-IT Special Economic Zone
25 Authority (MITSEZA) may administer the following incentives to the registered enterprises
26 located therein to the extent of the activity/project:

1 (A) Income Tax Holiday (ITH) - Registered domestic enterprises shall be entitled to
2 an income tax holiday from the start of their commercial operations to the extent of their activity
3 under the following categories;

4 Category A - Registered domestic enterprise located in highly developed areas, as
5 determined by the Board of Investments (BOI) shall be entitled to a four-year income tax
6 holiday.

7 Category B - Registered domestic enterprises on the following shall be entitled to a six-
8 year income tax holiday;

9 (1) Located in less developed areas as defined by the BOI; or

10 (2) Producing/Rendering new products/services or having strong backward or forward
11 linkages.

12 Category C - Registered export enterprises shall be entitled to a six-year income tax
13 holiday: Provided, however, That if the export enterprise complies with the following: (1) large
14 capital investments or sizeable employment generation; or (2) use high level of technology; (3)
15 located outside Metro Manila, it shall be entitled to an eight-year income tax holiday.

16 Registered enterprises embarking on new investments that are listed in the current
17 Investment Priorities Plan (IPP) shall be entitled to incentives provided herein pertaining to the
18 new investments and subject to such terms and conditions as the BOI may determine.

19 For this purpose, a registered enterprise shall be defined as any person, natural or
20 juridical, licensed to do business in the Philippines and registered with the MAKIMA-IT Special
21 Economic Zone Authority (MITSEZA) to transact business within the MAKIMA-IT Special
22 Economic Zone. A registered export enterprise shall be defined as any registered enterprise
23 engaged directly or indirectly in the production, manufacture or trade of products or services
24 which earns at least seventy percent (70%) of its normal operating revenues from the sale of its
25 products or service abroad for foreign currency. A registered domestic enterprise, meanwhile,

1 shall be defined as any registered enterprise not falling under the definitions of a registered
2 export enterprise.

3 Additional investments on the project shall be entitled to the income tax holidays
4 corresponding to such investments as may be determined by the BOI. Additional income tax
5 holiday may be granted for as long as the investment is made on the same project; *Provided,*
6 That the project is listed in the IPP at the same time the additional investment in the project
7 is made; *Provided, further,* That the entitlement period for additional investment shall not
8 exceed three times the period provided under this subsection: *Provided, however,* that the total
9 ITH period for an export enterprise availing of an eight-year ITH shall not exceed twenty (20)
10 years. Any unused incentives shall therefore be deemed forfeited if not used during the incentive
11 period.

12 Enterprises registered with the MITSEZA are required to share in the special
13 development fund of the BOI for investment promotion projects of the government equivalent to
14 one percent (1%) of the ITH granted for every application.

15 The Bureau of Internal Revenue (BIR) shall require a registered enterprise availing of
16 ITH or Net Operating Loss Carryover (NOLCO) to secure a certificate of eligibility from the
17 MITSEZA before submitting its income tax return (ITR) with the MITSEZA for validation,
18 Failure to secure certification and/or file the ITH or NOLCO availment for validation by the
19 MITSEZA within forty-five (45) days from the last day of the statutory filing date for ITR shall
20 cause the forfeiture of the availment for the taxable period.

21 (B) Net Operating Loss Carryover (NOLCO). - Net operating loss of the business or
22 enterprise during the first three years from the start of commercial operations which have not
23 been previously offset as deduction from gross income shall be carried over as a deduction from
24 gross income for the next five consecutive years immediately following the year of such loss;
25 *Provided, however,* That operating loss resulting from availment of incentives provided in this
26 Act shall not be entitled to NOLCO.

1 Registered enterprises availing of the ITH as herein provided shall not be entitled to avail
2 of the NOLCO.

3 (C) Imposition of a tax rate of the five percent (5%) on Gross Income Earned (GIE) -
4 Except for real property tax on land, no local and national taxes a prescribed under Republic Act
5 No. 8424, also known as "The National Revenue Code of 1997, as Amended" such as income
6 tax, excise tax and franchise taxes, shall be imposed on registered enterprises operating within
7 the MAKIMA-IT Ecozone. In lieu thereof, five percent (5%) of the gross income earned shall be
8 paid as follows:

9 (a) Three percent (3%) to the National Government; and,

10 (b) Two percent (2%) shall be remitted by the business establishments to the treasurer's
11 office of the municipality or city where the enterprise is located. All persons and service
12 establishments in the MAKIMA-IT Ecozone shall be subject to national and local taxes under the
13 National Internal Revenue Code of 1997, as amended, and Local Government Code.

14 (D) Accelerated Depreciation. - Accelerated depreciation of plant, machinery and
15 equipment that are reasonably needed and actually used for the production and transport of
16 goods and services may be allowed using a rate not exceeding twice the rate which would have
17 been used had the annual allowance been computed in accordance with the rules and regulations
18 prescribed by the Secretary of Finance and the provisions of the National Internal Revenue Code
19 of 1997, as amended.

20 (E) Capital Equipment Incentives. - (1) Importations of capital equipment, spare parts,
21 tools and dye, or those required for pollution abatement and control, cleaner production and
22 waste reduction including consignment thereof by registered enterprises upon effectivity of this
23 law, shall be exempted to the extent of one hundred percent (100%) of the taxes and customs
24 duties; *Provided*, That the imported items thereof shall be used exclusively by the registered
25 enterprise in its registered activity; *Provided, further*, That the importation of machinery and
26 equipment and accompanying parts shall comply with the following conditions:

1 (i) They are not manufactured domestically in sufficient quantity, of comparable quality
2 and at reasonable prices:

3 (ii) They are reasonably needed and will be used exclusively by the registered enterprise
4 in the manufacture of its products, unless prior approval of the MITSEZA is secured for the part
5 time utilization of said equipment in a non-registered activity to maximize usage thereof or the
6 proportionate taxes and duties are paid on a specific equipment and machinery being
7 permanently used for non-registered activities: and,

8 (iii) Approval of the MITSEZA was obtained by the registered enterprise for the
9 importation of such machinery, equipment and spare parts. Approval of the MITSEZA must be
10 secured before any sale, transfer or disposition of the imported capital equipment, machinery or
11 spare parts is made; *Provided*, That if such sale, transfers or disposition is made within the first
12 five years from date of importation, any of the following conditions must be present:

13 (1) the same is made to another enterprise enjoying tax and duty exemption on capital
14 equipment;

15 (2) the same is made to another enterprise, upon the payment of any taxes and duties on
16 the net book value of the capital equipment to be sold;

17 (3) the exportation of the capital equipment, machinery, spare parts or source documents
18 or those required for pollution abatement and control; or

19 (4) proven technical obsolescence of the said equipment, machinery or spare parts.

20 When the aforementioned sale, transfer or disposition is made under any of the conditions
21 provided for in the foregoing paragraph other than paragraph (2) herein, the registered firm shall
22 not pay the taxes and duties waived on such items; *Provided, further*, That if the registered
23 enterprise shall sell, transfer or dispose the aforementioned imported items without prior
24 approval within five years from the date of importation, the registered enterprise and the vendee,
25 transferee or assignee shall be solidarily liable to pay twice the amount of taxes and duties based
26 on the net book value of the capital equipment, machinery or spare parts if any of the registration

1 terms and conditions has been violated. Otherwise, they shall no longer be subject to the
2 payment of the taxes and duties waived thereon.

3 The purchase of machinery, capital equipment, raw materials, supplies, parts and semi-
4 finished products to be used in the fabrication of machinery and capital equipment by a
5 registered export-oriented enterprise from a domestic manufacturer shall be subject to zero
6 percent (0%) value-added tax.

7 The registered export-oriented enterprise shall be granted a tax credit equivalent to the
8 amount of duties that would have been waived on the machinery, capital equipment, raw
9 materials, supplies, parts and semi-finished products used in the fabrication of machinery and
10 capital equipment, had these items been imported, upon submission to the Department of
11 Finance (DOF) of the bill of materials evidencing the transaction value of such and other
12 documents, for verification and proper endorsement.

13 The availment by a registered export enterprise of the incentive stated under the
14 immediately preceding two paragraphs shall be subject to the following conditions: (a) that
15 said capital equipment, machinery and spare parts will be used exclusively by the registered
16 enterprise in its registered activity; (b) that the capital equipment or machinery where the raw
17 materials, supplies, parts and semi-finished products were used would have qualified for tax and
18 duty-free importation; and (c) that the approval of the MITSEZA is obtained by the registered
19 enterprise. If the registered enterprise sells, transfer or disposes of these machineries, capital
20 equipment and spare parts, the provision in the preceding paragraph for such disposition shall
21 apply.

22 This incentive shall be deemed waived if application for tax credit under this subsection
23 was not filed within one year from date of delivery.

24 (F) The importation of source documents by information technology-registered
25 enterprises shall be eligible for tax and duty free importation.

1 (G) Raw Materials Incentives. - Every registered export-oriented enterprise shall enjoy a
2 tax credit equivalent to the internal revenue taxes and customs duties paid on the supplies, raw
3 materials and semi-manufactured products provided the same are not sufficient in quantity or are
4 not competitively priced in the Philippines and which are used in the manufacture, processing or
5 production of its export products forming part thereof, exported directly and indirectly by the
6 registered export-oriented enterprise, based on the actual taxes and duties paid for such
7 materials/supplies semi-manufactured products by the registered enterprise.

8 This incentive shall be deemed waived if application for tax credit under this subsection
9 was not filed within one (1) year from the date of delivery.

10 (H) Exemption from Wharfage Dues. - The provisions of law to the contrary
11 notwithstanding, exports by a registered enterprise shall be exempted from wharfage dues.

12 (I) Deferred Imposition of the Minimum Corporate Income Tax. - The Minimum
13 Corporate Income Tax (MCIT) of two percent (2%) of the gross income as of the end of the
14 taxable year shall be imposed when the MCIT is greater than the income tax computed under
15 the NIRC of 1997, as amended, for the taxable year; *Provided, however,* That said MCIT shall
16 be imposed only after the enterprise's entitlement period to the income tax-based incentives
17 has expired.

18 (J) Tax Treatment of Merchandise in the MAKIMA-IT Ecozone. - (a) Domestic
19 merchandise sent from the MAKIMA-IT Ecozone to areas outside the said ecozone shall,
20 whether or not combined with or made part of other articles likewise of local origin or
21 manufactured in the Philippines while in the export processing zone, be subject to internal
22 revenue laws of the Philippines as domestic goods sold, transferred or disposed of for local
23 consumption.

24 (b) Merchandise sent from the MAKIMA-IT Ecozone to areas outside the said ecozone
25 shall, whether or not combined with or made part of other articles while in the zone, be subject to

1 rules and regulations governing imported merchandise. The duties and taxes shall be based on
2 the value of said imported materials (except when the final product is exempt).

3 (c) Articles produced or manufactured in the MAKIMA-IT Ecozone and exported
4 therefrom shall, on subsequent importation into the customs territory, be subject to the import
5 laws applicable to like articles manufactured in a foreign country.

6 (d) Unless the contrary is shown, merchandise taken out of the MAKIMA-IT Ecozone
7 shall be considered for tax purposes to have been sent to customs territory.

8 (K) Tax Treatment of Raw Materials and Capital Equipment in the MAKIMA-IT
9 Ecozone. - Importations of raw materials and capital equipment shall be treated as in the
10 *Omnibus Investment Code*.

11 (L) Employment of Foreign Nationals. - Subject to the provisions of Section 29 of
12 Commonwealth Act No. 613, as amended, a registered enterprise may employ foreign nationals
13 in supervisory or technical positions for a period not exceeding ten (10) years from its
14 registration: *Provided*, That when the majority of the capital stock of a registered enterprise is
15 owned by foreign investors, the positions of the resident, treasurer and general manager or their
16 equivalents may be retained by foreign nationals beyond the period set forth herein and such
17 officer is the owner or a stockholder owning at least ten percent (10%) of the outstanding capital
18 stock of the registered enterprise and he remains the owner or maintains his stockholdings
19 therein.

20 Foreign nationals under employment contract within the purview of this incentive, their
21 spouses and unmarried children under twenty-one (21) years of age, who are not excluded by
22 Section 29 of Commonwealth Act No. 613, as amended, shall be permitted to enter and reside in
23 the Philippines during the period of employment of such foreign nationals. They shall be entitled
24 to a multiple entry visa, valid for a period of three years, and shall be allowed to enter and leave
25 the Philippines without further documentary requirements other than valid passports or other

1 travel documents in the nature of passports. The validity of the multiple entry visa shall be
2 extendible yearly.

3 The said foreign nationals admitted under this provision, as well as their respective spouses and
4 dependents shall be exempt from: (a) obtaining alien certificate of registration and immigration
5 clearance certificates; and (b) securing the Alien Employment Permit (AEP) and all types of
6 clearances, permits, licenses or their equivalents required by any government department or
7 agency.

8
9 **SEC. 6. *Incentive to Investors.***- Any foreign national covered under Subsection (M) of
10 Section 5 of this Act, who invests an amount of US \$ 150,000.00, either in cash and/or
11 equipment, in a registered enterprise shall be entitled to an investor's visa: *Provided, That,*

12 (1) He is at least eighteen (18) years of age;

13 (2) He has not been convicted of a crime involving moral turpitude;

14 (3) He is not afflicted with any loathsome, dangerous or contagious disease; and

15 (4) He has not been institutionalized for any mental disorder or disability.

16 *Provided further,* That in securing the investor's visa, the alien-applicant shall be
17 entitled to the same privileges provided for under paragraph (M), Section 5 hereof.

18 As a holder of investor's visa, an alien shall be entitled to reside in the Philippines while
19 his investment subsists. For this purpose, he should submit an annual report, in the form duly
20 prescribed for the purpose, to prove that he has maintained his investment in the country. Should
21 said alien withdraw his investments from the Philippines, then the investor's visa issued to him
22 shall automatically expire.

23
24 **SEC. 7. *Administration, Implementation and Monitoring of Incentives.***- The
25 MITSEZA shall be responsible for the administration and implementation of the incentives
26 granted to its respective registered enterprises shall be uniformly applied by MITSEZA.

1 The following are the duties and responsibilities of the MITSEZA in the administration
2 of incentives:

3 (A) To adopt consistent procedures of administering incentives in accordance with the
4 guidelines established by the BOI;

5 (B) To adopt and implement systems and procedures affecting trade and customs policies
6 in accordance with the requirements established by the Department of Finance (DOF) and the
7 BOI;

8 (C) To submit information on registered enterprises to the DOF and the BOI as required
9 by any of these agencies to ascertain consistency of investment policies and incentives, including
10 their implementation as provided in paragraph (a) herein, and to ensure proper implementation of
11 systems and procedures affecting trade and customs policies as provided in paragraph (b) herein;
12 and

13 (D) To perform all other duties and responsibilities as may be required by the President
14 of the Philippines.

15 For proper monitoring, the BOI shall create a single database of all incentives provided
16 by all incentives granting agencies, including the MITSEZA, and all the information thereto.
17 Double entry accounting shall be done by the BOI in recording all incentives granted by the
18 government for transparency purposes.

19

20 **SEC. 8. *Extension of Period of Availment.***- The availment period of the incentives
21 provided herein maybe extended by the MITSEZA, in the event that the registered enterprise
22 suffers operational *force majeure* or any event equivalent thereto, impairing its viability;
23 *Provided*, That the availment period shall not exceed the duration of said *force majeure* or
24 equivalent event.

1 **SEC. 9. Duration of Incentives.-** Enterprises registered with the MITSEZA may enjoy
2 ITH or NOLCO granted by the latter prior to the availment of the five percent (5%) GIE.

3 Fiscal incentives under this act shall be terminated after a cumulative period of twenty
4 (20) years from the date of registration or start of commercial operation, whichever is applicable,
5 except that it could be extended with regard to industries deemed indispensable to national
6 development.

7 The industries exempted from this provision shall be recommended by the BOI, with the
8 concurrence of the Secretaries of the Departments of Finance and Trade and Industry.

9
10 **SEC. 10. Creation of the MAKIMA-IT Special Economic Zone Authority.-** There is
11 hereby created a body corporate to be known as the MAKIMA-IT Special Economic Zone
12 Authority, hereinafter referred to as the MITSEZA, which shall manage and operate, in
13 accordance with the provisions of this Act, the MAKIMA-IT Special Economic Zone. This
14 corporate franchise shall expire in fifty (50) years counted from the first day of the fifth (5th)
15 calendar year after the effectivity of this Act, unless otherwise extended by Congress. It shall be
16 organized within one hundred eighty (180) days of effectivity of this Act.

17
18 **SEC. 11. Principal Office of the MITSEZA.-** The MAKIMA-IT Special Economic Zone
19 Authority shall maintain its principal office in the Municipality of Kiamba, but it may establish
20 branches within the Philippines as may be necessary for the proper conduct of its business.

21
22 **SEC. 12. Powers and Functions of the MAKIMA-IT Special Economic Zone Authority**
23 **(MITSEZA).-** The MAKIMA-IT Special Economic Zone Authority shall have the following
24 powers and functions:

25 (a) To operate, administer, manage and develop the MAKIMA-IT Ecozone in an efficient
26 and decentralized manner, subject to existing laws:

1 (b) To register, regulate and supervise the enterprises in the MAKIMA-IT Ecozone in
2 an efficient and decentralized manner, subject to existing laws;

3 (c) To coordinate with local government units and exercise general supervision over
4 the development plans, activities and operations of the MAKIMA-IT Ecozone;

5 (d) To regulate and undertake the establishment, operation and maintenance of utilities,
6 other services and infrastructure in the MAKIMA-IT Ecozone such as but not limited to heat,
7 light and power, water supply, telecommunications, transport, toll roads and bridges, port
8 services, etc. and to fix just, reasonable and competitive rates, fares, charges and prices thereof.

9 (e) To construct, acquire, own, lease, operate and maintain on its own or through
10 contracts, franchise, licenses, bulk purchases from the private sector or permits under any of
11 the schemes allowed in Republic Act No. 6957 (the Build-Operate-Transfer Law, as amended
12 by R.A. No. 7718) or joint venture, adequate facilities and infrastructures required or needed
13 for the operation and development of the MAKIMA-IT Ecozone, in coordination with
14 appropriate national and local government authorities and in conformity with applicable
15 laws thereon;

16 (f) To operate on its own, either directly or through a license to other tourist related
17 activities, including games, amusements, recreational and sports facilities.

18 (g) Subject to the approval of the President of the Philippines and the Monetary Board of
19 the Bangko Sentral ng Pilipinas and upon the recommendation of the Department of Finance, to
20 raise or borrow adequate and necessary funds from local or foreign sources to finance its projects
21 and programs under this Act, and for that purpose to issue bonds, promissory notes, and other
22 forms of securities, and to secure the same by a guarantee, pledge, mortgage, deed of trust, or an
23 assignment of all or part of its property or assets;

24 (h) To protect, preserve, maintain and develop the virgin forests, beaches, coral and coral
25 reefs and maintain ecological balance within the MAKIMA-IT Ecozone.

1 (i) To adopt, alter and use of corporate seal; make contracts, leases, own or otherwise
2 dispose of personal or real property; sue and be sued; and otherwise carry out its functions and
3 duties as provided for in this Act;

4 (j) To issue certificates of origin for products manufactured or processes in the
5 MAKIMA-IT Ecozone in accordance with prevailing rules of origin, and the pertinent
6 regulations of the PEZA, the DTI and/ or the Department of Finance (DOF);

7 (k) To issue working visas renewable every two (2) years to foreign executives and
8 foreign technicians with highly specialized skills which no Filipino possesses, as certified by the
9 Department of Labor and Employment:

10 (l) To report to the Bureau of Immigration the names of the foreigners who have been
11 granted permanent resident status and working visas within thirty (30) days after issuance of
12 such grant:

13 (m) To exercise such powers as may be essential, necessary or incidental to the powers
14 granted to it hereunder as well as those that shall enable it to carry out, implement and
15 accomplish the purposes, objectives and policies of this Act; and

16 (n) To issue rules and regulations consistent with the provisions of this Act as may be
17 necessary to accomplish and implement the purpose, objectives and policies provided herein.

18

19 **SEC. 13. *Banking Rules and Regulations.***- Existing laws and regulations of the Bangko
20 Sentral ng Pilipinas (BSP) shall apply to banks and financial institutions to be established in
21 the MAKIMA-IT Ecozone, such as those governing foreign exchange and other concurrent
22 account transactions (trade and non-trade), local and foreign borrowings, foreign investments,
23 establishment and operation of local and foreign banks, foreign currency deposit units, offshore
24 banking units and other financial institutions under the supervision of the BSP.

1 **SEC. 14. Remittance of Earnings.-** In the case of foreign investments, a registered
2 enterprise in the MITSEZA shall have the right to remit earnings from the investment in the
3 currency in which the investment was originally made and at the exchange rate prevailing at
4 the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265, as
5 amended.

6
7 **SEC. 15. Board of Directors of the MAKIMA-IT Special Economic Zone Authority.-**
8 The powers of the MAKIMA-IT Special Economic Zone Authority shall be vested in and
9 exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed
10 of the following:

- 11 (a) The Chairman who shall come from among the members of the Board of Directors;
12 (b) A Vice Chairman who shall come from among the members of the Board;
13 (c) Members consisting of:
14 (1) The Governor of the Province of Sarangani;
15 (2) The Congressional Representative of the lone district of Sarangani Province;
16 (3) The Mayors of the Municipalities of Maasim, Kiamba, and Maitum, all in the
17 Province of Sarangani;
18 (4) The Presidents of the Chambers of Commerce and Industry in the Municipalities of
19 Maasim, Kiamba, and Maitum, all in the Province of Sarangani; and
20 (5) Three (3) representatives of Industry in Sarangani Province.

21 The Governor, the Congressional Representative and the Mayors and Presidents of
22 Chambers and Commerce and Industry of the Municipalities of Maasim, Kiamba, and Maitum,
23 Province of Sarangani, shall serve as *ex-officio* members of the Board, whose term in the Board
24 corresponds to their terms as elected officials.

25 The Chairman shall be appointed by the President of the Philippines upon the nomination
26 of the Board of Directors to serve for a term of six (6) years, unless separated from service due to

1 death, voluntary resignation or removal for cause. In case of death, resignation or removal for
2 cause, the replacement shall serve only the unexpired portion of the term.

3 All members of the Board, whether *ex-officio* or chosen by the Board to represent the
4 Industry sector in Sarangani Province shall be appointed by the President of the Philippines to
5 serve for a term of six (6) years. In case of death, resignation or removal for cause, the
6 replacement shall serve only the unexpired portion of the term.

7 Except for representatives of the business and labor sectors, no person shall be appointed
8 by the President of the Philippines as member of the Board unless he is a Filipino citizen, of
9 good moral character, of proven probity and integrity, and a degree-holder in any of the
10 following fields: economics, business, public administration, law, management or their
11 equivalent, and with a least ten (10) years relevant working experience preferably in the field of
12 management or public administration.

13 The members of the Board shall each receive per diem at a rate to be determined by
14 the Department of Budget and Management in accordance with existing rules and regulations;
15 Provided, however, That the total per diem collected each month shall not exceed the equivalent
16 per diem for four (4) meetings. Unless and until the President of the Philippines has fixed a
17 higher per diem for the members of the Board, such per diem shall not be more than ten thousand
18 pesos (P10,000.00) for every Board meeting.

19

20 **SEC. 16. Powers and Duties of the Administrator.-** The Administrator shall be
21 appointed by the President of the Philippines for a six (6) year term, upon the recommendation
22 of the Board of Directors. *Provided*, That no person shall be appointed as Administrator unless
23 he is a Filipino citizen, of good moral character, of proven probity and integrity, and a degree-
24 holder in any of the following fields: economics, business, public administration, law,
25 management or their equivalent, and with a least ten (8) years relevant working experience
26 preferably in the field of management or public administration.

1 The Administrator shall have the following powers and duties:

2 (a) To direct and manage the affairs of the MITSEZA in accordance with the policies set
3 by the Board of Directors;

4 (b) To establish the internal organization of MITSEZA under such conditions that Board
5 of Directors may prescribe;

6 (c) To submit an annual budget and necessary supplemental budget to the Board for its
7 approval;

8 (d) To submit within thirty (30) days after the close of each fiscal year an annual report
9 to the Board and such other reports as may be required;

10 (e) To submit to the Board for its approval policies, systems, procedures, rules and
11 regulations that are essential to the operation of the MAKIMA-IT Ecozone;

12 (f) To create a mechanism in coordination with relevant agencies for the promotion of
13 industrial peace, the protection of the environment, and the advancement of the quality of life in
14 the MAKIMA-IT Ecozone; and

15 (g) To perform such other duties as may be assigned to him by the Board or which are
16 necessary or incidental to his office.

17

18 **SEC. 17. Organization and Personnel.-** The Board of the MITSEZA shall provide for an
19 organization and staff of its officers and employees. Upon the recommendation of the
20 Administrator, the Board shall appoint and fix the remuneration and other emoluments of its
21 officers and employees in accordance with existing laws on compensation and position
22 classification: *Provided*, That the Board shall have the exclusive and final authority to promote,
23 transfer, assign or reassign officers of the MITSEZA, any provision of existing law to the
24 contrary notwithstanding: *Provided, further*, That the Administrator may carry out removal of
25 such officers and employees.

26 The officer or employee of the MITSEZA, including all members of the Board, shall

1 not engaged directly or indirectly in partisan activities nor take part in any election, except to
2 vote.

3 No officer or employee of the MITSEZA, subject to civil service rules and regulations,
4 shall be removed or suspended except for cause, as provided by law.

5
6 **SEC. 18. *Ipsa Facto Clause.***- Section 30-41 of Republic Act No. 7916 or the Special
7 Economic Zone Act of 1995, shall ipso facto apply to the MAKIMA-IT Special Economic Zone.

8
9 **SEC. 19. *Capitalization.***- The MAKIMA-IT Special Economic Zone Authority shall
10 have an authorized capital stock of One Billion (1,000,000,000.00) no par shares with a
11 minimum issue of Ten Pesos (P10.00) each, the majority shares of which shall be subscribed
12 and paid for by the National Government and the Local Government Units (LGUs) embracing
13 the MAKIMA-IT Special Economic Zone. The Board of Convenors of the MITSEZA may, with
14 the written concurrent of the Secretary of Finance, sell shares, representing not more than forty
15 per centum (40%) of the capital stock of the MITSEZA to the general public under such policy as
16 the Board and the Secretary of Finance may determine. The National Government and the LGUs
17 shall, in no case, own less than sixty per centum (60%) of the total issued and outstanding capital
18 of the MAKIM-IT Special Economic Zone Authority.

19 The amount necessary to subscribe and pay for the shares of the national government to
20 the capital stock of the MITSEZA shall be included in the annual General Appropriations Act.
21 For LGUs, the funds shall be taken from their internal revenue allotment and other local funds.

22
23 **SEC. 20. *Supervision.***- The MAKIMA-IT Special Economic Zone shall be under the
24 direct control and supervision of the Philippine Economic Zone Authority (PEZA) for purposes
25 of policy direction and coordination.

1 **SEC. 21. Relationship with Regional Development Council.-** The MAKIMA-IT Special
2 Economic Zone Authority shall determine the development goals for the MAKIMA-IT Ecozone
3 within the framework of national development plans, policies and goals. The Administrator shall,
4 upon approval by the Board, submit the MAKIMA-IT Ecozone plans, programs and projects to
5 the Regional Development Council for inclusion and inputs to the overall regional development
6 plan.

7

8 **SEC. 22. Relationship with Local Government Units.-** Except as herein provided, the
9 local government units comprising the MAKIMA-IT Ecozone Zone shall retain their basic
10 autonomy and identity. The Municipalities of Maasim, Kiamba and Maitum, Sarangani Province,
11 and their component barangays and/or *sitios* where the MAKIMA-IT Industrial Parks are
12 located shall continue to operate and function in accordance with the Local Government Code of
13 1991. In case of any conflict between the MITSEZA and the Province of Sarangani and the
14 Municipalities of Maasim, Kiamba and Maitum, on matters affecting the MAKIMA-IT Ecozone
15 other than defense and security matters, the decision of MITSEZA shall prevail.

16

17 **SEC. 23. Interpretation/ Construction.-** The powers, authorities and functions that
18 are vested in the MITSEZA are intended to decentralize governmental functions and authority
19 and promote an efficient and effective working relationship between the MAKIMA-IT Ecozone,
20 the national government, and the local government units.

21

22 **SEC. 24. Auditing.-** The Commission on Audit shall appoint a representative who shall
23 be full time auditor of the MITSEZA and assign such number of personnel as may be necessary
24 to assist said representative in the performance of his/her duties. The salaries and emoluments of
25 the assigned auditor and personnel shall be in accordance with pertinent laws, rules and
26 regulations.

1 **SEC. 25. *Transitory Provision.***- The existing Board of Convenors of the MAKIMA
2 Industrial Triangle, created by virtue of an inter-local agreement/memorandum of cooperation
3 among the municipalities of Maasim, Kiamba and Maitum in Sarangani Province, shall act and
4 perform the functions of the MAKIMA-IT Special Economic Zone Authority Board pursuant to
5 Section 15 of this Act until such time that the members of the Board of Directors of the
6 MAKIMA Industrial Triangle Special Economic Zone Authority (MITSEZA) are appointed by
7 the President of the Republic of the Philippines and have been duly sworn-in or have entered into
8 office.

9
10 **SEC. 26. *Separability Clause.***- If, for any reason, any provision or part of this Act is
11 declared unconstitutional or invalid, such other parts not affected thereby shall remain in full
12 force and effect.

13
14 **SEC. 27. *Repealing Clause.*** - All laws, presidential decrees, administrative orders and
15 executive issuances or parts thereof inconsistent with the provisions of this Act are hereby
16 repealed or modified accordingly.

17
18 **SEC. 28. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publica
19 at least two (2) newspapers of general circulation.

Approved,