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SENATE

S. No. 987

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Introduced by Senator Ralph G. Recto

Explanatory Note

This bill seeks to rationalize our system of fiscal incentives that paved the way to a regime of irrational investment plans and wasteful tax breaks. For almost three decades, the Investment Priority Plans have been ineffective in attracting more significant and sustained investments.

The United Nations Conference On Trade And Development Foreign Direct Investments (FDI) Attraction Index, which measures the success of economies in attracting FDI (combining total FDI inflows and inflows relative to GDP), features 8 developing and transition economies in the top ten (10), wherein the Philippines is among those who have received less FDIs than could be expected based on economic determinants. At \$1.5 Trillion global FDI in 2011, the Philippines only contributed between \$1.0 billion and \$9.9 billion.^[1]

We are lagging behind our neighbors in terms of FDIs despite our generous incentives package. We could not even recoup half of our foregone revenues in 2005 of P282.76 billion as we are only getting \$ 2.9 billion in foreign investments.^[2]

This measure also aims to end the indiscriminate dispensation of fiscal perks to investors who are primarily motivated by the prospects in the domestic market and investments that would have been made even without incentives. These redundant incentives, in the form of income tax holidays and VAT exemptions, are enough to build 10,000^[3] elementary and secondary school buildings of the basic one-classroom type, pave 14,700 kilometers of national roads^[4], fund various PPP projects^[5], hire 61,510 new teachers and 3,500 non-teaching personnel^[6], and even wipe out tuberculosis.^[7]

This bill will streamline the administration of fiscal incentives. At present there are about 180^[8] laws which created a myriad of incentive-providing authorities. It aims to consolidate all Investment Promoting Agencies (IPAs) into one centralized agency. Thus, the Board of Investments (BOI) and Philippine Economic Zone Authority (PEZA) will be merged to form the Philippine Investment Promotion Administration (PIPA). This would then prevent locators from cherry-picking incentives by registering with different IPAs to avail themselves of the best possible incentives package.

Under this proposal, incentives are given to registered domestic enterprises that locate in any of the 30 poorest provinces, bring in investments of P500 million and above, or generate at least 200 jobs.

¹ United Nations Publication "World Investment Report 2012: Towards a New Generation of Investment Policies"

² Gascon, Rechilda. STSRO Senate Tax Bits. Volume 1 Second Issue June-July 2010. "Overview of RP's Fiscal Incentives" http://www.senate.gov.ph/publications/stsro_taxbits02.pdf

³ Construction estimates given by the DPWH – Bureau of Construction: 1 classroom 7x9 wind zone 3 250kph = P1.16 M

⁴ Construction estimates given by the DPWH – Bureau of Construction: asphalt paving of national road 23cm thickness = P8.25 M/km²

⁵ Modernization of the Philippine Orthopedic Center P5.7 B, LRT Line 1 South Extension Project P59 2 B, NLEX-SLEX Connector Road P21.2 B, Cavite-Laguna Expressway P43.33 B., http://ppp.gov.ph/wp-content/uploads/2012/10/PPPBrochure_Sept2012.pdf

⁶ Jess Diaz, "DepEd: No more classroom, teacher Shortage Next Year," *The Philippine Star*, 4 September 2012, Headlines. <http://www.philstar.com/headlines/2012/09/04/845229/depd-no-more-classroom-teacher-shortage-next-year> (Accessed on 2 April 2013)

⁷ Per the World Health Organization's *Global Tuberculosis Report 2012*, the total funding required for TB Care and control in 2013 would be US\$ 176 million. http://apps.who.int/iris/bitstream/10665/75938/1/9789241564502_eng.pdf (Accessed on 2 April 2013)

⁸ Transcript of Stenographic Notes, 1 March 2011 Committee on Ways and Means Joint With the Committee on Economic Affairs Hearing on Fiscal Incentives, page 61.

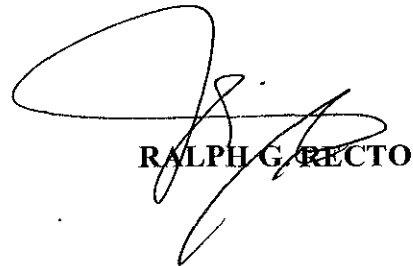
They also get reduced income tax rate of 15%, net operating losses carry over during the first 5 years, and accelerated depreciation.

Registered export enterprises would enjoy reduced income tax rate of 15% with option to choose between the preferential rate of 15% and 5% on gross income earned in lieu of all taxes except VAT, duty-free importation on capital equipments, extended NOLCO and accelerated depreciation, among others.

The savings to be generated from this measure shall be earmarked for infrastructure (50%) and for education (50%). Better physical infrastructure and a well-educated labor force will undoubtedly be more effective than tax incentives in attracting capital into the country. Investing in infrastructure and education are keys to sustainable growth and are the best factors in luring investments.

This measure is our answer to the challenge of this administration to raise additional revenues for better government services without imposing new taxes.

In view of the foregoing, immediate approval of this bill is requested.



RALPH G. RECTO

SENATE

'13 JUL 22 P1:40

S. No. 987

RECEIVED BY _____

Introduced by Senator Ralph G. Recto

AN ACT
HARMONIZING THE GRANT AND ADMINISTRATION OF FISCAL AND NON-FISCAL
INCENTIVES, AND FOR OTHER PURPOSES

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

PRELIMINARY TITLE

TITLE AND DECLARATION OF POLICY

SECTION 1. *Title.* – This Act shall be known as “The Consolidated Investments and Incentives Code of the Philippines”.

SEC. 2. *Declaration of Investment Policies.* – The national economy shall be developed so as to enhance its competitiveness in the global economy and encourage investments that promote countrywide development, generate employment and foreign exchange. Accordingly, the following are declared policies of the State:

(1) The State shall pursue a market responsive investment regime and to that end shall ensure that the incentives shall promote substantial social and economic spillovers, equitable development across income classes and across provinces, are fiscally sustainable, financially and economically justifiable, and are consistent with international treaties. The State shall therefore provide the means for ascertaining that these objectives are being attained.

(2) The State shall grant the necessary incentives that encourage long-term and recurrent investment, are simple to administer, are time-bound and whose performance and outcomes are easily verifiable.

(3) The State shall devote resources to monitoring enterprises benefiting from incentives, and shall vigorously prosecute abuses. The State shall also closely monitor the level of tax expenditures arising from the provision of incentives and shall ensure that concerned government agencies are well-informed of these developments.

(4) In the granting of fiscal incentives, the State will make efforts to ascertain that the incentives are not redundant; that the investments they benefit require and are truly motivated by the incentives or that the incentives, as much as possible, are not given to investors who would have made the investments even in the absence of incentives.

(5) The State shall vigorously promote investments in basic infrastructure such as, but not limited to power, roads, airports, water ports and housing.

(6) The State recognizes that industrial peace is essential to attracting investments.

(7) The State shall undertake investment promotion activities.

1 TITLE I

2 DEFINITION OF TERMS

3 **SEC. 3. *Definition of Terms.*** – As used herein, the following shall mean:

4 (a) “PIPA” is the Philippine Investment Promotion Administration created under this Act.

5 (b) “Investment Promotion Agencies (IPAs)” shall include the Philippine Investment
6 Promotion Administration (PIPA), Bases Conversion and Development Authority (BCDA), Subic
7 Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay
8 Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Bataan
9 Technology Park Inc. (BTPI), Cagayan Economic Zone Authority (CEZA), Zamboanga City
10 Special Economic Zone Authority (ZCSEZA), and PHIVIDEDEC Industrial Authority (PIA).

11 (c) “Registered enterprise” is any individual, partnership, corporation, Philippine branch
12 of a foreign corporation or other entity incorporated and/or organized and existing under
13 Philippine laws and registered with any of the IPAs, in accordance with this Act: *Provided,*
14 *however,* That the term “registered enterprise” shall not include commercial banks, savings and
15 mortgage banks, rural banks, savings and loan associations, building and loan associations,
16 developmental banks, trust companies, investment banks, finance companies, brokers and dealers
17 in securities, consumers cooperatives and credit unions, and other business organizations whose
18 principal purpose or principal source of income is to receive deposits, lend or borrow money, buy
19 and sell or otherwise deal, trade or invest in common or preferred stocks, debentures, bonds or
20 other marketable instruments generally recognized as securities, or discharge other similar
21 intermediary, trust or fiduciary functions.

22 (d) “Gross income earned” is the gross sales or gross revenues derived by the registered
23 enterprise from its registered business activity net of sales discounts, sales returns and allowances
24 minus cost of sales or services or direct costs but before any deductions for administrative,
25 marketing, selling, operating expenses or incidental losses during a given taxable year.

26 (e) “Export sales” is the sales values and/or revenues paid for in freely convertible
27 foreign currency, determined from invoices, bills of lading, inward letters of credit, landing
28 certificates, or other commercial documents, by a registered enterprise of its (1) products shipped
29 out of the country and sold in the territory of another country or (2) services rendered to clients
30 abroad such as but not limited to information technology (IT) activities, application and/or
31 installation of technology and systems in the project sites, including but not limited to the fields
32 of engineering and construction design and other similar activities which may be approved by the
33 Board, excluding mere deployment of people or individual practice of profession abroad; or (3)
34 logistics, repair and maintenance, and other similar services rendered to international
35 airlines/shipping lines/military aircraft or seacraft even if rendered locally.

36 (f) “Tax refund” is any refund against taxes and/or duties equal to those actually paid by a
37 registered export enterprise and to be released by PIPA as provided for under Section 17 of this
38 Act.

39 (g) “Information Technology Activities” are activities which involve the use of any IT
40 software and/or system for value addition, IT, being the collective term for various technologies
41 involved in processing and transmitting information which include computing, multimedia,

1 telecommunications, microelectronics and their interdependencies, including the convergence of
2 various information-based, broadcast and mass media communication technologies.

3 (h) An “export enterprise” is a registered enterprise which is a manufacturer, processor or
4 service provider and whose export sale of its products or services is at least seventy percent
5 (70%) of its output.

6 (i) A “domestic enterprise” is a registered enterprise whose export sales is less than
7 seventy percent (70%) of its output, and is located in the thirty (30) poorest provinces as
8 determined by the Department of Finance (DOF): *Provided*, That such domestic enterprise has a
9 minimum investment of Five hundred million pesos (P500,000,000) or can provide a minimum
10 employment of two hundred (200) jobs: *Provided, further*, That existing enterprises already
11 located in the thirty (30) poorest provinces as determined by the DOF before the effectivity of
12 this Act and have satisfied the minimum investment of Five hundred million pesos
13 (P500,000,000) or minimum employment of two hundred (200) jobs are qualified to register and
14 avail of the incentives provided in this Act.

15 (j) “Capital Equipment” refers to machinery, spare parts, tools and dies, or those required
16 for pollution abatement and control, cleaner production and water reduction.

17 (k) “Source documents” are input materials and documents reasonably needed by
18 IT and IT-enabled industries such as, but not limited to, books, directories, magazines,
19 newspapers, brochures, pamphlets, medical records/files, legal records/files, instruction
20 materials, drawings/blueprints/outlines.

21 (l) “Processing” is converting raw materials into marketable form through
22 physical, mechanical, chemical, electrical, biochemical, biological or other means, or by
23 a special treatment or a series of actions, such as slaughtering, milling, pasteurizing,
24 drying or desiccating, quick freezing, that results in a change in the nature or state of the
25 products. Mere packing or packaging shall not constitute processing.

26 (m) “Industrial Estate (IE)” refers to a tract of land subdivided and developed according
27 to a comprehensive plan under a unified continuous management and with provisions for basic
28 infrastructure and utilities, with or without pre-built standard factory buildings and community
29 facilities for the use of a community of industries.

30 (n) “Export Processing Zone (EPZ)” refers to a specialized industrial estate and
31 predominantly oriented to export production.

32 (o) “Special Economic Zones (SEZ)” hereinafter referred to as ecozones, are selected
33 areas with highly developed or which have the potential to be developed into agro-industrial,
34 industrial, information technology, creative industries, tourist/recreational centers. An ecozone
35 may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs),
36 IT parks and centers, creative industries center and tourism estates.

37 (p) “Tourism Estate” is a tract of land with defined boundaries, suitable for development
38 into an integrated resort complex, with prescribed carrying capacities, of tourist facilities and
39 activities, such as, but not limited to, sport and recreation centers, accommodations, convention
40 and cultural facilities, food and beverage outlets, commercial establishments and other special
41 interest and attraction activities/establishments, and provided with roads, water supply facilities,

1 power distribution facilities, drainage and sewage systems, and other necessary infrastructures
2 and facilities. A tourism estate shall be under unified and continuous management, and can either
3 be a component of an ecozone or the whole ecozone itself.

4 (q) "Freeport" is an isolated and policed area adjacent to a port of entry as defined by
5 Section 3519 of the Tariff and Customs Code, which shall be operated and managed as a separate
6 customs territory to ensure free flow or movement of goods, except those expressly prohibited by
7 law, within, into and exported out in the freeport zone where imported goods may be unloaded for
8 immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated without
9 being subject to import duties. However, movement of these imported goods from the free-trade
10 area to a non-free-trade area in the country shall be subject to import duties and taxes.

11 TITLE II

12 CREATION OF THE PHILIPPINE INVESTMENT PROMOTION ADMINISTRATION (PIPA)

13 **SEC. 4.** *Creation of The Philippine Investment Promotion Administration (PIPA).* - The
14 Board of Investments (BOI) created under Executive Order No. 226, Series of 1987, as
15 amended, and the Philippine Economic Zone Authority (PEZA) created under Republic Act No.
16 7916, as amended, are hereby merged, renamed, and reorganized as the Philippine Investment
17 Promotion Administration (PIPA), attached to the Department of Trade and Industry (DTI), and
18 which shall implement the provisions of this Act except as otherwise provided herein. The
19 unexpended appropriations, assets and properties of BOI and the assets and properties of PEZA
20 are hereby transferred to PIPA.

21 The personnel of PEZA and BOI shall be absorbed by PIPA or DTI. For this purpose, the
22 Board shall determine the personnel to be absorbed by PIPA. Those who will not be absorbed
23 due to either the inability to meet the qualification standards and selection criteria or the non-
24 existence of a suitable position in PIPA or DTI shall be deemed separated from the service:
25 *Provided, That* those who will not be absorbed by PIPA or DTI, including those who will opt to
26 retire from government service shall be entitled to all gratuities and benefits under existing laws.

27 Existing Conventions or Agreements for the Avoidance of Double Taxation and the
28 Prevention of Fiscal Evasion with Respect to Taxes on Income (income tax treaties) that grant
29 reduced income tax rates on dividends, interests and royalties paid by BOI-registered enterprises
30 to foreign persons shall, after the merger of BOI and PEZA by virtue of this Act, continue to
31 grant the reduced rates to foreign persons until the expiration of the enterprises' registration
32 certificates with BOI and after such enterprises registered with PIPA.

33 **SEC. 5.** *General Powers and Functions of the Administration.* - PIPA shall have the
34 following powers and functions:

- 35 1. To establish, operate, administer, manage and develop the ecozones and
36 freeports according to the principles and provisions set forth in this Act;
- 37 2. To register, regulate and supervise the enterprises in the ecozones and
38 freeports in an efficient and decentralized manner;
- 39 3. To register, regulate and supervise qualified enterprises outside the
40 ecozones and freeports;

1 4. To coordinate with local government units and exercise general
2 supervision over the development, plans, activities and operations of ecozones, industrial
3 estates, export processing zones, free trade zones, and the like;

4 5. To regulate and undertake the establishment, operation and maintenance
5 of utilities, other services and infrastructure in the ecozones, such as heat, light and
6 power, water supply, telecommunications, transport, toll roads and bridges, port services,
7 and others, and to fix just, reasonable and competitive rates, charges, and fees therefor:
8 *Provided, That the appropriate government regulatory agencies shall regulate the*
9 *operation, maintenance and services of utilities such as heat, light, power, water supply,*
10 *telecommunications, transport, toll roads and bridges, port services, and others based*
11 *inside the ecozones insofar as such services are rendered outside the ecozones;*

12 6. To construct, acquire, own, lease, operate and maintain on its own or
13 through contract, franchise, license, bulk purchase from the private sector and build-
14 operate-transfer scheme or joint venture, adequate facilities and infrastructure, such as
15 light and power systems, water supply and distribution systems, telecommunication and
16 transportation, buildings, structures, warehouses, roads, bridges, ports and other facilities
17 for the operation and development of the ecozones and freeports, in coordination with the
18 local government units concerned and appropriate agencies;

19 7. To create, operate and/or contract to operate such agencies and functional
20 units or offices and or subsidiaries of PIPA on its own or jointly with any private
21 individual or entity as it may deem necessary and provide funds therefor;

22 8. To adopt, alter and use a corporate seal; make contracts, lease, own or
23 otherwise dispose of personal and real property; sue and be sued; and otherwise carry out
24 its duties and functions as provided for in this Act;

25 9. To coordinate the formulation and preparation of the development plans
26 of the qualified enterprises;

27 10. To formulate and implement industrial development plans and programs;

28 11. To formulate and coordinate investments promotion activities;

29 12. To establish an investments one-stop-action-center;

30 13. To formulate positions and strategies on bilateral, regional or multilateral
31 investments agreements or arrangements;

32 14. To coordinate with the National Economic and Development Authority,
33 Department of Trade and Industry, Department of Science and Technology, and the local
34 government units and appropriate government agencies for policy and program
35 formulation and implementation; and

36 15. To monitor and evaluate the development and requirements of registered
37 enterprises and recommend to the local government units or other appropriate authorities
38 the location, incentives, basic services, utilities and infrastructure required or to be made
39 available for said enterprises.

1 **SEC. 6. *The Board.*** – PIPA shall be governed by a Board created under this Act,
2 hereinafter referred to as the “Board”.

3 **SEC. 7. *Composition of the Board.*** - The Board shall be composed of thirteen (13)
4 members as follows: the Secretary of the Department of Trade and Industry (DTI) as Chairman;
5 the Director-General of PIPA as Vice-Chairman; an undersecretary of the Department of
6 Finance (DOF), Department of Labor and Employment (DOLE), Department of Environment
7 and Natural Resources (DENR), Department of Public Works and Highways (DPWH),
8 Department of Science and Technology (DOST), and Department of Energy (DOE); the Deputy
9 Director-General of the National Economic and Development Authority (NEDA); the
10 Commissioner of Bureau of Internal Revenue (BIR); the Commissioner of Bureau of Customs
11 (BOC); one (1) representative from the labor sector; and one (1) representative from the
12 investors/business sector. The representatives from the labor and investors/business sectors shall
13 be appointed by the President from the nominees of their respective sectors and from among the
14 enterprises registered with PIPA. In case of the unavailability of the Secretary of DTI to attend a
15 particular Board meeting, the Director-General of PIPA shall act as chairman.

16 **SEC. 8. *Powers and Duties of the Board.*** – The Board shall be responsible for the regulation and
17 promotion of investments. It shall meet as often as necessary. Notice of regular and special meetings shall
18 be given to all members of the Board. The presence of seven (7) members of the Board shall constitute a
19 quorum and the affirmative vote of seven (7) members of the Board in a meeting validly held shall be
20 necessary to exercise its powers and perform its duties, which shall include but not be limited to the
21 following:

22 (1) Set the general policies on the establishment and operations of the ecozones,
23 industrial estates, export processing zones, free trade zones, and the like;

24 (2) Promulgate rules and regulations to implement the purposes of this Act and such
25 other laws as the Board is mandated to implement;

26 (3) Formulate investment promotion policies under a ‘one country approach’;

27 (4) Approve, deny, suspend, revoke applications for registration with the Board,
28 imposing terms and conditions as it may deem necessary to promote the purposes of this Act,
29 including the refund and forfeiture of incentives when appropriate, restricting availment of
30 incentives not needed by the project as determined by the Board, requiring performance bonds
31 from PIPA-accredited bonding companies, and payment of application, registration, publication
32 and other fees when warranted;

33 (5) Decide controversies arising from the implementation of this Act that may arise,
34 within thirty (30) days after the controversy has been submitted for decision: *Provided*, That the
35 investor or the registered enterprise may appeal the decision for registration by the Board within
36 thirty (30) days from receipt thereof to the President. The Board shall have the power to subpoena
37 witnesses, administer oaths, and compel the production of books, papers, and other evidence, and
38 to cite for contempt any person/organization that fails to comply with the aforesated processes:
39 *Provided, further*, That the Board may grant immunity from prosecution to any person whose
40 testimony or documents or other evidence is necessary or relevant to the case;

1 (6) Cancel the registration or suspend the incentives of a registered enterprise and/or
2 require refund of incentives as well as interests and monetary penalties. The Board shall
3 *recommend to the appropriate bureau of DOF to levy penalties* of the registered enterprise for
4 grave failure to comply with the substantive terms and conditions of registration: *Provided*, That
5 the registration of an enterprise whose project timetable for implementation, as approved by the
6 Board, shall be considered automatically cancelled if it is delayed by one year, unless otherwise
7 reinstated as a registered enterprise by the Board;

8 (7) Determine the organizational structure of PIPA taking into account Section 12 of
9 this Act; appoint, discipline or remove its personnel consistent with the provisions of civil service
10 laws, rules and regulations;

11 (8) Monitor and coordinate investment promotion activities of all IPAs;

12 (9) Formulate position for bilateral, regional or multilateral investments and
13 investment-related trade agreements and/or arrangements;

14 (10) Formulate industrial programs on economic development including those relating
15 to the implementation of international trade, investments and trade, and investment-related
16 environmental agreements and protocols;

17 (11) Formulate industry and sectoral development programs, the National Plan for
18 Investment Promotions (NPIP) and gather and compile data required for the effective
19 implementation of this act;

20 (12) Recommend to the President, subject to constitutional limitations and other
21 nationalization laws, the suspension of the nationality requirement provided for in this Act in
22 cases involving bilateral or regional investments or trading agreements of the Philippines with
23 other countries or when the existing laws of another country where the investor comes from
24 provides no nationality restrictions for Filipino investors or provides for reciprocal nationality
25 accommodations;

26 (13) Establish offices in the Philippines and abroad, as needed;

27 (14) Within four (4) months after the close of the fiscal year, submit an annual report
28 to the President and Congress on the Board's administration of this Act, including
29 recommendations on investment policies;

30 (15) Formulate policies that will stimulate investments in the most poverty-stricken
31 areas of the country, and reduce regional and social inequality;

32 (16) Enter into agreements with other agencies for the simplification of systems and
33 procedures involved in the promotion of investments, operation of economic zones and registered
34 enterprises, and other activities necessary for the effective implementation of this Act; and

35 (17) In general, exercise all powers necessary or incidental to attain the purposes of
36 this Act and other laws vesting additional functions on the Board.

37 **SEC. 9. Powers and Duties of the Chairman.** – The Chairman shall have the following powers
38 and duties:

39 (1) Preside over the meetings of the Board;

40 (2) Sign annual and special reports to the President and Congress;

41 (3) Act as liaison between investors seeking joint venture arrangements;

1 (4) Recommend to the Board policies and measures necessary to carry out the objectives
2 of this Act; and

3 (5) Generally exercise other powers and perform other duties as may be directed by the
4 Board.

5 **SEC. 10. *The Director-General.*** – PIPA shall have a Director-General with the rank of
6 a department undersecretary who shall be appointed by the President. The Director-General
7 shall be at least forty (40) years of age, of proven probity and integrity, and a degree holder in
8 any of the following fields: economics, business, public administration, law, management or
9 their equivalent, and with at least ten (10) years of relevant working experience preferably in the
10 field of management or public administration.

11 The Director-General shall be assisted by six (6) Deputy Directors-General each for
12 policy and planning, administration, operations, investment promotion, industry development,
13 and Investments One-Stop-Action-Center (OSAC), who shall be appointed by the Board, upon
14 the recommendation of the Director-General. The Deputy Directors-General shall be at least
15 thirty-five (35) years old, with proven probity and integrity, and a degree holder in any of the
16 following fields: economics, business, public administration, law, management or their
17 equivalent.

18 **SEC. 11. *Powers and Duties of the Director-General*** – The Director-General shall have the
19 following powers and duties:

20 (1) Execute all acts of administration;

21 (2) Prepare and recommend to the Board the staffing pattern and personnel complement
22 of PIPA and establish regional offices, when necessary, subject to the approval of the Board;

23 (3) Prepare the agenda for the meetings of the Board and submit for its consideration and
24 approval the policies and measures which the Chairman deems necessary and proper to carry out
25 the provisions of this Act;

26 (4) Preside over the meetings of the Board in the absence of the Chairman; and

27 (5) Assist registered enterprises and prospective investors to expedite processing of
28 papers required by all government offices, agencies, instrumentalities and financial institutions;
29 and in addition he shall have the following specific powers and responsibilities:

30 (A) To safeguard all the lands, buildings, records, monies, credits and other
31 properties and rights of the ecozones under their jurisdictions;

32 (B) To ensure that all revenues of the ecozones are collected and applied in
33 accordance with its budget;

34 (C) To ensure that the investors/firms and employees of the ecozones are
35 properly discharging their respective duties;

36 (D) To give such information and recommend such measures to the Board, as he
37 shall deem advantageous to the ecozone;

38 (E) To submit to the Board the ongoing and proposed projects, work and
39 financial program, annual budget of receipts, and expenditures of the ecozones;

1 (F) To represent the administration in all its business matters and sign on its
2 behalf after approval of the Board, all its bonds, borrowings, contracts, agreements and
3 obligations made in accordance with this Act;

4 (G) To acquire jurisdiction, as he may deem proper, over the protests,
5 complaints, and claims of the residents and enterprises in the ecozone concerning
6 administrative matters;

7 (H) To recommend to the Board the grant, approval, refusal, amendment or
8 termination of franchises, licenses, permits, contracts, and agreements within the
9 ecozones in accordance with the policies set by the Board;

10 (I) To require owners of houses, buildings or other structures constructed without the
11 necessary permit whether constructed on public or private lands, to remove or demolish
12 such houses, buildings, structures within sixty (60) days after notice and upon failure of
13 such owner to remove or demolish such houses, building or structure within said period.
14 The Director-General or his authorized representative may summarily cause their
15 removal or demolition at the expense of the owner, any existing law, decree, executive
16 order and other issuances or part thereof to the contrary notwithstanding;

17 (J) To take such emergency measures as may be necessary to avoid fires, floods,
18 and mitigate the effects of storms and other natural or public calamities;

19 (K) To prepare and make out plans for the physical and economic development
20 of the economic zone, including zoning and land subdivision, and issue such rules and
21 regulations which shall be submitted to the Board for its approval; and

22 (L) To perform such other duties and exercise such powers as may be
23 prescribed by the Board, and to implement policies, rules and regulations set by
24 the Board.

25 **SEC. 12. Appointment of Personnel.** – The Board shall provide for an organization of officers and
26 employees of PIPA, and upon recommendation of the Director-General, appoint and fix the
27 remunerations and other emoluments: *Provided*, That the Board shall have exclusive and final authority
28 to promote, transfer, assign or reassign officers and other personnel subject to civil service laws, rules and
29 regulations.

30 All positions in PIPA shall be governed by a compensation and position classification
31 system and qualification standards approved by the Board based on a comprehensive job
32 analysis and audit of actual duties and responsibilities. The compensation plan shall be
33 comparable with the prevailing compensation plans in the SBMA, CDC, BCDA and the private
34 sector, and shall be subject to periodic review by the Board no more than once every two (2)
35 years without prejudice to yearly merit reviews or increases based on productivity and
36 profitability. PIPA shall therefore be exempt from existing laws, rules and regulations on
37 compensation and position classification standards. It shall endeavor to make its system conform
38 as closely as possible with the principles under Republic Act No. 6758, otherwise known as the
39 Salary Standardization Law.

1 TITLE III

2 INCENTIVES TO REGISTERED ENTERPRISES

3 SEC. 13. *Qualified Enterprises.* – The following may register with PIPA to avail of the
4 incentives provided in this Act:

- 5 (a) export enterprises; or
6 (b) domestic enterprises

7 SEC. 14. *Incentives to Registered Export Enterprises.* – PIPA shall make the following
8 incentives available to registered export enterprises:

9 (a) *Reduced Tax Rates.* – Imposition of a preferential tax rate of fifteen percent
10 (15%) of taxable income as defined under Section 31 of the National Internal Revenue Code of
11 1997, as amended.

12 (b) *Net Operating Loss Carryover (NOLCO)* – The net operating loss of the
13 registered export enterprise during the first five (5) years from start of commercial operation
14 which had not been previously offset as deduction from gross income shall be carried over as a
15 deduction from gross income for the next ten (10) years immediately following the year of such
16 loss: *Provided,* That after the availment of NOLCO of registered export enterprises under this
17 provision, the pertinent provisions under the National Internal Revenue Code of 1997, as
18 amended, shall apply.

19 (c) *Accelerated Depreciation.* – Accelerated depreciation of plant, machinery, and
20 equipment that are reasonably needed and actually used for the production and transport of goods
21 and services may be depreciated using a rate not exceeding twice the rate which would have been
22 used had the annual allowance been computed in accordance with the rules and regulations
23 prescribed by the Secretary of Finance and the provisions of the National Internal Revenue Code
24 of 1997, as amended.

25 (d) *Capital Equipment Incentives.* – Importations of capital equipment, including
26 consignment thereof by registered export enterprises upon the effectivity of this Act, shall be
27 exempt from customs duties: *Provided,* That the importation thereof, shall be used exclusively by
28 the registered export enterprise in its registered activity. If the capital equipment shall be used by
29 the registered export enterprise other than for its registered activity, the availment of incentives
30 under this paragraph shall be subject to the rules and regulations to be promulgated by PIPA:
31 *Provided, further,* That for export enterprises, value-added tax paid on imported capital
32 equipment shall be refunded upon proof of exportation of their products under the mechanism and
33 guidelines provided in Section 17 of this Act.

34 (e) *Raw Material Incentives.* – Every registered export enterprise shall be entitled to
35 duty-free importation of raw materials which are used in the manufacture, processing as defined
36 in Section 3 of this Act, or production of its export products: *Provided,* That value-added tax shall
37 be refunded upon presentation of proof of exportation of their products under the mechanism
38 provided in Section 17 of this Act.

39 (f) *Duty-free importation of source documents by IT registered export enterprises.*

40 (g) *Exemption from Wharfage Dues.* – The provisions of law to the contrary
41 notwithstanding, exports by a registered export enterprise shall be exempted from wharfage dues.

1 (h) Registered export enterprises shall have an option between the preferential tax
2 rate of fifteen percent (15%) as provided in Section 14 (a) of this Act, or the five percent (5%) of
3 the gross income earned in lieu of all national and local taxes, except value-added tax (VAT) and
4 real property tax on land. Once a registered export enterprise has made an option provided in this
5 paragraph, such option shall be irrevocable for the duration of its registration.

6 The five percent (5%) of the gross income earned by registered export enterprises shall
7 be paid and remitted as follows:

- 8 1. Sixty percent (60%) to the National Government; and
- 9 2. Forty percent (40%) to the treasurer's office of the municipality or city
10 where the enterprise is located.

11 (i) Employment of Foreign Nationals. – Subject to the provisions of Section 29 of
12 Commonwealth Act No. 613, as amended, a registered export enterprise may employ foreign
13 nationals in supervisory, technical or advisory positions for a period not exceeding five (5) years
14 from its registration, extendible for limited periods at the discretion of the Board: *Provided,*
15 *however,* That when the majority of the capital stock of a registered enterprise is owned by
16 foreign investors, the positions of president, treasurer and general manager of their equivalents
17 may be retained by foreign nationals beyond the period set forth within.

18 Foreign nationals under employment contract within the purview of this incentive, their
19 spouses and unmarried children under twenty-one (21) years of age, who are not excluded by
20 Section 29 of Commonwealth Act No. 613, as amended, shall be permitted to enter and reside in
21 the Philippines during the period of employment of such foreign nationals.

22 A registered export enterprise shall train Filipinos as understudies of foreign nationals in
23 administrative, supervisory and technical skills and shall submit annual reports on such training to
24 the Board: *Provided,* That employment of foreign nationals hired by registered export enterprises
25 in a supervisory, technical or advisory capacity shall not exceed five percent (5%) of its
26 workforce without the express authorization of the Secretary of DOLE.

27 **SEC. 15. Incentives to Registered Domestic Enterprises.**

28 (a) Reduced Tax Rates. - Imposition of a preferential tax rate of fifteen percent
29 (15%) of taxable income as defined under Section 31 of the National Internal Revenue Code of
30 1997, as amended.

31 (b) Net Operating Loss Carryover (NOLCO) - The net operating loss of the
32 registered domestic enterprise during the first five (5) years from start of commercial operation
33 which had not been previously offset as deduction from gross income shall be carried over as a
34 deduction from gross income for the next five (5) years immediately following the year of such
35 loss: *Provided,* That after the availment of NOLCO of registered domestic enterprises under this
36 provision, the pertinent provisions under the National Internal Revenue Code of 1997, as
37 amended, shall apply.

38 (c) Accelerated Depreciation. – Accelerated depreciation of plant, machinery, and
39 equipment that are reasonably needed and actually used for the production and transport of goods
40 and services may be depreciated using a rate not exceeding twice the rate which would have been
41 used had the annual allowance been computed in accordance with the rules and regulations

1 prescribed by the Secretary of Finance and the provisions of the National Internal Revenue Code
2 of 1997, as amended.

3 Except as otherwise provided in Sections 14 and 15 of this Act, no other fiscal incentives shall be
4 granted by PIPA. PIPA shall equip itself with sufficient personnel to ensure that: (1) investments
5 acquiring incentives under this Act abide by the strict investment location or employment conditions
6 stipulated in Section 3(i) of this Act; and (2) violators will be meted appropriate penalties.

7 **SEC. 16. Incentives to Investors.**

8 (a) A foreign national who invests an amount of at least US\$150,000 either in cash and/or
9 equipment, in a registered enterprise shall be entitled to an Investor's Visa: *Provided*, That:

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

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

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

13 (4) He has not been institutionalized for any mental disorder or disability;

14 *Provided, further*, That as a holder of the Investor's Visa, an alien shall be entitled to reside in the
15 Philippines while his investment subsists. For this purpose, he should submit an annual report, in the form
16 duly prescribed by the Board for the purpose, to prove that he has maintained his investment in the
17 country. Should said alien withdraw his investments from the Philippines, then the Investor's Visa issued
18 to him shall automatically expire.

19 (b) Foreign persons receiving dividends, interests and royalties from BOI-registered
20 enterprises subject to reduced income tax rates under existing income tax treaties, shall after the
21 merger of BOI and PEZA by this Act, be entitled to the reduced rates until the expiration of the
22 enterprises' registration certificates with the BOI and after such enterprises registered with PIPA:
23 *Provided*, That a favorable ruling is secured from the BIR for this purpose.

24 **SEC. 17. Refund of Value Added Tax (VAT) Paid on Importation of Goods.** - In order to facilitate
25 the immediate processing, clearance and release of VAT refunds as provided in this Act, a Trust Liability
26 Account (TLA) is hereby authorized to be established in the Bureau of Treasury (BTr). All VAT
27 payments on the importation of registered export enterprises of capital equipment and raw materials shall
28 be deposited in the TLA for the purpose of funding valid VAT refund claims. The claims for VAT
29 refunds shall be made by the registered export enterprise to PIPA which, in turn, will process, approve
30 and release the VAT refund.

31 The VAT paid on imported capital equipment may be refunded provided that the capital
32 equipment is being used by the registered export enterprise pursuant to its registered activity.

33 The amount of VAT refund on a particular shipment of raw materials shall be equivalent to the
34 proportion of raw materials used in the production of the exported goods to the total raw materials
35 imported multiplied by the amount of VAT paid on such importation. No claim for refund shall be
36 allowed on VAT paid on raw materials which are not or no longer intended to be used in the registered
37 export activity.

38 A registered export enterprise shall file a claim for VAT refund within two (2) years after the
39 payment was made. All amounts paid but no longer allowed for refund shall immediately accrue to the
40 general fund of the National Government.

1 All applications for VAT refund shall be processed and acted upon within thirty (30) days after
2 submission of complete documents. The refund shall be in a form of cash or managers/cashiers check
3 payable to the registered export enterprise.

4 In cases of dispute under the VAT refund mechanism provided in this section, the pertinent
5 provisions of the National Internal Revenue Code of 1997, as amended, shall apply.

6 The Implementing Rules and Regulations for this Section shall be formulated by PIPA DOF,
7 BIR, BOC, BTr and the Department of Budget and Management (DBM), subject to the approval of the
8 Board.

9 TITLE IV

10 REGISTRATION OF ENTERPRISES

11 **SEC. 18. *Qualifications of a Registered Enterprise.*** – Other than the qualifications specified
12 under Section 3(h) and (i) of this Act, an applicant must also satisfy the following conditions to be
13 registered and avail of the incentives provided in this Act:

14 (a) He is a citizen of the Philippines, in case the applicant is a natural person, or in case of
15 a corporation or partnership or any other association, regardless of nationality, organized and/or
16 registered and existing under Philippine laws or Philippine branch of a foreign corporation and it
17 must comply with all the qualifications provided under this Act: *Provided, however,* That for
18 purposes of this Act and any law to the contrary notwithstanding, a natural-born ASEAN citizen
19 or a corporation effectively controlled by ASEAN citizens shall be considered as a Philippine
20 investor: *Provided, further,* That the investment is made in an activity where the Constitution
21 does not specifically require Filipino participation;

22 (b) That the activity it will engage in is not within the activities reserved by the
23 Constitution to Philippine citizens or corporations owned and controlled by Philippine citizens;

24 (c) That if the applicant is engaged or proposes to engage in undertakings or activities
25 other than the registered activities, it shall install an accounting system adequate to identify the
26 investments, revenues, costs, and profits or losses of each registered activity undertaken by the
27 enterprise separately from the aggregate investment, revenues, costs and profits or losses of the
28 whole enterprise, or to establish a separate corporation for each registered activity if PIPA should
29 so require to facilitate proper implementation of this Act; and

30 (d) That if the applicant is already registered in any other IPAs, such registration shall
31 *ipso facto* be cancelled upon registration with PIPA.

32 **SEC. 19. *Application.*** – Applications shall be filed with PIPA and recorded in a registration
33 book. The date appearing therein and stamped on the application shall be considered the date of official
34 acceptance. In the event that an enterprise shall transfer to another IPA or government assets enjoying
35 incentives will be privatized, only the remaining unutilized incentives shall be enjoyed by the enterprise
36 or the transferee, vendee or assignee of the government corporation. All applications and their supporting
37 documents filed under this Act shall be confidential and shall not be disclosed to any person except with
38 the consent of the applicant or upon an order of a court of competent jurisdiction.

39 **SEC. 20. *Criteria Evaluation of Application.*** – The following criteria will be considered in the
40 evaluation of applications for registration:

41 (a) Impact of the activity on the overall economy and fiscal sustainability;

42 (b) Overall viability of the activity;

- 1 (c) Extent to which investment incentives are redundant;
2 (d) The extent of employment and skills and foreign exchange generation;
3 (e) The extent to which technological advances are applied and adapted to local
4 conditions;
5 (f) Extent to which the output of the applicant supports national export objectives;
6 (g) Extent to which incentives contribute to the reduction of poverty and inequality; and
7 (h) The extent to which incentives promote investments that help improve the quality of
8 the environment.

9 **SEC. 21. *Approval and Registration Procedures.*** – The Board shall adopt rules and regulations to
10 facilitate action on applications filed with it; prescribe other criteria it may deem necessary for the
11 evaluation of applications; devise standard forms for the use of applicants and delegate to the regional
12 offices of the PIPA the authority to receive and process applications for enterprises to be located in their
13 respective regions. Applications filed shall be considered automatically approved if not acted upon by the
14 Board within fifteen (15) working days from official acceptance thereof. Deferment by the Board shall be
15 considered as an official action: *Provided, however,* That the Board may defer action on a specific
16 application not more than twice and: *Provided, finally,* That the Board shall act upon the application
17 within ten (10) working days from compliance with the cause of the last deferment.

18 TITLE V

19 BASIC RIGHTS AND GUARANTEES OF REGISTERED ENTERPRISES

20 **SEC. 22. *Protection of Investments.*** – All investors and registered enterprises are entitled to the
21 basic rights and guarantees provided in the Constitution. Among other rights recognized by the
22 Government of the Philippines are the following:

23 (a) **Repatriation of Investments.** – In the case of foreign investments, the right to
24 repatriate the entire proceeds of the liquidation of the investment in the currency in which the
25 investment was originally made and at the exchange rate prevailing at the time of repatriation,
26 subject to the provisions of Section 74 of Republic Act No. 265, as amended. For investments
27 made pursuant to Executive Order No. 32, series of 1986 and its implementing rules and
28 regulations, remittability shall be as provided therein;

29 (b) **Remittance of Earnings.** – In the case of foreign investments, the right to remit
30 earnings from the investment in the currency in which the investment was originally made and at
31 the exchange rate prevailing at the time of remittance, subject to the provisions of Section 74 of
32 Republic Act No. 265, as amended;

33 (c) **Foreign Loans and Contracts.** – The right to remit at the exchange rate prevailing at
34 the time of remittance such sums as may be necessary to meet the payments of interest and
35 principal on foreign loans and foreign obligations arising from technological assistance contracts,
36 subject to the provisions of Section 74 of Republic Act No. 265, as amended;

37 (d) **Freedom from Expropriation.** – There shall be no expropriation by the government of
38 the property represented by investments or of the property of the enterprise except for public use
39 or in the interest of national welfare or defense and upon payment of just compensation. In such
40 cases, foreign investors or enterprises shall have the right to remit sums received as compensation
41 for the expropriated property in the currency in which the investment was originally made and at

1 the exchange rate at the time of remittance, subject to the provisions of Section 74 of Republic
2 Act No. 265, as amended; and

3 (e) Requisition of Investment. – There shall be no requisition of the property represented
4 by the investment or of the property of enterprises, except in the event of war or national
5 emergency and only for the duration thereof. Just compensation shall be determined and paid
6 either at the time of requisition or immediately after cessation of the state of war or national
7 emergency. Payments received as compensation for the requisitioned property may be remitted in
8 the currency in which the investment was originally made and at the exchange rate prevailing at
9 the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265, as
10 amended.

11 TITLE VI

12 ADMINISTRATION OF INCENTIVES

13 **SEC. 23. Certificate of Registration.** – A PIPA-registered enterprise shall be issued a certificate
14 of registration under the seal of PIPA and the signature of its Director-General and/or such other officer
15 or employee of PIPA as the Board may designate and empower for the purpose. The certificate shall be
16 in such form and style as the Board may determine.

17 **SEC. 24. Validity of Registration.** – The certificate of registration issued under this Act shall be
18 valid for a period of twenty (20) years from the start of commercial operation.

19 **SEC. 25. Extension of Period of Availment.** – The availment period of the incentives provided
20 herein may be extended by PIPA, in the event that the registered enterprise has suffered operational *force*
21 *majeure* that has impaired its viability, equivalent for the period thereto.

22 **SEC. 26. Duties and Responsibilities of Other IPAs.** – The following are the duties and
23 responsibilities of the other IPAs under this Act:

24 (a) Adopt uniform and consistent procedures of administering incentives, monitoring the
25 recipients and to coordinate efforts in this regard;

26 (b) Adopt and implement systems and procedures affecting trade and customs policies in
27 accordance with the requirements established by the DOF;

28 (c) Submit data and information to PIPA and DOF as required by any of these agencies
29 to ascertain consistency of investments policies and incentives, including their implementation as
30 provided in paragraph (a), and to ensure the proper implementation of systems and procedures
31 affecting trade and customs policies as provided in paragraph (b); and

32 (d) Perform all other duties and responsibilities as may be required by the President.

33 **SEC. 27. Administration, Implementation and Monitoring of Incentives.** – The IPAs shall be
34 responsible for the administration and implementation of the incentives granted to their respective
35 registered enterprises. The IPAs shall submit to PIPA and DOF their respective annual tax expenditures
36 based on the computed costs in terms of revenue foregone on the tax incentives granted to their registered
37 enterprises. For proper monitoring, PIPA shall create a single database of all incentives provided by all
38 IPAs and all information thereto. Double entry accounting shall be done in recording all incentives
39 granted by the government for transparency purposes. The DTI, DOF, NEDA and IPAs shall meet
40 regularly to monitor and review the investments and incentives granted and submit an annual report to the
41 President and Congress.

1 **SEC. 28.** *Payment in Philippine Peso or Foreign Currencies.* – PIPA may receive Philippine
2 peso or freely convertible foreign currencies as payment of application fees, fines and penalties.

3 TITLE VII

4 SPECIAL ECONOMIC ZONES (ECOZONES)

5 **SEC. 29.** *Establishment of Ecozones.* – The metes and bounds of each ecozone are to be
6 delineated and more particularly described in a proclamation to be issued by the President of the
7 Philippines, upon the recommendation of the Board in coordination with municipal and/or city council,
8 the National Land Use Coordinating Committee and/or the Regional Land Use Committee.

9 The ecozones shall be developed through any of the following schemes:

- 10 1) Private initiative;
- 11 2) Local government initiative with the assistance of the national government; and
- 12 3) National Government initiative.

13 Areas to be established as ecozones shall be subject to the evaluation and recommendation of the
14 Board, based on a detailed feasibility and engineering study which must conform with the following
15 criteria:

16 (a) The proposed area must be identified as a regional growth center in the
17 Philippine Development Plan (PDP) or by the Regional Development Council;

18 (b) The existence of required infrastructure in the proposed ecozone, such as roads,
19 railways, telephones, ports, airports, etc., and the suitability and capacity of the proposed site to
20 absorb such improvements;

21 (c) The availability of water source and electric power supply for use of the ecozone;

22 (d) the extent of vacant lands available for industrial and commercial development
23 and future expansion of the ecozone as well as of lands adjacent to the ecozone available for
24 development of residential areas for the ecozone employees;

25 (e) The availability of skilled, semi-skilled and non-skilled trainable labor force in
26 and around the ecozone;

27 (f) The area must have a significant incremental advantage over the existing
28 economic zones and its potential profitability can be established;

29 (g) The area must be strategically located; and

30 (h) The area must be situated where controls can easily be established to curtail
31 smuggling activities.

32 Other areas which do not meet the foregoing criteria may be established as ecozones: *Provided,*
33 That the said area shall be developed only through local government and/or private sector initiative, and
34 without any financial exposure on the part of the National Government: *Provided, further,* That the area
35 can be easily secured to curtail smuggling activities: *Provided, finally,* That after five (5) years, the area
36 must have attained a substantial degree of development, the indicators of which shall be formulated by
37 PIPA.

38 **SEC. 30.** *Ecozone to be a Decentralized Agro-Industrial, Industrial, Commercial/Trading,*
39 *Tourist, Investment and Financial Community.* - Within the framework of the constitution, the interest of
40 national sovereignty and territorial integrity of the Republic, the ecozone shall be developed, as much as
41 possible, into a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-
42 industrial, tourist center with minimum government intervention. Each ecozone shall be provided with

1 transportation, telecommunications, and other facilities needed to generate linkage with industries and
2 employment opportunities for its own inhabitants and those of nearby towns and cities.

3 **SEC. 31. *Defense and Security.*** - The defense of the ecozone and the security of its perimeter
4 shall be the responsibility of the National Government in coordination with PIPA. Military forces sent by
5 the National Government for the purpose of defense shall not interfere in the internal affairs in any of the
6 ecozone and expenditure for these military forces shall be borne by the National Government. The PIPA
7 may provide and establish the ecozones' internal security and firefighting forces.

8 **SEC. 32. *Relationship of PIPA to Privately-Owned Industrial Estates.*** - Privately-owned
9 industrial estates shall retain their autonomy and independence and shall be monitored by PIPA for the
10 implementation of incentives.

11 **SEC. 33. *Administration of the National Building Code Inside the Ecozones.***

12 The administration and enforcement of the provisions of PD No. 1096, the National Building
13 Code of the Philippines (NBCP) in all ecozones and areas owned and administered by PIPA shall be
14 vested in the Director-General or his duly authorized representative. He shall appoint such qualified
15 personnel as may be necessary to act as building official who shall be charged with the duty of issuing
16 building permits in the different zones. All fees and dues collected by the building official under the
17 NBCP shall accrue to PIPA.

18 TITLE VIII

19 FINAL PROVISIONS

20 **SEC. 34. *Protection of the Environment.*** - PIPA, in coordination with the appropriate agencies,
21 shall take concrete and appropriate steps to enact the proper measures for the protection of the
22 environment, and shall coordinate with the Environmental Management Bureau of DENR to avoid undue
23 delay in the issuance of the required Environmental Compliance Certificate (ECC): *Provided, however,*
24 That applications for environmental clearances, permits, and/or licenses of registered enterprises shall be
25 acted upon by the appropriate government agency within forty (40) days from date of official acceptance.
26 In the event that the appropriate government agency failed to act within the aforementioned date, the
27 application for the said environmental requirement shall be deemed complied with for purposes of
28 operation of the registered enterprise: *Provided, finally,* That the Board may withdraw the certificate of
29 registration issued to the enterprise should the appropriate government agency eventually deny the
30 application.

31 **SEC. 35. *Suspension and Forfeiture of Incentives of Registered Enterprises, Refund and***
32 ***Penalties.*** - When there is probable cause to believe that the registered enterprise has violated its
33 registration terms and conditions, the Board may suspend its availment of incentives after due notice and
34 hearing. The Board may impose fines and penalties and/or forfeit the incentives granted to the registered
35 enterprise whenever there are violations of the registration terms and conditions by the latter, without
36 prejudice to the cancellation of the registration of said enterprise: *Provided, however,* That the Board may
37 cancel or abate only the imposition of fines. In case of cancellation of the certificate of registration
38 granted under this Act, the Board may, in appropriate cases, require the refund of incentives availed of
39 and impose corresponding fines and penalties.

40 Any enterprise which violates any provision of this Act, its implementing rules and regulations,
41 the terms and conditions of its registration or any lawful directive of the Board, or in the availment of
42 incentives, including all official reports required to be submitted to the Board, shall be subject to a fine

1 not to exceed One million pesos (P1,000,000) but without prejudice to the cancellation of its registration:
2 *Provided*, That any willful commission of fraudulent misrepresentation in its application for registration
3 or submission of reports or gross violation of this Act and its implementing rules and regulations, a fine of
4 at least One million pesos (P1,000,000) but not to exceed Ten million pesos (P10,000,000) shall be
5 imposed, in addition to other penalties that may be imposed by the Board.

6 The Board shall prepare a schedule of fines and penalties to be imposed on erring registered
7 enterprises depending on the violation incurred, which may be reduced in exceptional cases. Responsible
8 officers of such enterprises, including duly appointed external consultants-agents who knowingly commit,
9 aid or abet the commission of any of the acts mentioned above, shall be subject to a fine of not less than
10 One hundred thousand pesos (P100,000) but not more than Three hundred thousand pesos (P300,000).
11 Government officers and employees who participate directly or indirectly in the commission of the
12 foregoing acts shall likewise be liable to a fine of not less than One hundred thousand pesos (P100,000)
13 but not more than Three hundred thousand pesos (P300,000), in addition to any criminal and
14 administrative penalties imposable under the Civil Service Law, Revised Penal Code, Republic Act No.
15 3019 (Anti-Graft And Corrupt Practices Act), Republic Act No. 6713 (Code Of Conduct And Ethical
16 Standards For Public Officials) and other applicable laws. If the offender is a foreign national, the
17 foregoing acts shall be grounds for his summary deportation in addition to the imposable fines and
18 penalties above.

19 **SEC. 36. *Implementing Rules and Regulations (IRR).*** – The DTI, PIPA, DOF, NEDA, BIR and
20 BOC shall promulgate the implementing rules and regulations (IRR) within two (2) months from the
21 effectivity of this Act.

22 **SEC. 37. *Transitory Provisions.*** – The incentives already granted to enterprises registered with
23 BOI, PEZA, other IPAs and under existing investment laws shall continue to be legally binding in
24 accordance with the terms and conditions stated in their respective registration certificates. Existing
25 enterprises registered with BOI, PEZA and other IPAs may opt to register with PIPA and be governed by
26 the provisions of this Act prior to the expiration of their existing contracts. For activities or entities,
27 whether government or private, whose tax and/or duty exemptions or preferential treatment under special
28 laws are withdrawn or repealed by this Act, the pertinent provisions of the National Internal Revenue
29 Code of 1997, as amended; the Tariff and Customs Code, as amended; and the Local Government Code
30 of 1991, shall apply.

31 In addition, dividends, interests and royalties subject to reduced income tax rates under existing
32 income tax treaties paid by BOI-registered enterprises to foreign persons shall, after the merger of BOI
33 and PEZA by virtue of this Act, be subject to the reduced rates until the expiration of the enterprises'
34 registration certificates with the BOI and after such enterprises registered with PIPA: *Provided*, That a
35 favorable ruling is secured from the BIR for this purpose.

36 **SEC. 38. *Revenue Gains or Savings from the Rationalization of Fiscal Incentives.*** - Revenue
37 gains or savings from the implementation of this Act shall be utilized exclusively for the following
38 purposes: fifty percent (50%) for infrastructure and fifty percent (50%) for education purposes.

39 Such allocations shall be segregated as separate trust funds by the National Treasury and shall be
40 over and above the annual appropriations for similar purposes.

41 **SEC. 39. *Separability Clause.*** – If any provision of this Act is declared invalid and
42 unconstitutional, the other provisions which are not affected thereby shall remain in force and effect.

1 **SEC. 40. Repealing Clauses.** – The following laws or provisions of laws are hereby repealed:

2 (1) Executive Order No. 226, series of 1987 - “The Omnibus Investments Code of 1987”;

3 (2) Republic Act No. 7888 – “An Act to Amend Article 7(13) of Executive Order No.
4 226, otherwise known as the Omnibus Investment Code of 1987;

5 (3) Republic Act No. 7916, otherwise known as the “Special Economic Zone Act of
6 1995”;

7 (4) Republic Act No. 8748, otherwise known as “An Act Amending Republic Act No.
8 7916”;

9 (5) Presidential Decree No. 66 - “Creating the Export Processing Zone Authority and
10 Revising Republic Act No. 5490”;

11 (6) Presidential Decree No. 529 - “Granting to Petroleum Exploration Concessionaires
12 under the Petroleum Act of 1949 Exemption from Customs Duty and Compensating Tax on
13 Importations of Machinery and Equipment, Spare Parts and Materials Required for their
14 Exploration Operations”;

15 (7) Section 8(d) of Republic Act No. 5487, entitled “An Act to Regulate the Organization
16 and Operation of Private Detective, Watchmen or Security Guard Agencies (The Private Security
17 Agency Law)”;

18 (8) Subparagraph (a)(2) and last sentence of subparagraph (b) of Section 8 and Section 14
19 of Presidential Decree No. 269, entitled “Creating the National Electrification Administration as a
20 Corporation, Prescribing its Powers and Activities, Appropriating the Necessary Funds Therefore
21 and Declaring a National Policy Objective for the Total Electrification of the Philippines on an
22 Area Coverage Service Basis, the Organization, Promotion and Development of Electric
23 Cooperatives to Attain the Said Objective, Prescribing Terms and Conditions for Their
24 Operations, The Repeal of Republic Act No. 6038, and for Other Purposes;

25 (9) Sections 8, 9 and 10 of Presidential Decree No. 538, entitled “Creating and
26 Establishing the PHIVIDEC Industrial Authority and Making its Subsidiary Agency of the
27 Philippine Veterans Investment Development Corporation Defining Its Powers, Functions and
28 Responsibilities and for Other Purposes”;

29 (10) Section 36(f) of Presidential Decree No. 705, otherwise known as the “Revised
30 Forestry Code”;

31 (11) Section 25 of Presidential Decree No. 857, entitled “Providing for the
32 Reorganization of Port Administration and Operation Functions in the Philippines, Revising
33 Presidential Decree No. 505 Dated July 11, 1974, Creating the Philippine Port Authority, by
34 Substitution, and for Other Purposes”;

35 (12) Section 16 (a), (b), and (c), and Section 17 (a), (b), (c), (d) and (e) of Presidential
36 Decree No. 972, as amended, entitled “Promulgating an Act to Promote an Accelerated
37 Exploration, Development, Exploitation, Production and Utilization of Coal”;

38 (13) First sentence of the second paragraph of Section 10 of Presidential Decree No. 972,
39 as amended by Presidential Decree No. 1174, entitled “Amending PD No. 972, Otherwise Known
40 as the Coal Development Act of 1976”;

41 (14) Sections 2 and 3 of Presidential Decree No. 1362, entitled “Allowing Radio
42 Broadcasting and Television Stations to Import Radio or Television Equipment, Spare Parts and

1 Allied Technical and Program Materials to be Used Exclusively in their Broadcast Operations
2 Subject to Certain Conditions”;

3 (15) Section 4 of Presidential Decree No. 1442, entitled “An Act to Promote the
4 Exploration and Development of Geothermal Resources”;

5 (16) Sections 18, 19, 20 and 21 of Republic Act No. 6847, entitled “An Act Creating and
6 Establishing the Philippine Sports Commission, Defining its Powers, Functions and
7 Responsibilities Appropriating Funds Therefor, and for Other Purposes”;

8 (17) Section 10 (1), (2), (3), (4), (5), and (6) of Republic Act No. 7156, entitled “An Act
9 Granting Incentives to Mini-Hydro Electric Power Developers and For Other Purposes”;

10 (18) Title 9, Section 21 of Republic Act No. 7306, entitled “An Act Providing for the
11 Establishment of the People’s Television Network, Inc., Defining Its Powers and Functions,
12 Providing for Its Sources of Funding and For Other Purposes”;

13 (19) Section 14 of Republic Act No. 7354, entitled “An Act Creating the Philippine
14 Postal Corporation, Defining Its Powers, Functions and Responsibilities, Providing for
15 Regulation”;

16 (20) Last sentence of Section 17 of Republic Act No. 7820, entitled “An Act Creating the
17 Partido Development Administration, Defining Its Powers and Functions, Providing Funds
18 Therefor, and for Other Purposes”;

19 (21) Section 16 (a), (b), (c), (d), (e) and Section 17 of Republic Act No. 7844, otherwise
20 known as the “Export Development Act of 1994”;

21 (22) Sections 83, 90, 91, 92 and 93 of Republic Act No. 7942, otherwise known as the
22 “Philippine Mining Act of 1995”;

23 (23) Section 18 of Republic Act No. 8044, entitled “An Act Creating the National Youth
24 Commission, Establishing a National Comprehensive and Youth Development, Appropriating
25 Funds Therefor, and for Other Purposes”;

26 (24) Section 8 of Republic Act No. 8436, entitled “An Act Authorizing the Commission
27 on Elections to Use an Automated Election System in the May 11, 1998 National or Local
28 Elections and in Subsequent National or Local Electoral Exercises, Providing Funds Therefor and
29 for Other Purposes”;

30 (25) Section 9 of Republic Act No. 8479, otherwise known as the “Downstream Oil
31 Deregulation Act of 1998”;

32 (26) Section 3 a), b), c), d), and h) of Republic Act No. 8502, entitled “An Act to
33 Promote the Development of the Jewelry Manufacturing Industry, Providing Incentives Therefor
34 and For Other Purposes”;

35 (27) Section 35 (b), (c) and (d) of Republic Act No. 8550, otherwise known as the
36 “Philippine Fisheries Code of 1998”;

37 (28) Section 26 (A.1, A.1.1, A.1.2) of Republic Act No. 9275, entitled “The Philippine
38 Clean Water Act of 2004”;

39 (29) Section 1 of Republic Act No. 9281, entitled “An Act to Strengthen Agriculture and
40 Fisheries Modernization in the Philippines by Extending the Effectivity of Tax Incentives and its
41 Mandated Funding Support, Amending for this Purpose Sections 109 and 112 of Republic Act
42 No. 8435”;

1 (30) Section 3 of Republic Act No. 9290, entitled “An Act Promoting the Development
2 of the Footwear, Leather Goods and Tannery Industries, Providing Incentives Therefor and for
3 Other Purposes”

4 (31) Section 5 of Executive Order No. 80, Series of 1993 – “Authorizing the
5 Establishment of the Clark Development Corporation as the Implementing Arm of the Bases
6 Conversion and Development Authority for the Clark Special Economic Zone, and Directing All
7 Heads of Departments, Bureaus, Offices, Agencies and Instrumentalities of Government to
8 Support the Program”;

9 (32) Section 5 of Proclamation 216, Series of 1993 – “Creating the Poro Point Special
10 Economic Zone Pursuant to Republic Act No. 7227”;

11 (33) Section 3 of Proclamation No. 420, Series of 1994 - “Creating and Designating a
12 Portion of the Area Covered by the Former Camp John Hay Special Economic Zone Pursuant to
13 Republic Act No. 7227”;

14 (34) Section 6 of Proclamation 984, Series of 1997 – “Creating the Morong Special
15 Economic Zone Pursuant to Republic Act No. 7227”;

16 (35) Executive Order No. 313, series of 2004, as amended by Executive Order 528,
17 Series of 2006. - “Modifying the Rates of Duty on Capital Equipment, Spare Parts and
18 Accessories Imported by BOI-Registered New and Expanding Enterprises”; and

19 (36) Section 7 of Republic Act No 9282, entitled “An Act Expanding the Jurisdiction of
20 the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of A Collegiate Court With
21 Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections
22 of Republic Act No. 1125, as amended, Otherwise Known as the Law Creating the Court of Tax
23 Appeals, and for Other Purposes” is modified accordingly to include in its jurisdiction cases
24 involving the decisions or actions of PIPA in its VAT refund mechanism;

25 All other laws, acts, decrees, orders and issuances or provisions thereof inconsistent with any of
26 the provisions of this Act are hereby repealed or modified accordingly.

27 **SEC. 41. Effectivity.** – This Act shall take effect fifteen (15) days from the date of publication in
28 the Official Gazette or in at least two (2) newspapers of general circulation.

29 Approved,