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SENATE

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S.B. No. 3136

Introduced by: **Senator Lacson**

EXPLANATORY NOTE

Tax incentives can be good policy tools when applied properly. They can be potent instruments to encourage private capital in relatively unprofitable but socially-beneficial activities. They can also be used to spur investments in exports, or to provide more employment opportunities, or to improve the technical skills of the local labor force through foreign technology spillovers, or to promote countryside development.

The Philippines, like other developing countries, grant tax incentives to encourage investments. Income tax holidays, tax and duty exemptions on imported capital equipment and raw materials, tax credit, accelerated depreciation, net operating loss carry-over, preferential tax on gross income, and exemption from local taxes are offered to investors under various investment incentive laws. There are about ten investment promotions agencies (IPAs) and several national government agencies involved in managing investment activities and administering tax incentives. Among the IPAs are the Board of Investments, the Philippine Economic Zone Authority and Clark Development Corporation.

However, the Philippine fiscal incentives system, which is more than half a century old, is ailing. *There are so many incentive laws with different incentives provisions.* This is because, admittedly, the government has been over-zealous in enacting tax incentive laws to promote every particular objective or activity or locality. And the tax incentives packages found in existing laws are not necessarily identical. For instance, the tax incentives to exporters vary under the BOI and PEZA laws. PEZA incentives, on the other hand, are different from Aurora ecozone incentives. Subic Free Port incentives and Cagayan Free Port incentives also differ from each other. There is, indeed, a glaring need to consolidate and harmonize these laws to level the playing field and eliminate competition among IPAs in terms of tax incentive offers. This will also prevent investors from cherry-picking and dual registration. In fact, because dual registration happens, it is not far-fetched that the amount of FDIs reported may have been overblown - - the same investor investment is reported by two IPAs.

Government has not been successful at picking winners. Going through 39 Investment Priorities Plans (IPP) in the last 39 years, many industries are found to be almost mainstays of this annual list. One wonders when these sectors can ever be weaned

from government subsidies. Examining the criteria for formulating IPPs does not help any because they are very complex, not easily quantifiable and open to subjectivity.

The centerpiece of the Philippine incentives system, which is the income tax holiday (ITH), is the most redundant type of tax incentive. The ITH benefits the investor who expects to immediately earn profits from his investments, and thus, would have made such investment even without a tax holiday, profit being the bottomline of all business undertakings. This is very evident in the case of domestic enterprises which are market-seeking and resource-seeking in orientation. The ITH also benefits the footloose projects, and not the longer-term projects that would be more beneficial for the economy's sustained growth. Singularly, the income tax holiday inflicts the highest cost and the biggest stumbling block to a rational fiscal incentives system.

As a result, the policy of granting tax incentives comes with a huge cost to government. The government foregoes tax revenues on investments that would have come in anyway even without tax incentives. A study by University of the Philippines economist Dr. Renato Reside estimated that at least 83% of all tax and duty exemptions granted to BOI-registered investments are redundant, and 10% in the case of PEZA, Subic and Clark, since these investments would have come in anyway even without the tax incentives. In peso value, the redundant incentives amounted to P47 billion.

These fiscal costs of government from tax incentives are real costs or actual foregone revenue *that would have been put to better use for the benefit of a greater part of society.* The P47 billion redundant tax incentives could have - - funded 8,737 one-classroom school buildings that could have helped address the perennial school building and classroom shortage; paved 10,000 kilometers of national roads; or increased by an additional 8% the basic pay of 1.1 million government workers.

Studies have shown, though, that the ITH is least redundant when offered to exporters. This is because export-oriented enterprises have to compete in the world market rather than depend on the availability of the domestic market. Export-oriented entities also exhibit high positive spill-over effects on the economy through transfer of new technology, large volume of foreign currency investments, and provision of more job opportunities to the domestic workforce, among others.

Domestic "strategic" projects may also merit some consideration in the grant of the ITH for as long as they meet certain criteria. These "strategic" projects are those that are unanticipated projects which are not listed in the IPP but are bringing in huge investments and have the potential to generate substantial employment. These are those which have the strong inclination to locate in the Philippines if entitled to the ITH or the ITH being the "swing factor."

To address these structural weaknesses and administrative gaps, plug the massive wastage of government resources and strengthen the institutional framework in the grant of tax incentives, this bill is hereby introduced with the overarching objective of rationalizing the Philippine fiscal incentives system.

With this proposed measure, the government shall henceforth adopt a fiscal incentives policy that will enhance the competitiveness of the Philippines as an


investment site and, at the same time, ensure that the tax incentives are cost efficient and attuned with the fiscal sustainability thrust of the national government.

Specifically,

1. The bill will promote exports equally, whether they are located inside or outside the economic zones, because of the positive benefits they bring into the country in terms of foreign exchange earnings, job generation and technology transfers. The registered exporter can avail of the income tax holiday from the start of commercial operations or a reduced income tax regime at the rate of 15% or the gross income tax regime at 5% of GIE.
2. The bill will have the flexibility to accommodate domestic “strategic” projects with the grant of ITH under certain conditions, before given the choice to either be under a reduced income tax regime of 15% or a 5% GIE.
3. It will promote countryside development and job generation by granting reduced income tax incentives to investors that will locate in any of the 30 poorest provinces. These investors can avail of a reduced income tax rate of 15% for 5 years. By doing so, this bill espouses the developmental and equity objectives of growth.
4. It will eliminate competition among ecozone administrators on account of unequal tax incentives regimes by eliminating the existing redundant tax incentives found in all investment incentive laws and replacing them with either a reduced income tax package or a gross income tax package. It will harmonize the tax incentive packages that ecozones and free ports can offer.
5. It will introduce institutional reforms by clarifying the mandates and roles, and enhancing the capabilities of key government agencies, and by strengthening the monitoring and reporting processes in the implementation of tax incentives for better fiscal policymaking.

The rationalization of fiscal incentives has long been in the pipeline of the Legislature. It was first filed in the 3rd Regular Session of the 9th Congress as part of the Comprehensive Tax Reform Package (or the “CTRP”) of the Ramos Administration. It was the only CTRP component not enacted into law. The bill had been filed in several Congresses thereafter.

It is earnestly prayed that, for all its good intents and provisions, this bill on the rationalized and harmonized fiscal incentives system will finally see the light and be favorably acted on in this 14th Congress.


PANFILO M. LACSON
Senator

SENATE

RECEIVED BY 

S.B. No. 3136

Introduced by: **Senator Lacson**

THE INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES

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

PRELIMINARY TITLE

Chapter I. TITLE AND DECLARATION OF POLICY

SECTION 1. *Title.* - This Act shall be known as "The 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 through investment promotion and industrial development activities geared towards employment generation and countrywide development. Accordingly, the following are the declared policies of the State:

1. The State shall pursue a market responsive investment regime.
2. The State shall formulate industry and sectoral development programs.
3. The State shall undertake investment promotion activities.
4. The State shall grant investment incentives that shall promote substantial social and economic spillovers, equitable development across income classes and across provinces, are fiscally-sustainable, are financially and economically-justifiable, and are consistent with international treaties. Investment incentives shall encourage long-term and recurrent investments, are simple to administer, time-bound and performance-based.
5. The state shall devote resources toward monitoring enterprises benefiting from incentives, and shall vigorously prosecute abuses.
6. The State recognizes that industrial peace is essential to attracting investments.

Chapter II – ORGANIZATION AND FUNCTIONS

OF THE BOARD OF INVESTMENTS (BOI)

SEC. 3. *The Board of Investments (BOI).* - The Board of Investments hereinafter referred to as the “BOI” shall implement the provisions of this Code to all BOI-registered enterprises, except as otherwise provided therein.

SEC. 4. *Composition of the BOI Board of Governors.* - The BOI Board of Governors, hereinafter referred to as the “Board”, shall be composed of nine (9) governors: the Secretary of the Department of Trade and Industry (DTI), the Secretary of the Department of Finance (DOF), the Director General of the National Economic and Development Authority (NEDA); DTI Undersecretary for Investments and Industry Group (IIG), DTI Undersecretary of International Trade Group (ITG), Managing Governor of the Board; and three (3) representatives from the private sector. The Secretary of Trade and Industry shall concurrently be the Chairman of the BOI and the DTI Undersecretary for Investment and Industry Group shall be the concurrent Vice-Chairman and Managing Governor of the BOI. The three (3) representatives from the private sector shall be appointed by the President for a term not exceeding four (4) years: *Provided*, That a governor may be reappointed; *Provided further*, That a governor shall serve as such until his successor shall have been appointed and qualified.

The Managing Governor of the BOI shall be assisted by two (2) career officials with the rank of Deputy Managing Governor, who shall be appointed by the Board, upon the recommendation of the Managing Governor.

Members of the Board shall receive a reasonable per diem for every meeting attended.

SEC. 5. *Qualifications of the BOI Board of Governors.* - The governors of the BOI shall be citizens of the Philippines, at least thirty-five (35) years old, with proven probity and integrity, of good moral character and of recognized competence in economics, business, marketing, advertising, management, or its equivalent.

SEC. 6. *Powers and Functions of the Board.* - The Board shall be responsible for the regulation of all BOI-registered enterprises and the over-all promotion of investments. It shall hold meetings at least once a week for the conduct of business or as often as may be necessary upon the call of the Chairman or upon the request of the Managing Governor. The notice of regular and special meetings shall be given to all the members of the Board and the presence of five (5) members shall constitute a quorum and the affirmative vote of five (5) members in a meeting validly held shall be necessary to exercise its powers and perform its functions which shall include the following:

A. Investment Promotion- Related Functions:

- (1) Formulate an evolving National Framework for Investment Promotions (NFIP) that will govern all Investment Promotion Agencies (IPAs), in consultation and coordination with all the concerned IPAs;

- (2) Promulgate rules, regulations and policies to implement the NFIP in consultation and coordination with all concerned IPAs and exercise monitoring functions over all investment promotion activities of all IPAs;
- (3) Gather, consolidate and monitor investment data and information (both domestic and foreign direct investments) from all IPAs and other concerned government agencies for submission to the President and to Congress;
- (4) Enter into agreements with other agencies for the simplification of systems and procedures involved in the promotion of investments, operation of economic zones and registered enterprises, and other activities necessary for the effective implementation of this Code;
- (5) Establish the Investment Promotion Action Center (i-PAC);
- (6) Establish and operate regional investment centers in the Philippines; and establish and operate overseas investment offices;

B. Regulatory Functions:

1. Formulate an evolving National Framework for Industrial Development (NFID), consistent with the medium-term Philippine development plan, and in consultation and coordination with NEDA, DOF and other concerned government agencies;
2. Promulgate rules, regulations and policies to implement the NFID in consultation with NEDA, DOF and private sector.
3. Plan and implement industrial programs to hasten economic development including those relating to the implementation of international trade, investment and industry-related environmental agreements and protocols;
4. Formulate positions for bilateral, multilateral, and regional investments and investment-related trade agreements and/or arrangements;
5. Act on investment projects covered by bilateral, multilateral, and regional agreements subject to rules and guidelines to be formulated by the Board;
6. Recommend to the President the suspension of the nationality requirement provided for in this Code in appropriate cases such as those involving bilateral, multilateral, or regional investments, or other trading agreements of the Philippines with other countries; or when the existing laws of another country where the investor comes from provides no nationality restrictions for Filipino investors or provides for reciprocal nationality accommodations;
7. Prepare the Investments Priorities Plan (IPP) in accordance with Title III, Chapter I of this Code;

8. Formulate rationalization programs for certain industries registered with the BOI whose operation may result in dislocation, over-supply or inefficient use of resources that impedes economic growth. In the interest of national development and upon approval of the President, the Board may restrict, either totally or partially, the importation or exportation of any equipment, raw materials, intermediate goods or finished goods;
9. Prepare an annual list of products and services that are not sufficiently manufactured/rendered locally in consultation with the NEDA;
10. Assist micro and small enterprises in the preparation of feasibility and other pre-investment project study;
11. Regulate the implementation of Regional Operating Headquarters, Retail Trade Law, Long Term Lease and other laws as mandated;
12. Process and approve, deny, suspend, revoke applications for Registration with the BOI, imposing terms and conditions as it may deem necessary to promote the purposes of this Code, including the refund and forfeiture of incentives when appropriate, restricting availment of incentives not needed by the project as determined by the Board, requiring performance bonds from BOI-accredited bonding companies, and payment of application, registration, publication and other fees, when warranted;
13. After due notice and hearing, cancel the registration or suspend the incentives of a BOI-registered enterprise and/or require refund of incentives, including interests and monetary penalties;
14. Establish a mediation center to resolve controversies and/or disputes between BOI-registered enterprises;
15. After due hearing, decide controversies that may arise between BOI-registered enterprises or investors therein which espouse conflicting interests arising from the implementation of this Code. The Board shall have the power to subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence, and to cite for contempt any person or organization that fails to comply with the afore-stated processes; *Provided*, That the Board may grant immunity from prosecution to any person whose testimony or documents or other evidence is necessary or relevant to the case; *Provided further*, That a registered enterprise may file a motion for reconsideration of a decision or final order within fifteen days (15) from notice thereof, with proof of service on the parties affected. No second motion for reconsideration of a decision or final order by the same party shall be entertained;
16. Recommend to the Commissioner of Immigration and Deportation the employment of foreign nationals in BOI-registered enterprises and the grant of Investor's Visa;

17. Ascertain by inspection or verified reports, the proportion of the participation of Philippine nationals in a BOI-registered enterprise to ensure compliance with the nationality requirements of Philippine laws to retain registration under this Code or to verify the compliance by registered enterprises with the terms and conditions of registration;
18. Waive, condone or reduce fines or penalties imposed on BOI-registered enterprises;
19. Determine the organizational structure of the BOI. Appoint, discipline or remove its personnel consistent with the provisions of civil service laws, rules and regulations; and,
20. Exercise all powers necessary or incidental to attain the purposes of this Code and other laws vesting additional functions on the Board.

SEC. 7. *Appointment of BOI Personnel.* – The Board shall appoint its personnel subject to civil service laws, rules and regulations. All positions in the BOI shall be governed by compensation, position classification systems, and qualification standards approved by the Board based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plan of Philippine Economic Zone Authority (PEZA) and shall be subject to periodic review by the Board without prejudice to yearly merit reviews or increases based on productivity. The BOI shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards.

SEC. 8. *The Investment Promotion Action Center (i-PAC).* - There is hereby created an *i-PAC* in the BOI in place of the current One Stop Action Center (OSAC) created under Executive Order No. 136, Series of 1987, entitled “Establishing the Council for Investment in Trade, Industry, Tourism, Agriculture, Natural Resources, Transportation, Communication and Services, and for Other Purposes”. The *i-PAC* shall serve as the source of investment information and as the link to all government agencies to facilitate entry, retention, expansion and diversification of investments.

The *i-PAC* shall be composed of all government agencies involved in the establishment or operation of business including, but not limited to, all IPAs, Securities and Exchange Commission (SEC), BIR, BOC, Bureau of Immigration and Deportation (BID), the DTI, and the Departments of Interior and Local Government (DILG), Agriculture (DA), Environment and Natural Resources (DENR), Labor and Employment (DOLE), Foreign Affairs (DFA), Energy (DOE), Public Works and Highways (DPWH), Agrarian Reform (DAR), and such other agencies as may be determined by the Board. The government agencies involved shall designate representatives to the *i-PAC* that are clothed with authority to act and approve/deny any matter relative to their respective agencies.

SEC. 9. *Powers and Functions of the i-PAC.* - The *i-PAC* shall exercise and perform the following powers and functions:

- (1) Provide advice, guidance, information and procedure on various laws, rules and regulations governing investments and the conduct of business in the Philippines.

- (2) Ensure that all investment-related requirements are acted upon within ten (10) working days. In cases of applications not acted within ten (10) working days, the same shall be deemed approved; *Provided, however,* That deferment shall be considered as an action.
- (3) Recommend the streamlining of existing procedures to ensure that all frontline agencies, dealing with the operation of business, perform their tasks for identified government to business transactions.
- (4) Establish an on-line investment facilitation system.
- (5) Act, in coordination with appropriate government offices or agencies, such as the Office of the Ombudsman and the Civil Service Commission (CSC), on complaints filed by any investor or potential investor against any public official or employee or any office, agency or instrumentality, including local government units (LGUs) and officials, as well as any government-owned and controlled corporation (GOCC), in connection with any act or duty required by law to facilitate the entry of local and foreign investments.
- (6) Perform such other functions as may be directed by the Board.

SEC. 10. Honoraria and Allowances. - The Board shall provide for reasonable honoraria and allowances for the i-PAC members and its personnel.

TITLE II. DEFINITION OF TERMS

SEC. 11. Definition of Terms. - As used herein, the following shall mean-

(a) "*Investments Promotion Agencies (IPAs)*" shall include the BOI, PEZA, Bases Conversion Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Bataan Technology Park Inc. (BTPI), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCSEZA), PHIVIDEC Industrial Authority (PIA), Aurora Special Economic Zone (ASEZA), and all other IPAs that may be created by law.

(b) "*Registered Enterprise*" shall mean any individual, partnership, corporation, Philippine branch of a foreign corporation or other entity incorporated and/or organized and existing under Philippine laws and registered with an IPA, in accordance with this Code: *Provided, however,* That the term "registered enterprise" shall not include any of the following service enterprises such as, but not limited to, those engaged in customs brokerage, trucking/forwarding services, parcel services, janitorial services, security services, insurance and/or banking and other financial services, consumers cooperatives, credit unions, consultancy services, restaurants or such other services, within the economic zones, as may be determined by the IPA Board, duly accredited and/or licensed by any of the IPAs and whose income

derived within the economic zones shall be subject to taxes under the National Internal Revenue Code of 1997 (NIRC), as amended.

(c) "*Investments Priorities Plan (IPP)*" shall refer to the focused list of priority industries, services and other economic activities, which will be eligible for incentives under this Code, prepared and determined [as priority or preferred activities] in accordance with Title III, Chapter 1 of this Code.

(d) "*New product or service*" shall refer to any product or service not locally or not sufficiently manufactured/rendered to meet demand.

(e) "*Gross income earned*" refers to gross sales or gross revenues derived from the registered activity less sales returns, discounts and allowances and cost of goods sold and/or cost of services rendered, as defined under Section 27(E)(4) of the NIRC of 1997, as amended.

(f) "*Export sales of goods*" shall mean the sales values and/or revenues paid for in freely convertible foreign currency, determined from invoices, bills of lading, inward letters of credit, landing certificates, or other commercial documents, of the following:

i. the sale and actual shipment of goods from the Philippines to a foreign country by a registered enterprise;

ii. sales of goods to an export enterprise registered in accordance with this Code; to diplomatic missions and to agencies or institutions allowed to import said goods tax and duty-free; to international shipping or international air transport operations; and to foreign military aircraft or seacraft;

iii. sales to a nonresident buyer for delivery to a resident local export enterprise of capital equipment, raw materials, production supplies, packaging materials and other production requirements needed for the registered activity of the export enterprise; or

iv. sales of goods to a nonresident buyer, except automobiles and non-essential goods, manufactured or processed in the Philippines, for delivery to a resident in the Philippines.

Provided, That in the case of paragraph (ii) above, only sales to an export enterprise of capital equipment, raw materials, production supplies, packaging materials, and other production requirements needed for the registered activity of the export enterprise; and sales to international sea or air transport operations of goods, equipment, spare parts and supplies, except fuel, to be used in the aircraft or seacraft and capital equipment needed for the shipping or air transport operations, shall be entitled to incentives for export enterprises under this Code.

Sales of locally manufactured or assembled goods for household and personal use under the Internal Export Program and similar programs of the government shall be deemed as "export sales".

(g) "Export sales of services" shall mean the sales revenues, determined from contracts, invoices, vouchers, official receipts, or other commercial documents of the following:

- i. services rendered for clients abroad by registered enterprises;
- ii. services rendered for an export enterprise registered in accordance with this Code; to diplomatic missions and to other agencies or institutions with tax and duty-free privileges;
- iii. services rendered to international airlines or shipping lines, or foreign military aircraft or seacraft, or information and communication technology enterprises, even if rendered locally.

Provided, That in the case of paragraph (ii) above, only services for an export enterprise performed by subcontractors and/or contractors in the manufacture or processing of goods; other services necessary for the registered activity of an export enterprise; and in the case of paragraph (iii), only services for the overhaul, repair and maintenance for international shipping or air transport operations, and foreign military aircraft or seacraft, shall be entitled to incentives for export enterprises under this Code.

The foregoing notwithstanding, services rendered locally by registered enterprises that are paid for in freely convertible foreign currency shall be considered as "export sales".

(h) An "export enterprise" shall mean a registered enterprise which is a manufacturer, processor or service provider and whose export sale of its products or services exceeds seventy percent (70%) of its total annual production of the preceding taxable year.

An export trader that buys and sells for its own account products of micro and small enterprises and earns one hundred percent (100%) of its annual sales from exports of the same shall be deemed to be an export enterprise.

(i) A "domestic enterprise" shall mean a registered enterprise, which produces goods for sale or renders services exclusively to the domestic market or does not comply with the minimum export requirement of an export enterprise.

(j) "Service enterprise" is an enterprise engaged or proposing to engage in rendering technical, professional or other services listed in the IPP.

Service enterprise that earns more than seventy percent (70%) of its revenues paid for in foreign currency generated from non-resident clients shall be entitled to the incentives provided to an "export" enterprise.

(k) "Source documents" shall refer to input materials and documents reasonably needed by information technology (IT) and IT-enabled industries such as, but not limited to, books, directories, magazines, newspapers, brochures, pamphlets,

medical records or files, legal records or files, instruction materials, drawings, blueprints, or outlines.

(l) "*Processing*" shall mean converting raw materials into marketable form through physical, mechanical, chemical, electrical, biochemical, biological or other means, or by a special treatment or a series of actions, such as slaughtering, milling, pasteurizing, drying or desiccating, quick freezing, that results in a change in the nature or state of the products. Processing shall include assembly provided that a distinct or new product is formed. Mere packing or packaging shall not constitute processing.

(m) "*Industrial Estate (IE)*" shall refer to a tract of land subdivided and developed according to a comprehensive plan under a unified continuous management and with provisions for basic infrastructure and utilities, with or without pre-built standard factory buildings and community facilities for the use of a community of industries. It includes government industrial estates such as the PHIVIDEC Industrial Authority.

(n) *ECOZONES* or "*Special Economic Zones*" (SEZ) shall refer to selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, information technology, tourist/recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ecozone may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), ICT parks and centers, free trade zones and tourism estates; *Provided, however*, That areas where mining operations are undertaken shall not be declared as ecozones.

(o) "*ECOZONE Developer*" shall refer to a business entity duly registered with PEZA to develop, operate, and maintain an ecozone that will put up the required infrastructure facilities and utilities to include among others light and power system, water supply and distribution system, sewerage and drainage system, pollution control devices, communication facilities, paved road network, administration building, standard factory buildings, and other facilities as may be required by enterprises registered with PEZA."

(p) "*Export Processing Zone (EPZ) or Export Zone*" shall refer to a specialized industrial estate located physically and/or administratively outside the customs territory and predominantly oriented to export production.

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

(r) "*Tourism Estate*" is a tract of land with defined boundaries, suitable for development into an integrated resort complex to render tourism services for both local and foreign tourists,

travelers and investors, with prescribed carrying capacities, of tourist facilities and activities, such as, but not limited to, sport, gaming and recreation centers, accommodations including hotels, apartelles, tourist inns/villas, pension houses, convention and cultural facilities, food and beverage outlets, commercial establishments and other special interest and attraction activities/establishments, and provided with roads, water supply facilities, power distribution facilities, drainage and sewage systems, and other necessary infrastructures and facilities. A tourism estate shall be under unified and continuous management, and can either be a component of an ecozone or the whole ecozone itself.

(s) "*ICT Park*" or "information and communications technology (ICT) park" shall refer to an area which has been developed into an integrated development complex capable of providing infrastructure and other support facilities required by ICT enterprises, as well as amenities required by professionals and workers involved in ICT enterprises, or easy access to such amenities.

(t) "*ICT Center*" shall refer to a building which has been developed by public or private corporate entities to provide infrastructure and other support facilities required by ICT enterprises, as well as amenities required by professional and workers involved in ICT enterprises, or easy access to such amenities.

(u) "*Capital Equipment*" refers to machinery, equipment, major components thereof, spare parts, accessories, tools, devices, apparatus, fixtures, fittings and accompaniments which are directly and/or reasonably needed in the registered activity of the enterprise and those required for pollution abatement and control, cleaner production and water reduction/ conservation.

TITLE III - INVESTMENTS WITH INCENTIVES

CHAPTER I - QUALIFIED ACTIVITIES

SEC. 12. *Investments Priorities Plan (IPP).* - The BOI, upon consultation with the DOF, NEDA, the Office of the President, concerned IPAs and appropriate government agencies and the private sector shall formulate the IPP to be submitted to the President for [his] approval.

In the listing of the activity in the IPP, the following shall be complied with:

- 1) The activity shall be covered by the current Medium Term Philippine Development Plan (MTPDP) and Medium Term Philippine Investment Plan (MTPIP) or its equivalent;
- 2) The activity shall satisfy the following conditions:
 - a. substantial amount of investments;
 - b. considerable generation of employment;
 - c. use of modern or new technology; or
 - d. installation of adequate environmental protection systems;

Provided, That items 2(a) and 2(d) above shall be present in all activities, and the threshold amount of investments and employment generation required for a specific activity shall be subject to a periodic review every three (3) years taking into consideration international standards and other indicators.

- 3) The activity must comply with the specific qualification requirements and/or conditions for a particular sector or industry as set by the Board and other limitations the Board may determine.

SEC. 13. Amendments. - Subject to publication requirements and the criteria for investment priority determination, the Board may, at any time, include additional areas in the IPP, alter any of the terms of the declaration of an investment area, and temporarily or permanently suspend activities on the IPP if it considers that such activity is no longer a priority. In no case, however, shall any amendment of the IPP impair the incentives conferred on a registered enterprise. The Board shall not accept applications in an area of investment prior to the approval of the same as a preferred area or after approval of its deletion as a preferred area of investment in the IPP.

SEC. 14. Publication. - Upon approval of the IPP, in whole or in part, or upon approval of an amendment thereof, the IPP or the amendment, specifying and declaring the areas of investment shall be published in at least one (1) newspaper of general circulation and all such areas shall be open for application until publication of an amendment or deletion thereof.

SEC. 15. Strategic Projects. - The President, upon the joint recommendation of the Secretary of Finance, Secretary of Trade and Industry and Director-General for economic planning, may allow registration of a strategic project that may not be listed in the IPP, but will locate in the country as a result of stiff competition with other countries.

A strategic project is a project that exhibits high social economic returns and requires large investments that will significantly contribute to the country's economic development. It may be registered as an export or a domestic enterprise.

In the exercise of this authority, the following criteria shall be taken into account: (1) large capital investments of at least US\$ 500 Million; (2) generate sizeable employment of at least 200; (3) use of new and internationally accepted high level of technology; and (4) creation of value added.

CHAPTER II - INCENTIVES TO REGISTERED ENTERPRISES

SEC. 16. Incentives to Registered Export Enterprises. - All IPAs may administer the following incentives to their respective registered export enterprises to the extent of their registered activity:

(a) Income Tax Holiday (ITH). - A registered export enterprise may be entitled to an income tax holiday from the date of start of its commercial operations.

The ITH shall be phased-out when the ratio of infrastructure spending to gross domestic product has reached five per cent (5%).

The BIR shall require a registered export enterprise availing of ITH to secure a certificate of eligibility from the appropriate IPA before filing an official copy of its Income Tax Return (ITR). Thereafter, the registered export enterprise shall file its claim with the appropriate IPA for validation.

Failure to secure certification and/or to file the ITH availment for validation by the appropriate IPA shall cause the forfeiture of the ITH availment for the taxable period.

(b) *Reduced Income Tax.* - A registered export enterprise, regardless of location, may be entitled to a preferential tax rate of fifteen percent (15%) of taxable income as defined under Section 31 of the NIRC of 1997, as amended.

(c) *Five Percent (5%) Tax On Gross Income Earned (GIE).* - Instead of the above Reduced Income Tax Rate, a registered export enterprise located inside or outside the ecozone, industrial estate, freeport zone may opt and apply with the concerned IPA for the five percent (5%) tax of the gross income earned in lieu of all national and local taxes, except real property tax on land owned by private developers. The allocation of the five percent (5%) GIE pertaining to the local government unit foregoing taxes hereunder shall be governed by the charter or governing law of the IPA. Once the registered export enterprise has made the choice, such choice shall be irrevocable for the duration of its registration.

The export enterprise may opt to avail of the ITH prior to the 5% tax on gross income earned.

(d) *Net Operating Loss Carryover (NOLCO).* - The net operating loss of the registered activity during the first five (5) years from start of commercial operation which had not been previously offset as deduction from gross income MAY be carried over as a deduction from gross income for the next EIGHT consecutive taxable years immediately following the year of such loss.

Registered export enterprises availing of the ITH and the five percent (5%) tax rate on GIE as herein provided shall not be entitled to avail of the NOLCO.

The BIR shall require a registered export enterprise availing of NOLCO to secure a certificate of eligibility from the appropriate IPA before filing an official copy of its ITR with the appropriate IPA for validation of NOLCO claim.

Failure to secure certification and/or to file the NOLCO availment for validation by the BOI or appropriate IPA shall cause the forfeiture of the availment for the taxable period.

(e) *VAT AND DUTY INCENTIVES ON IMPORTATIONS.* -

(1.1) *Importations of capital equipment, including consignment thereof, by registered export enterprises may be exempted to the extent of one hundred percent (100%) of the taxes and customs duties; Provided, that the following conditions are complied:*

- i The capital equipment is directly and/or reasonably needed and will be used exclusively in the registered activity of the export enterprise unless prior approval of the IPA is secured for the part time utilization of said equipment in a non-registered activity to maximize usage thereof or the proportionate taxes and duties are paid on a specific equipment and machinery being permanently used for non-registered activities; They are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices; and,
- ii The approval of the IPA was obtained by the registered export enterprise for the importation of such machinery, equipment and spare parts.

Approval of the IPA must be secured before any sale, transfer or disposition of the imported capital equipment is made: *Provided*, That if such sale, transfer or disposition is made within the first five (5) years from date of importation, any of the following conditions must be present:

- i If made to another enterprise enjoying tax and duty exemption on imported capital equipment;
- ii If made to another enterprise, upon payment of any taxes and duties due on the net book value of the capital equipment to be sold;
- iii Exportation of the capital equipment, machinery, spare parts or source documents or those required for pollution abatement and control; or,
- iv For reasons of proven technical obsolescence.

When the aforementioned sale, transfer or disposition is made under any of the conditions provided for in the foregoing paragraphs other than paragraph (ii), the registered export enterprise shall not pay the taxes and duties waived on such items: *Provided further*, That if the registered export enterprise sells, transfers or disposes the aforementioned imported items without prior approval within five (5) years from date of importation, the registered export enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of the tax and duty exemption given it: *Provided, finally*, That even if the sale, transfer or disposition of the capital equipment, is approved after five (5) years from date of importation, the registered export enterprise is still liable to pay the taxes and duties based on the net book value of the capital equipment, if it has violated any of its registration terms and conditions. Otherwise, it shall no longer be subject to the payment of the taxes and duties waived thereon.

(1.2.) Importations of raw materials, supplies, spare parts and semi-finished products exclusively used by registered export enterprises in the manufacture, processing or production of its export products may be exempted from the payment of customs duties and taxes.

The registered export enterprises availing of the above incentives shall be subject to the following: (a) that said importation will be used exclusively by the registered export enterprise in its registered activity; (b) that the capital equipment where the raw materials, supplies, parts

and semi-finished products were used would have qualified for tax and duty-free importation; and (c) that the approval of the concerned IPA is obtained by the registered export enterprise. If the registered export enterprise sells, transfers or disposes of the imported capital equipment, the provision in the preceding paragraphs for such disposition shall apply.

(F) VAT INCENTIVE ON LOCAL PURCHASES. -

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

(1.2.) The provision of law to the contrary notwithstanding, local purchases of goods and services required by the activity of a registered export enterprise shall be subject to zero percent (0%) rate of VAT.

(G) Accelerated Depreciation. - Plant, machinery, and equipment that are reasonably needed and actually used for the production and transport of goods and services may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of Finance and the provisions of the NIRC of 1997, as amended.

Registered enterprises availing of the ITH and the five percent (5%) tax rate on GIE as herein provided shall not be entitled to avail of the accelerated depreciation.

(h) Duty Free Importation of Source Documents. - The importation of source documents by ICT-registered export enterprises shall be eligible for tax and duty free importation.

(i) Double Deduction for Training Expenses. - Expenses incurred for local training given to employees for the development of skills identified as necessary by the appropriate government agencies, upon approval by the concerned IPA, MAY entitle the registered export enterprise to a special deduction from the taxable income equivalent to one hundred (100%) percent of the total expenses over and above the allowable ordinary and necessary business deductions for said expenses under the NIRC of 1997, as amended.

The training expenses incurred shall be deductible from taxable income on the taxable year the said training expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application, otherwise, the training INCENTIVE shall be deemed waived.

Registered enterprises availing of the ITH and the five percent (5%) tax rate on GIE as herein provided shall not be entitled to avail of the double deduction for training expenses.

(j) Double Deduction for Research and Development. - Expenses incurred for research and development conducted in the Philippines

relating to the business shall entitle the registered export enterprise to a special deduction from taxable income equivalent to one hundred percent (100%) of the total expenses over and above the allowable ordinary and business deductions for said expenses under the NIRC of 1997, as amended.

The expenses for research and development shall be deductible from taxable income on the taxable year the said research and development expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application, otherwise, the research and development incentive shall be deemed waived.

Registered enterprises availing of the ITH and the five percent (5%) tax rate on GIE as herein provided shall not be entitled to avail of the double deduction for research and development.

(k) Exemption from Wharfage Dues and Export Tax. - The provisions of law to the contrary notwithstanding, exports by a registered export enterprise shall be exempted from wharfage dues and export taxes.

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

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

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

SEC. 17. Tax Treatment/Other Incentives for Registered Enterprises in Ecozones and Freeport Zones. - In addition to the applicable incentives provided under the preceding section on export incentives, registered enterprises locating in the Special Economic Zones and Freeport Zones shall be entitled to the following incentives:

(a) Tax Treatment of Merchandise in Ecozones or Freeports. (1) Except as otherwise provided in this Code, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the ecozones or freeports to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manufactured, mixed with foreign or domestic merchandise

whether directly or indirectly related in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the provisions of law to the contrary notwithstanding.

(2) Merchandise purchased by a registered enterprise located in the ecozones or freeports from the customs territory, and subsequently brought into the ecozones or freeports, shall be considered as export sales and exportation thereof shall be entitled to the benefits allowed by law for such transaction.

(3) Merchandise sent from the ecozones or freeports to the customs territory shall, whether or not combined with or made part of other articles likewise of local origin or manufactured in the Philippines while in the ecozones or freeports, be subject to internal revenue laws of the Philippines as domestic goods sold, transferred or disposed of for local consumption. If the finished goods have imported components, the duties shall be based on the value of said imported materials (except when the final product is exempt).

(4) Qualified merchandise or articles manufactured by registered ecozone or freeport locators, which are made available for sale in the domestic market shall be imposed the applicable ASEAN Common Effective Preferential Tariff (CEPT) rate, if qualified, or applicable tariff rates under bilateral or regional trade agreements, if qualified, or Most Favoured Nation (MFN) rate on imported raw materials and MFN rates on non-qualified raw materials used in the manufacture of the qualified merchandise or articles. In case of bilateral agreements, the applicable rate shall be the agreed rate.

(5) Domestic merchandise on which all internal revenue taxes have been paid, if subject thereto, and foreign merchandise previously imported on which duty or tax has been paid, or which have been admitted free of duty and tax, may be taken into the ecozones or freeports from the customs territory of the Philippines and be brought back thereto free of quotas, duty or tax.

(6) Subject to such regulations respecting identity and safeguarding of the revenue as the concerned IPA may deem necessary when the identity of an article entered into the ecozones or freeports under the immediately preceding paragraph has been lost, such article when removed from the ecozones or freeports and taken to the customs territory shall be treated as foreign merchandise entering the country for the first time, under the provisions of the Tariff and Customs Code of the Philippines, as amended.

(7) Articles produced or manufactured in the ecozones or freeports and exported therefrom shall, on subsequent importation into the customs territory, be subject to the import laws applicable to like articles manufactured in a foreign country.

(8) Articles regulated by law for sale to the domestic market shall only be allowed to be used or consumed within the ecozones or freeports.

(9) Unless the contrary is shown, merchandise taken out of the ecozones or freeports shall be considered, for tax purposes, to have been sent to customs territory.

Special Economic Zones declared by Presidential Proclamations or created by law may avail of the incentives provided herein as conferred by the appropriate IPA subject to such terms and conditions as may be provided by law.

(b) Tax Treatment of Services in the Ecozones or Freeports. - (1) Sale of service by an entity from the customs territory to a registered ecozone or freeport enterprise or by a registered ecozone or freeport enterprise to another ecozone or freeport enterprise shall be treated as indirect export, and hence, shall not be subjected to internal revenue taxes for such transaction.

(2) Sale or service by a registered ecozone or freeport enterprise to the customs territory shall be subject to the applicable internal revenue laws and regulations.

SEC. 18. Incentives To Registered Domestic "Strategic" Enterprises. - All IPAs may administer the following incentives to registered domestic "strategic" enterprises, whenever applicable, to the extent of their registered activity:

(A) Income Tax Holiday (ITH). - A registered domestic "strategic" enterprise may be entitled to an income tax holiday from the date of start of its commercial operations.

The ITH shall be phased-out when the ratio of infrastructure spending to gross domestic product has reached five per cent (5%), whichever comes first.

The BIR shall require a registered domestic "strategic" enterprise availing of ITH to secure a certificate of eligibility from the appropriate IPA before filing an official copy of its income tax return (ITR). Thereafter, the registered domestic "strategic" enterprise shall file its claim with the appropriate IPA for validation.

Failure to secure certification and/or to file the ITH availment for validation by the appropriate IPA shall cause the forfeiture of the ITH availment for the taxable period.

(B) Reduced Income Tax. - A registered domestic "strategic" enterprise may be entitled to a preferential tax rate of fifteen percent (15%) of taxable income as defined under section 31 of the NIRC of 1997, as amended, for a period of 8 years.

If the domestic "strategic" enterprise registers within the first six years from the effectivity of the act, it may opt to avail of the ITH prior to the reduced income tax. *Provided*, that the ITH together with the reduced income tax shall be availed of for a period of 8 years.

(C) Net Operating Loss Carryover (NOLCO). - The net operating loss of the registered activity during the first five (5) years from start of commercial operation which had not been previously offset as deduction from gross income may be carried over as a deduction from gross income for the next eight consecutive taxable years immediately following the year of such loss.

Registered domestic "strategic" enterprises availing of the ITH as herein provided shall not be entitled to avail of the NOLCO.

The BIR shall require a registered domestic "strategic" enterprise availing of NOLCO to secure a certificate of eligibility from the appropriate IPA before filing an official copy of its ITR with the appropriate IPA for validation of NOLCO claim.

Failure to secure certification and/or to file the NOLCO availment for validation by the BOI or appropriate IPA shall cause the forfeiture of the availment for the taxable period.

(D) VAT And Duty Incentives on Importations. -

Importations of registered domestic "strategic" enterprises shall be subject to a vat and customs duty refund mechanism.

In order to facilitate the immediate processing, clearance and release of vat and customs duty refunds as provided in this act, a trust liability account (TLA) is hereby authorized to be established in the bureau of the treasury (BTr). All VAT and customs duty payments pertaining to the importation of registered domestic "strategic" enterprises of capital equipment or raw materials shall be deposited in the TLA for the purpose of funding valid vat and customs duty refund claims. The claims for VAT and customs duty refunds shall be made by the registered enterprise to the DOF which, in turn, will process, approve and release the vat and customs duty refund.

The VAT and customs duty paid on imported capital equipment may be refunded provided that the capital equipment is being used by the registered domestic "strategic" enterprise pursuant to its registered activity.

The amount of VAT and customs duty refund on a particular shipment of raw materials shall be equivalent to the proportion of raw materials used in the production to the total raw materials imported multiplied by the amount of VAT and customs duty paid on such importation. No claim for refund shall be allowed on VAT and customs duty paid on raw materials which are not or no longer intended to be used in the registered activity.

The registered domestic "strategic" enterprise shall file a claim for VAT and customs duty refund within two (2) years after the payment was made. All amounts paid but no longer allowed for refund shall immediately accrue to the general fund of the national government.

All applications for VAT and customs duty refund shall be processed and acted upon within thirty (30) days after submission of complete documents. The refund shall be in a form of cash or manager's/ cashier's check payable to the registered domestic "strategic" enterprise.

In case of dispute under the VAT and customs duty refund mechanism provided in this section, the pertinent provisions of the national internal revenue code of 1997, as amended, and the Tariff and Customs Code of the Philippines, as amended, shall apply.

The registered domestic "strategic" enterprise availing of the above incentives shall be subject to the following: (a) that said capital equipment will be used exclusively by the registered domestic "strategic" enterprise in its registered activity; (b) that the capital equipment where

the raw materials, supplies, parts and semi-finished products were used would have qualified for tax and duty-free refund; and (c) that the approval of the concerned IPA is obtained by the registered domestic "strategic" enterprise. If the registered domestic "strategic" enterprise sells, transfers or disposes of the capital equipment, the provision in the preceding paragraphs for such disposition shall apply.

(E) Accelerated Depreciation. - Plant, machinery, and equipment that are reasonably needed and actually used for the production and transport of goods and services may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the secretary of finance and the provisions of the NIRC of 1997, as amended.

Registered domestic "strategic" enterprises availing of the ITH as herein provided shall not be entitled to avail of the accelerated depreciation.

(F) Double Deduction For Training Expenses. - Expenses incurred for local training given to employees for the development of skills identified as necessary by the appropriate government agencies, upon approval by the concerned IPA, may entitle the registered domestic "strategic" enterprise to a special deduction from the taxable income equivalent to one hundred (100%) percent of the total expenses over and above the allowable ordinary and necessary business deductions for said expenses under the NIRC of 1997, as amended.

The training expenses incurred shall be deductible from taxable income on the taxable year the said training expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application, otherwise, the training incentive shall be deemed waived.

Registered domestic "strategic" enterprises availing of the ITH as herein provided shall not be entitled to avail of the double deduction for training expenses.

(G) Double Deduction For Research And Development. - Expenses incurred for research and development conducted in the Philippines relating to the business may entitle the registered domestic "strategic" enterprise to a special deduction from taxable income equivalent to one hundred percent (100%) of the total expenses over and above the allowable ordinary and business deductions for said expenses under the NIRC of 1997, as amended.

The expenses for research and development shall be deductible from taxable income on the taxable year the said research and development expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application, otherwise, the research and development incentive shall be deemed waived.

Registered domestic "strategic" enterprises availing of the ITH as herein provided shall not be entitled to avail of the double deduction for research and development.

(H) *Employment of Foreign Nationals.* – Subject to the provisions of section 29 of Commonwealth Act No. 613, as amended, a registered domestic “strategic” enterprise may employ foreign nationals in managerial, technical or advisory positions for a period not exceeding five (5) years from its registration, extendible for limited periods at the discretion of the board: *provided, however,* that when the majority of the capital stock of a registered domestic “strategic” enterprise is owned by foreign investors, the positions of president, treasurer and general manager or of their equivalents may be retained by foreign nationals beyond the period set forth within.

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

A registered domestic “strategic” enterprise shall train Filipinos as understudies of foreign nationals in administrative, supervisory and technical skills and shall submit annual reports on such training to the board: *provided,* that employment of foreign nationals hired by registered domestic “strategic” enterprises in a supervisory, technical or advisory capacity shall not exceed five percent (5%) of its workforce without the express authorization of the secretary of dole.

SEC. 19. Incentives To Registered Domestic Enterprises Located In The 30 Poorest Provinces. - Registered domestic enterprises located in any of the thirty (30) poorest provinces as determined by the appropriate agency may be entitled to the following incentives:

(a) *Reduced Income Tax.* – A registered domestic enterprise located in any of the 30 poorest provinces shall be entitled to five (5) years of preferential tax rate of fifteen percent (15%) of taxable income as defined under Section 31 of the NIRC of 1997, as amended.

(b) *NOLCO.* - The net operating loss of the registered activity during the first five (5) years from start of commercial operation which had not been previously offset as deduction from gross income shall be carried over as a deduction from gross income for the next five (5) consecutive taxable years immediately following the year of such loss.

The BIR shall require a registered domestic enterprise availing of NOLCO to secure a certificate of eligibility from the appropriate IPA before filing an official copy of its ITR with the appropriate IPA for validation of NOLCO claim.

Failure to secure certification and/or to file the NOLCO availment for validation by the BOI or appropriate IPA shall cause the forfeiture of the availment for the taxable period.

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

(d) Double Deduction for Training Expenses. - Expenses incurred for local training given to employees for the development of skills identified as necessary by the appropriate government agencies, upon approval by the concerned IPA, shall entitle the registered domestic enterprise, for a period of five years, to a special deduction from the taxable income equivalent to one hundred (100%) percent of the total expenses over and above the allowable ordinary and necessary business deductions for said expenses under the NIRC of 1997, as amended.

The training expenses incurred shall be deductible from taxable income on the taxable year the said training expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application, otherwise, the training incentive shall be deemed waived.

(e) Double Deduction for Research and Development. - Expenses incurred for research and development conducted in the Philippines relating to the business shall entitle the registered domestic enterprise, for a period of five years, to a special deduction from taxable income equivalent to one hundred percent (100%) of the total expenses over and above the allowable ordinary and business deductions for said expenses under the NIRC of 1997, as amended.

The expenses for research and development shall be deductible from taxable income on the taxable year the said research and development expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application, otherwise, the research and development incentive shall be deemed waived.

SEC. 20. *Incentives for Private Ecozone Developers.* Ecozone developers may avail of the incentives provided herein as conferred by PEZA.

SEC. 21. *Non-fiscal Incentives.* Registered enterprises shall be entitled to the following non-fiscal incentives:

(a) Time-Bound Processing of Requirement for Doing Business. All application for permits, licenses, authorization and other requirements necessary for doing business shall be acted upon by the government agency concerned within ten (10) working days from official acceptance thereof, otherwise, the same shall be considered automatically approved. For this purpose, all government agencies shall be mandated to post in their respective offices, the procedural process, documentation requirements and the imposable fees to be paid to facilitate the processing of the application.

(b) Simplification of Customs and Internal Revenue Procedures. - Customs procedures for the importation of equipment, spare parts, raw materials and supplies, exports of processed products by registered enterprises shall be simplified by the BOC.

The BIR shall simplify internal revenue procedures for the availment of incentives provided herein for registered enterprises.

(c) *Reduction and Harmonization of Documentary Requirements Submitted to Government Agencies.*- The Board shall formulate guidelines for the reduction and harmonization of related documentary requirements submitted to government agencies.

SEC. 22. *Entitlement to Investor's Visa by a Foreign National.* - A foreign national who invests an amount of at least US\$150,000.00, either in cash and/or equipment, in a registered enterprise shall be entitled to an Investor's Visa: *Provided, That:*

1. He is at least eighteen (18) years of age;
2. He has not been convicted of a crime involving moral turpitude;
3. He is not afflicted with any loathsome, dangerous or contagious disease; and,
4. He has not been institutionalized for any mental disorder or disability;

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

The minimum amount for investment provided for under this Code shall be made applicable to visas granted to investors by the BOI, PEZA, SBMA, CDC, JHMC, PPMC, BTPI, CEZA, ZCSEZA, PIA, ASEZA, and other IPAs that may be created under the law.

The investment amount heretofore stated shall be subject to a periodic review every three (3) years by the BOI.

SEC. 23. *Governing Incentive Provision for IPAs.* - All existing and future IPAs vested with the power to confer and administer incentives shall offer incentives provided in this Code. *Provided, That* the incentives granted under this Code to a registered enterprise shall be applicable to the extent of the registered activity or project.

SEC. 24. *Relationship of IPAs and the BOI and Other Government Agencies.* - IPAs shall maintain their functions as provided for in their respective Charters except to the extent that these have been modified by the provisions of this Code.

For purposes of efficient database on investment statistics and other investment data and information, all IPAs are required to submit to the BOI all investment data and information and such other related data semi-annually or as may be required.

CHAPTER III - REGISTRATION OF ENTERPRISES

SEC. 25. *Qualifications of a Registered Enterprise.* - To qualify for registration and be entitled to avail of incentives, an applicant must satisfy the following conditions:

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

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

(3) It will engage in an export activity or in an activity identified in the IPP and that will be located in any of the thirty (30) poorest provinces as determined by the appropriate National Government agency.

(4) It will infuse new investments. For this purpose 'new investments' shall mean a new enterprise infusing new investments and undertaking new activity. However, an enterprise with an existing operation may be qualified for registration if it will undertake new activity. Further, an existing enterprise undertaking the same activity that shall infuse additional investments of at least fifty percent (50%) of its present actual investments shall be deemed to be 'new investments' but only to the extent of such additional investments. Furthermore, government assets that will be privatized shall be deemed 'new investments'; and,

(5) If the applicant is engaged or proposes to engage in undertakings or activities other than the registered projects, it shall install an accounting system adequate to identify the investments, revenues, costs, and profits or losses of each registered project undertaken by the enterprise separately from the aggregate investment, revenues, costs and profits or losses of the whole enterprise, or to establish a separate corporation for each registered project if the IPAs should so require to facilitate proper implementation of this Code.

CHAPTER IV — BASIC RIGHTS AND GUARANTEES OF REGISTERED ENTERPRISES

SEC. 26. *Protection of Investments.* - All registered enterprises are entitled to the basic rights and guarantees provided in the Constitution. Among other rights recognized by the Government of the Philippines are the following:

(a) *Repatriation of Investments.* - In the case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation, subject to the provisions of Section 74 of Republic Act No. 265, otherwise known as the "Central Bank Act," as amended;

For investments made pursuant to Executive Order No. 32, Series of 1986, entitled "Directing the Establishment of a Program for the

Conversion of Philippine External Debt into Equity Investments”, and its implementing rules and regulations, the repatriation of investments shall be as provided therein.

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

For investments made pursuant to Executive Order No. 32, Series of 1986, and its implementing rules and regulations, the remittance of earnings shall be as provided therein.

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

(d) *Freedom from Expropriation.* - There shall be no expropriation by the government of the property represented by investments or of the property of the enterprise except for public use, public interest, lawful purpose, or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate at the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265, as amended; and

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

CHAPTER V – ADMINISTRATION OF INCENTIVES

SEC. 27. *Application for Registration.* - Applications shall be filed with an IPA or any other government office authorized by the BOI to accept applications, recorded in a registration book and the date appearing therein and stamped on the application shall be considered the date of official acceptance.

All applications and their supporting documents filed under this Code shall be confidential and shall not be disclosed to any person except with the consent of the applicant or upon an order of a court of competent jurisdiction.

SEC. 28. *No Double Registration of Enterprises.* - Export or domestic enterprises shall not be allowed to register their export or

domestic activity in more than one IPA. In the event that an enterprise shall transfer to another IPA, only the remaining unutilized incentives shall be granted to the enterprise or the transferee, vendee or assignee.

SEC. 29. *Criteria for Evaluation of Application.* - The following criteria shall be considered in the evaluation of applications for registration under a preferred area:

- (a) Impact of the project on the overall economy and fiscal sustainability;
- (b) Overall viability of the project;
- (c) The extent of employment, skills and foreign exchange generation;
- (d) The extent to which technological advances are applied and adopted to local conditions;
- (E) The extent to which poverty and inequality are reduced;
- (F) The extent to which the quality of the environment is improved; and
- (G) Such other criteria as the concerned IPA may determine.

SEC. 30. *Environmental Protection and Corporate Social Responsibility.* - Every registered enterprise shall prepare a Program for Environmental Protection and Corporate Social Responsibility (CSR) covering the period for its entitlement to fiscal incentives. Such Program shall be undertaken on a per registration basis and shall be submitted as an accompanying document to the application for registration to be submitted to the appropriate IPA.

The environmental program shall include activities such as but not limited to those covered by the joint Memorandum of Agreement (MOA) of the DTI and DENR requiring registered firms to plant trees.

For the CSR activities, registered enterprises shall allocate at least 1 percent (1%) of the total amount of incentives availed of during the taxable year. The registered enterprise shall align such activities with the priority programs and projects of the National Anti-Poverty Commission and other special laws such as RA 7942 or the Philippine Mining Act of 1995, as amended and DOE Energy Regulation 1-94.

The amount spent for the CSR activities shall be reflected in the Notes to the Audited Financial Statements.

SEC. 31. *Approval and Registration Procedures.* - The IPA is authorized to adopt rules and regulations to facilitate action on applications filed with it; prescribe criteria for the evaluation of applications; devise standard forms for the use of applicants and delegate to the regional offices of the DTI the authority to receive and process applications for enterprises located in their respective regions.

Applications filed shall be considered automatically approved if not acted upon by the IPA within ten (10) working days from official acceptance thereof. Deferment by the IPA shall be considered as an

official action; *Provided, however*, That the IPA may defer action to a specific application not more than twice; and *Provided finally*, That the IPA shall act upon the application within ten (10) working days from compliance with the cause of the last deferment.

SEC. 32. *Certificate of Registration.* - A registered enterprise under this Code shall be issued a Certificate of Registration under the seal of the IPA and the signature of its Chairman and/or such other official or officer of the IPA as it may empower and designate for the purpose. The certificate shall be in such form and style as the IPA may determine and shall state, among other matters:

- (a) The name of the registered enterprise;
- (b) The activity in which the registered enterprise is proposing to engage; and
- (c) The terms and conditions to be observed by the registered enterprise by virtue of the registration.

SEC. 33. *Validity of Registration.* - The registration shall be valid for a period of twenty (20) years from the date of start of commercial operation except on certain industries as may be determined by the respective IPAs.

SEC. 34. *Extension of Period of Availment of Incentives.* - The availment period of the incentives provided herein may be extended by the concerned IPA, with the concurrence of the DOF, in the event that the registered enterprise has suffered operational *force majeure* that has impaired the viability of the registered activity.

SEC. 35. *Administration, Implementation and Monitoring of Incentives.* - The BOI, PEZA and the other IPAs shall be responsible for the administration and implementation of incentives granted to their respective registered enterprises. They shall submit to the DOF their respective tax expenditures based on the computed cost in terms of revenue foregone on the tax incentives granted to their registered enterprises, and other data related to the grant of investment incentives, on a quarterly basis and to cover all their registered enterprises including those whose incentives are provided by investment incentive laws prior to the effectivity of this Act. For proper monitoring, the DOF shall create a single database of all incentives provided by all IPAs. The DOF shall monitor and review the incentives granted and submit an annual report to the President and to the Chairman of the Committee on Ways and Means of both houses of Congress.

TITLE IV

FINAL PROVISIONS

SEC. 36. *Vested Right.* - Notwithstanding any provision of law to the contrary, incentives granted to existing registered enterprises pursuant to contracts or agreements entered into with government instrumentalities/corporations shall continue to be legally binding in accordance with the terms and conditions stated in their respective contracts or agreements, as provided under existing laws.

SEC. 37. Protection of the Environment. - The IPAs, in coordination with the appropriate agencies, shall take appropriate steps to enact the proper measures for the protection of the environment, and shall coordinate with the Environmental Management Bureau of the Department of Environment and Natural Resources (EMB-DENR) to avoid undue delay in the issuance of the required Environmental Compliance Certificate (ECC): *Provided, however,* That applications for environmental clearances, permits, and/or licenses of registered enterprises shall be acted upon by the appropriate government agency within one hundred twenty (120) days from date of official acceptance. In the event that the appropriate government agency failed to act within the aforementioned date, the application for the said environmental requirement shall be deemed complied with for purposes of operation of the registered activity: *Provided, finally,* That the IPA may withdraw the certificate of registration issued to the enterprise should the appropriate government agency eventually deny the application.

SEC. 38. Appeals. - All orders or decisions of the BOI or IPA in cases involving the provisions of this Code shall immediately be executory. No appeal from the order or decision of the BOI or IPA by the party adversely affected shall stay such order or decision, unless a *supersedeas* bond equivalent to the amount stated in the order or decision is posted by the appellant.

All appeals involving cases decided by the BOI or IPA, except as provided in the next succeeding paragraph, shall be filed with the Court of Appeals within fifteen (15) days from receipt of notice of the order or decision or of the denial of the appellant's motion for new trial or reconsideration. Within the same period, the aggrieved party may file a motion for reinvestigation or reconsideration. Only one motion for reconsideration shall be allowed, subject to the posting of the aforementioned *supersedeas* bond which shall be limited to cash and/or surety bond from BOI-accredited bonding company.

In cases involving the denial of an application for registration, the party adversely affected by such denial may appeal the same to the Office of the President within thirty (30) days from receipt of notice of the order denying the application for registration. Where an appeal has been filed, said order or decision shall be final and executory ninety (90) days after the perfection of the appeal, unless reversed.

SEC. 39. Suspension and Forfeiture of Incentives of Registered Enterprises, Refund and Penalties. - When there is probable cause to believe that the registered enterprise has violated its registration terms and conditions, the BOI or IPA may suspend its availment of incentives, until proven otherwise.

The BOI or IPA may impose fines and penalties and/or forfeit the incentives granted to its registered enterprises whenever there are violations of the registration terms and conditions by the latter, without prejudice to the cancellation of the registration of said enterprise.

In case of cancellation of the Certificate of Registration granted under this Code, the BOI or IPA may, in appropriate cases, require the refund of incentives availed of and impose corresponding fines and penalties.

Any enterprise which violates any provision of this Code, its implementing rules and regulations, the terms and conditions of its registration, or of any lawful directive of the BOI or IPA, shall be subject to a fine not to exceed One Million Pesos (P1,000,000.00), without prejudice to the disapproval of its application for registration or cancellation of its registration; *Provided*, That any willful commission of fraudulent misrepresentation in its application for registration or submission of reports or gross violation of this Code and its Implementing Rules and Regulations, a fine of at least One Million Pesos (P1,000,000.00) but not to exceed Ten Million Pesos (P10,000,000.00) shall be imposed, in addition to other penalties that may be imposed by the BOI/IPA.

The IPAs shall prepare a schedule of fines and penalties to be imposed on erring registered enterprises depending on the violation incurred, which may be reduced in exceptional cases.

Responsible officers of such enterprises, including duly appointed external consultants-agents who knowingly commit, aid or abet the commission of any of the acts mentioned above, shall be subject to a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00) without prejudice to disqualification from appearing or doing business with BOI or any IPA.

Government officers and employees who participate directly or indirectly in the commission of the foregoing acts shall likewise be liable to a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00), in addition to any criminal and administrative penalties imposable under the Civil Service Law, Revised Penal Code, Republic Act No. 3019, otherwise known as the "Anti-Graft And Corrupt Practices Act," Republic Act No. 6713, otherwise known as the "Code Of Conduct And Ethical Standards For Public Officials," and other applicable laws.

If the offender is a foreign national, in addition to the imposable fines and penalties above, the foregoing acts shall be grounds for his summary deportation.

SEC. 40. *Revenue Savings from the Rationalization of Fiscal Incentives.* - Revenue gains or savings from the implementation of this act shall be utilized exclusively for the following purposes: fifty per cent (50%) for infrastructure and fifty per cent (50%) for educational purposes.

Such allocations shall be segregated as separate trust funds by the national treasury and shall be over and above the annual appropriations for similar purposes.

SEC. 41. *Implementing Rules and Regulations (IRR).* - The DTI, DOF, NEDA, DBM, BOI, PEZA, other IPAs and other concerned government agencies, shall promulgate rules and regulations to implement the intent and provisions of this Code within one hundred twenty (120) days from effectivity of this Code. Such rules and regulations shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the Philippines.

The different IPAs shall implement the provisions of this act in accordance with their respective mandates.

SEC. 42. *Transitory Provision.* Until the Implementing Rules and Regulations of this Code take effect, the present rules and regulations under the old investments laws shall apply.

SEC. 43. *Separability Clause.* The provisions of this Code are hereby declared to be separable and, in the event any of such provisions is declared unconstitutional, the other provisions which are not affected thereby, shall remain in force and effect.

SEC. 44. *Repealing Clauses.* - The following laws or provisions are hereby repealed:

- 1) Title III, Article 39 (A), (B), (D), (E), (G), (I), (J), (K), (L), (M) AND (N); Title IV, Article 40, (A) and (B); Book III, Chapter II, Articles 61 and 62; Book III, Chapter III, Articles 63, 64, 65, 66 and 67; Book IV, Articles 69 and 70; and Book VI, Articles 77 and 78 of Executive Order No. 226, series of 1987, otherwise known as "The Omnibus Investments Code of 1987;"
- 2) Sections 23 and 24 of RA No. 7916, otherwise known as "An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for the Purpose the Philippine Economic Zone Authority (PEZA), and for other Purposes (Special Economic Zone Act Of 1995);"
- 3) Section 4 of RA No. 8748, or "An Act Amending Republic Act No. 7916, Otherwise Known as the Special Economic Zone Act of 1995";
- 4) Section 17, (1) to (8) and section 18, (a), (b), (c) and (f) of PD No. 66, otherwise known as "Creating the Export Processing Zone Authority and Revising Republic Act No. 5490;"
- 5) 4th paragraph of PD No. 529 (restored by FIRB Resolution 19-87), otherwise known as "Granting to Petroleum Exploration Concessionaires Under the Petroleum Act of 1949 Exemption From Customs Duty and Compensating Tax on Importations of Machinery and Equipment, Spare Parts and Materials Required for their Exploration Operations;"
- 6) Sections 8, 9 and, 2nd sentence of the 1st paragraph and 2nd paragraph of sec. 10 of PD No. 538, otherwise known as "Creating and Establishing the PHIVIDEC Industrial Authority and Making it a Subsidiary Agency of the Philippine Veterans Development Corporation, Defining its Powers, Functions and Responsibilities, and for other Purposes;"
- 7) Sections 36 (e) and (f), (1) and (2) of PD No. 705, or "Revising PD No. 389, otherwise known as the Forestry Reform Code of the Philippines;"
- 8) Section 16 (a), (b) and (c) and Section 17 (a) to (e) of PD 972, otherwise known as "Promulgating An Act to Promote an

Accelerated Exploration, Development, Exploitation, Production and Utilization of Coal”;

- 9) Section 3 of PD 1174, amending Section 10 of pd 972, as amended, entitled, “Amending PD 972, otherwise known as the Coal Development Act of 1976”;
- 10) Section 4 (a) and (d) of Presidential Decree No. 1442 – restored by FIRB resolution 19-87, otherwise known as “An Act to Promote the Exploration and Development of Geothermal Resources”;
- 11) Section 10 (1) to (6) of RA 7156, otherwise known as “An Act Granting Incentives to Mini-Hydro Electric Power Developers and for other Purposes” (Mini-Hydroelectric Incentive Act)”;
- 12) Section 16 (a), (c), (d), (e) and Section 17 of RA 7844, otherwise known as “An Act to Develop Exports as a Key Towards the Achievement of the National Goals Towards the Year 2000 (Export Development Act of 1994)”;
- 13) Chapter XV, Section 83; Chapter XVI, Sections 90, 91, 92, 93 (a) and (b) of RA No. 7942, otherwise known as “An Act Instituting a New System of Mineral Resources Exploration, Development, Utilization, and Conservation (Philippine Mining Act of 1995)”;
- 14) Section 9 of RA No. 8479, otherwise known as “An Act Deregulating The Downstream Oil Industry, and for other Purposes (Downstream Oil Industry Deregulation Act of 1998)”;
- 15) Section 3 (a) to (d) and (h) of RA No. 8502, otherwise known as “An Act To Promote The Development of the Jewelry Manufacturing Industry, Providing Incentives Therefor and for other Purposes (Jewelry Industry Development Act of 1998)”;
- 16) Chapter II, Article II, Sec. 35 (b), (c) and (d) of RA NO. 8550, otherwise known as “An Act Providing for the Development, Management and Conservation of the Fisheries and Aquatic Resources, Integrating All Laws Pertinent Thereto, and for other purposes (The Philippine Fisheries Code of 1998)”;
- 17) Section 1 of RA No. 9281, otherwise known as “An Act To Strengthen Agriculture and Fisheries Modernization in the Philippines by Extending the Effectivity of Tax Incentives and Its Mandated Funding Support Amending For This Purpose Sections 109 and 112 of RA 8435”;
- 18) Section 5 of Proclamation No. 216, otherwise known as “Creating and Designating the Area Covered by the Former Wallace Air Station and Contiguous Areas in Poro Point as Poro Point Special Economic and Freeport Zone and Transferring Lands to the Bases Conversion Development Authority Pursuant To RA No. 7227”;
- 19) Section 6 of Proclamation No. 984, otherwise known as “Creating and Designating the Municipality of Morong, Province of Bataan, Including the Area of the Philippine Refugee Processing

Center Complex (PRPCC) as the Morong Special Economic Zone Pursuant to Ra No. 7227 and Transferring the Land Comprising the PRPCC to the Bases Conversion Development Authority (BCDA)”;

- 20) Section 1 and Section 2 (a) and (b) and Sec. 6 of EO No. 528, series of 2006, Amending EO No. 313, series of 2004 – Reducing the Rates of Duty on Capital Equipment, Spare Parts and Accessories Imported by BOI-registered New and Expanding Enterprises”;
- 21) Section 4 (e) and (f) of RA No. 7903, otherwise known as “An Act Creating Special Economic Zone and Free Port in the City of Zamboanga for this purpose the Zamboanga City Special Economic Zone Authority, Appropriating Funds Therefor, and for other Purposes”;
- 22) Section 4 (b) and (c) of RA No. 7922, otherwise known as “An Act Establishing A Special Economic Zone and Free Port in the Municipality of Sta. Ana and the Neighboring Islands in the Municipality of Aparri, Province of Cagayan, Providing Funds Therefor, and for other Purposes (Cagayan Special Economic Zone of 1995)”;
- 23) Section 12 (b) and (c) of RA 7227 otherwise known as “An Act Accelerating the Conversion of Military Reservations Into Other Productive Uses, Creating the Bases Conversion and Development Authority For This Purpose, Providing Funds Therefor and for other Purposes (Bases Conversion And Development Act Of 1992)”;
- 24) Section 1 (b) and (c), Sections 2, 3, 4, 5, 6 and 7 of RA No. 9400 otherwise known as “An Act Amending RA 7227, as amended, Otherwise Known as the Bases Conversion And Development Act Of 1982, and for other Purposes”;
- 25) Section 1 of EO No. 619, otherwise known as “Creating and Designating Special Economic Zones Pursuant to RA 7916, as Amended by RA 8784, in Relation to RA No. 7227, as Amended by RA 9400, Inside the Clark Freeport Zone”;
- 26) Section 5 (a) to (m) and Section 9 of RA No. 9490, or “Establishing the Aurora Special Economic Zone in the Province Of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for other Purposes”; And
- 27) Chapter II, Section 4 (a), (b), (c) and (d) and Chapter VIII, Section 19 (a), (b) and (c) of RA 9295, entitled, “An Act Promoting the Development of Philippine Domestic Shipping, Shipbuilding, Ship Repair and Ship Breaking, Ordaining reforms in Government Policies Towards Shipping in the Philippines and for other Purposes.”

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

Sec. 45. *Effectivity.* - This act shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the Philippines.

Approved,