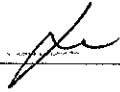


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

OFFICE OF THE SECRETARY

9 JUN -1 P3:30

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 529

Submitted jointly by the Committees on Economic Affairs, Local Government, Ways and Means, and Finance on JUN - 1 2009.

Re: Senate Bill No. 2118.

Recommending its approval without amendment, taking into consideration House Bill No. 5344.

Sponsors: Senators Defensor Santiago and Gordon.

MR. PRESIDENT:

The Committee on Economic Affairs, joint with the Committees on Local Government, Ways and Means, and Finance, to which were referred Senate Bill No. 2118, introduced by Senator Legarda, Loren B., entitled:


**“AN ACT
CONVERTING THE BATAAN ECONOMIC ZONE LOCATED IN THE
MUNICIPALITY OF MARIVELES, PROVINCE OF BATAAN INTO THE
BATAAN SPECIAL ECONOMIC ZONE AND FREEPORT, CREATING FOR
THIS PURPOSE THE BATAAN SPECIAL ECONOMIC ZONE AND FREE
PORT AUTHORITY, APPROPRIATING FUNDS THEREFOR
AND FOR OTHER PURPOSES”**

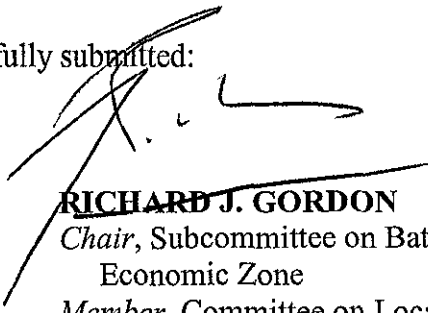
and House Bill No. 5344, introduced by Reprs. Garcia, Albert S. and Durano VI, Ramon H., entitled:

**“AN ACT
CONVERTING THE BATAAN ECONOMIC ZONE LOCATED IN THE
MUNICIPALITY OF MARIVELES, PROVINCE OF BATAAN INTO THE
BATAAN SPECIAL ECONOMIC ZONE AND FREEPORT, CREATING FOR
THIS PURPOSE THE BATAAN SPECIAL ECONOMIC ZONE AND FREEPORT
AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER
PURPOSES”**

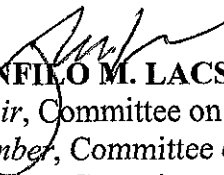
have considered the same and have the honor to report them back to the Senate with the recommendation that Senate Bill No. 2118 be approved without amendment, taking into consideration House Bill No. 5344.

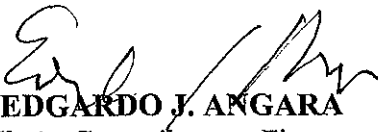
Respectfully submitted:


MIRIAM DEFENSOR SANTIAGO
Chair, Committee on Economic Affairs
Member, Committee on Finance

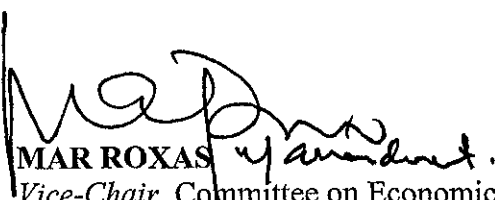

RICHARD J. GORDON
Chair, Subcommittee on Bataan Economic Zone
Member, Committee on Local Government
Member, Committee on Ways and Means
Member, Committee on Finance

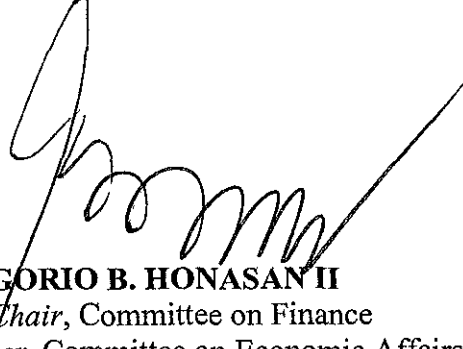
BENIGNO S. AQUINO III
Chair, Committee on Local Government
Member, Committee on Economic Affairs
Member, Committee on Ways and Means
Member, Committee on Finance


PANFILO M. LACSON
Chair, Committee on Ways and Means
Member, Committee on Local Government
Member, Committee on Finance


EDGARDO J. ANGARA
Chair, Committee on Finance


Vice-Chairs:


MAR ROXAS
Vice-Chair, Committee on Economic Affairs
Member, Committee on Local Government
Member, Committee on Finance


GREGORIO B. HONASAN II
Vice-Chair, Committee on Finance
Member, Committee on Economic Affairs
Member, Committee on Ways and Means

JOKER P. ARROYO
Vice-Chair, Committee on Finance
Member, Committee on Local Government
Member, Committee on Ways and Means

Members:


RODOLFO G. BIAZON
Committee on Economic Affairs
Committee on Local Government
Committee on Finance

LOREN B. LEGARDA
Committee on Economic Affairs
Committee on Local Government
Committee on Ways and Means
Committee on Finance

M.A. MADRIGAL
Committee on Economic Affairs
Committee on Local Government
Committee on Finance

ALAN PETER S. CAYETANO
Committee on Economic Affairs
Committee on Local Government
Committee on Ways and Means
Committee on Finance

MANNY VILLAR
Committee on Economic Affairs
Committee on Local Government
Committee on Ways and Means
Committee on Finance


FRANCIS G. ESCUDERO
Committee on Local Government
Committee on Ways and Means

ANTONIO "SONNY" F. TRILLANES IV
Committee on Local Government
Committee on Finance

RAMON BONG REVILA JR.
Committee on Local Government
Committee on Finance

MANUEL M. LAPID
Committee on Ways and Means
Committee on Finance

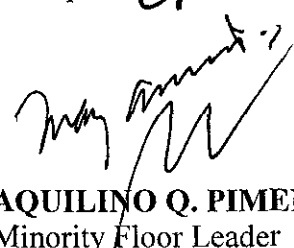
FRANCIS N. PANGILINAN
Committee on Ways and Means
Committee on Finance


PIA S. CAYETANO
Committee on Finance

Ex-Officio Members:


JINGGOY EJERCITO ESTRADA
President Pro-Tempore


JUAN MIGUEL F. ZUBIRI
Majority Floor Leader


AQUILINO Q. PIMENTEL JR.
Minority Floor Leader

JUAN PONCE ENRILE
President
Senate of the Philippines
Pasay City

S.B. No. 2118

Introduced by Senator Loren B. Legarda

AN ACT
CONVERTING THE BATAAN ECONOMIC ZONE LOCATED IN THE
MUNICIPALITY OF MARIVELES, PROVINCE OF BATAAN, INTO THE BATAAN
SPECIAL ECONOMIC ZONE AND FREEPORT, CREATING FOR THIS PURPOSE
THE BATAAN SPECIAL ECONOMIC ZONE AND FREE PORT AUTHORITY,
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

1 SECTION 1. Short Title. – This Act shall be known as the “Bataan Special
2 Economic Zone and Freeport Act of 2008.”

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

11 SEC. 3. Conversion of the Bataan Economic Zone into the Bataan Special
12 Economic Zone and Freeport. – The existing Bataan Economic Zone located in the
13 Municipality of Mariveles, Province of Bataan is hereby converted into a special
14 economic zone and freeport to be known as the Bataan Special Economic Zone and
15 Freeport (BSEZFP). The BSEZFP shall cover portions of barangays Maligaya, Malaya,
16 Alas-asin, Baseco and Sisiman, all in the Municipality of Mariveles, Province of Bataan.

1 SEC. 4. Governing Principles. – The BSEZFP shall be managed and operated
2 under the following principles:

3 (a) Within the framework and limitations of the Constitution and applicable
4 provisions of the Local Government Code, the Bataan ECOZONE shall be developed
5 into and operated as a decentralized, self-reliant and self-sustaining industrial,
6 commercial-trading, agro-industrial, tourist, banking, financial and investment center
7 with suitable residential areas;

8 (b) The BSEZFP shall continue to be provided with transportation,
9 telecommunications and other facilities needed to attract legitimate and productive
10 investments, generate linkage industries and employment opportunities for the people of
11 the Province of Bataan and its neighboring towns and cities;

12 (c) The BSEZFP may establish mutually beneficial economic relations with other
13 entities or enterprises within the country or, subject to the administrative guidance of the
14 Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA)
15 and the Department of Trade and Industry (DTI), with foreign entities or enterprises;

16 (d) Foreign citizens and companies owned by non-Filipinos in whatever
17 proportion may set up enterprises in the BSEZFP, either by themselves or in joint venture
18 with Filipinos in any sector of industry, international trade and commerce within the
19 BSEZFP.

20 (e) The BSEZFP shall be managed and operated as a separate customs territory
21 ensuring free flow or movement of goods and capital within, into and out of its territory;

22 (f) The BSEZFP may provide incentives such as tax and duty-free importations of
23 raw materials, capital and equipment to registered enterprises located therein. However,
24 exportation or removal of goods from the territory of the BSEZFP to the other parts of the
25 Philippine territory shall be subject to customs duties and taxes under the Tariff and
26 Customs Code of the Philippines, as amended, and the National Internal Revenue Code
27 (NIRC) of 1997, as amended;

1 (g) The areas comprising the BSEZFP may be expanded or reduced when
2 necessary. For this purpose, the BSEZFP Authority, which will be created under this Act.
3 in consultation with the local government units (LGUs), shall have the power to acquire
4 either by purchase, negotiation or condemnation proceedings, any private lands within or
5 adjacent to the BSEZFP for the following purposes: (1) consolidation of lands for
6 BSEZFP development; (2) acquisition of right of way to the BSEZFP; and (3) the
7 protection of watershed areas and natural assets valuable to the prosperity of the
8 BSEZFP.

9 (h) Goods manufactured by the BSEZFP enterprise shall be made available for
10 immediate retail sale in the domestic market, subject to the payment of corresponding
11 taxes on raw materials and other regulations that may be formulated by the BSEZFP
12 Authority, together with the PEZA, the *Bangko Sentral ng Pilipinas* (BSP), the
13 Department of Finance (DOF), the Bureau of Customs (BOC) and the DTI in accordance
14 with the NIRC of 1997, as amended, and the Tariff and Customs Code of the Philippines.
15 as amended. However, in order to protect the domestic industries, a negative list of
16 industries shall be drawn up and regularly updated by PEZA. Enterprises engaged in
17 industries included in such negative list shall not be allowed to sell their products locally:
18 and

19 (i) The defense of the BSEZFP and the security of its perimeter fence shall be the
20 responsibility of the national government in coordination with the BSEZFP Authority and
21 the LGUs.

22 SEC. 5. Incentives To Registered Enterprises. – The Bataan Special Economic
23 Zone and Free Port Authority (BSEZFPA) shall provide the following incentives to the
24 registered enterprises located therein as follows:

25 (A) Income Tax Holiday (ITH) – Registered enterprises shall be entitled to an
26 income tax holiday from the start of their commercial operations to the extent of their
27 activity under the following categories:

1 (1) Category A – Registered domestic enterprise located in highly developed
2 areas, as determined by the Board of Investments (BOI), shall be entitled to
3 four-year ITH.

4 (2) Category B – Registered domestic enterprise on the following shall be entitled
5 to six-year ITH.

6 (a) Located in less developed areas as defined by the BOI, or

7 (b) Producing new products or rendering services or having strong backward
8 or forward linkages.

9 (3) Category C – Registered export enterprise shall be entitled to six- year ITH:

10 *Provided, however,* That if the export enterprise complies with the following:

11 (1) Large capital investments or sizeable employment generation, or (2) Use
12 technology of high level, or (3) Located outside Metro-Manila, it shall be
13 entitled to eight-year ITH.

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

18 Additional investments in the project shall be entitled to the ITH corresponding to
19 such investments as may be determined by the BOI. Additional ITH may be granted for
20 as long as the investment is made on the same project: *Provided,* That the project is listed
21 in the IPP at the same time the additional investment in the project is made: *Provided,*
22 further, That the entitlement period for additional investments shall not exceed three
23 times the period provided under this subsection: *Provided, finally,* That the total ITH
24 period for an export enterprise availing of an eight-year ITH shall not exceed twenty (20)
25 years. Any unused incentives shall therefore be deemed forfeited if not used during the
26 incentive period.

27 Enterprises registered with BSEZFPA are required to share in the special
28 development fund of the BOI for investment promotion projects of the government
29 equivalent to one percent (1%) of the ITH granted for every application.

1 The Bureau of Internal Revenue (BIR) shall require a registered enterprise
2 availing of ITH or net operating loss carryover (NOLCO) to secure a certificate of
3 eligibility from the BSEZFPA before submitting its income tax return (ITR) with the
4 BSEZFPA for validation.

5 Failure to secure certification or to file the ITH or the NOLCO availment for
6 validation by the BSEZFPA within forty five (45) days from the last day of statutory
7 filing date for ITR shall cause the forfeiture of the availment for the taxable period.

8 (B) Net Operating Loss Carryover (NOLCO) – Net operating loss of the business
9 or enterprise during the first three years from start of commercial operations which have
10 not been previously offset as deduction from gross income shall be carried over as a
11 deduction from gross income for the next five consecutive years immediately following
12 the year of such loss: *Provided, however,* That operating loss resulting from the
13 availment of incentives provided in this Code shall not be entitled to the NOLCO.

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

16 (C) Imposition of a tax rate of five percent (5%) on Gross Income Earned (GIE) –
17 Except for real property tax on land, no local and national taxes as prescribed under
18 Republic Act No. 8424, also known as the “Tax Reform Act of 1997”, such as the
19 income tax, the excise tax and the franchise taxes shall be imposed on business
20 establishments operating within BSEZFP. In lieu thereof, five percent (5%) of the gross
21 income shall be paid as follows:

- 22 (1) Two percent (2%) to the national government;
- 23 (2) One percent (1%) to the Province of Bataan;
- 24 (3) One percent (1%) shall be remitted by the business establishments to the
25 treasurer’s office of the municipality or city where the enterprise is located;
- 26 and
- 27 (4) One percent (1%) to the Bataan Special Economic Zone and Free Port
28 Authority.

1 All persons and service establishments in the BSEZFP shall be subject to national
2 and local taxes under the National Internal Revenue Code of 1997, as amended, and the
3 Local Government Code of 1991.

4 (D) Accelerated Depreciation – Accelerated depreciation of plant, machinery, and
5 equipment that are reasonably needed and actually used for the production and transport
6 of goods and services may be allowed using a rate not exceeding twice the rate which
7 would have been used had the annual allowance been computed in accordance with the
8 rules and regulations prescribed by the Secretary of Finance and the provisions of the
9 NIRC of 1997, as amended, and the Local Government Code of 1991.

10 (E) Capital Equipment Incentives – (1) Importations of capital equipment, spare
11 parts, tools and dye, or those required for pollution abatement and control, cleaner
12 production and waste reduction including consignment thereof by registered enterprises
13 upon the effectivity of this law, shall be exempted to the extent of one hundred percent
14 (100%) of the taxes and customs duties: *Provided*, That the importation thereof shall be
15 used exclusively by the registered enterprise in its registered activity: *Provided, further*,
16 That the importation of machinery and equipment and accompanying parts shall comply
17 with the following conditions:

18 (a) These are not manufactured domestically in sufficient quantity, of
19 comparable quality and at reasonable prices;

20 (b) These are reasonably needed and will be used exclusively by the registered
21 enterprise in the manufacture of its products, unless prior approval of the
22 BSEZFPA is secured for the part time utilization of said equipment in a non-
23 registered activity to maximize usage thereof or the proportionate taxes and
24 duties are paid on a specific equipment and machinery being permanently
25 used for non-registered activities; and

26 (c) Approval of the BSEZFPA was obtained by the registered enterprise for the
27 importation of such machinery, equipment and spare parts.

28 Approval of the BSEZFPA must be secured before any sale, transfer or
29 disposition of the imported capital equipment, machinery or spare parts is made:

1 *Provided*, That if such sale, transfer or disposition is made within the first five years from
2 date of importation, any of the following conditions must be present:

- 3 1) The same is made to another enterprise enjoying tax and duty exemption on
4 imported capital equipment;
- 5 2) The same is made to another enterprise, upon payment of the taxes and duties
6 on the net book value of the capital equipment to be sold;
- 7 3) The exportation of the capital equipment, machinery, spare parts or source
8 documents or those required for pollution abatement and control; and
- 9 4) Proven technical obsolescence of the said equipment, machinery or spare parts.

10 When the aforementioned sale, transfer or disposition is made under any of the conditions
11 provided for in the foregoing paragraphs other than paragraph 2, the registered firm shall
12 not pay the taxes and duties waived on such items: *Provided, further*, That if the
13 registered enterprises sell, transfer or dispose the aforementioned imported items without
14 prior approval within five years from the date of importation, the registered enterprise
15 and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount
16 of the tax and duty exemption given it: *Provided, finally*, That even if the sale, transfer or
17 disposition of the capital equipment, machinery or spare parts is approved after five years
18 from date of importation, the registered enterprise is still liable to pay the taxes and duties
19 based on the net book value of the capital equipment, machinery or spare parts if it has
20 violated any of its registration terms and conditions. Otherwise, it shall no longer be
21 subject to the payment of the taxes and duties waived thereon.

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

26 The registered export-oriented enterprise shall be granted a tax credit equivalent
27 to the amount of duties that would have been waived on the machinery; capital
28 equipment; and raw materials, supplies, parts and semi-finished products used in the
29 fabrication of machinery and capital equipment, had these items been imported, upon its

1 submission to the DOF of the bill of materials evidencing the transaction value of such
2 and other pertinent documents, for verification and proper endorsement.

3 The availment by a registered export enterprise of the incentive provided under
4 the immediately preceding two paragraphs shall be subject to the following conditions: (i)
5 that said capital equipment, machinery and spare parts will be used exclusively by the
6 registered enterprise in its registered activity; (ii) that the capital equipment or machinery
7 where the raw materials, supplies, parts and semi-finished products were used would
8 have qualified for tax and duty- free importation; and (iii) that the approval of the
9 BSEZFPA is obtained by the registered enterprise. If the registered enterprise sells,
10 transfers or disposes of these machineries, capital equipment and spare parts, the
11 provision in the preceding paragraphs for such disposition shall apply.

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

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

16 (G) Raw Materials Incentives. – Every registered export-oriented enterprise shall
17 enjoy a tax credit equivalent to the internal revenue taxes and customs duties paid on the
18 supplies, raw materials and semi-manufactured products: Provided, That the same are
19 not sufficient in quantity, quality or are not competitively priced which are used in the
20 manufacture, processing or production of its export products forming part thereof.
21 exported directly and indirectly by the registered export-oriented enterprise, based on the
22 actual taxes and duties paid for such materials/supplies/semi-manufactured products by
23 the registered enterprise;

24 This incentive shall be deemed waived if application for tax credit under this
25 subsection was not filed within one year from date of exportation of the final product.

26 (H) Incentives on Breeding Stocks and Genetic Materials. – Importation of
27 breeding stocks and genetic materials within ten (10) years from the date of registration
28 of commercial operation of the enterprise shall be exempt from all taxes and duties:

1 Provided, That such breeding stocks and genetic materials are reasonably needed in the
2 registered activity and approved by the BSEZFPA.

3 The availment of the incentives by a registered enterprise shall be subject to the
4 following: (i) that said breeding stocks and genetic materials would have been qualified
5 for tax-and-duty-free importation under the preceding paragraph; (ii) that the breeding
6 stocks and genetic materials are reasonably needed in the registered activity; (iii) that the
7 approval of the BSEZFPA has been obtained by the registered enterprise; and (iv) that the
8 purchase is made within ten (10) years from the date of registration of commercial
9 operation of the registered enterprise.

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

12 (I) Exemption from Wharfage Dues. – The provisions of law to the contrary
13 notwithstanding, exports by a registered enterprise shall be exempted from wharfage
14 dues;

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

21 (K) (1) Tax treatment of merchandise in the BSEZFP –

22 (i) Except as otherwise provided in this Act, foreign and domestic
23 merchandise, raw materials, supplies, articles, equipment, machineries,
24 spare parts and wares of every description, except those prohibited by
25 law, brought into the zone to be sold, stored, broken up, repacked,
26 assembled, installed, sorted, cleaned, graded, or otherwise processed,
27 manufactured, mixed with foreign or domestic merchandise whether
28 directly or indirectly related in such activity, shall not be subject to

1 customs and internal revenue laws and regulations nor to local tax
2 ordinances, any provision of law to the contrary notwithstanding;

3 (ii) Merchandise purchased by a registered BSEZFP enterprise, from the
4 customs territory and subsequently brought into the export processing
5 zone, shall be considered as export sales and exportation thereof shall be
6 entitled to the benefits allowed by law for such transaction;

7 (iii) Domestic merchandise sent from the BSEZFP to the customs territory
8 shall, whether or not combined with or made part of other articles
9 likewise of local origin or manufactured in the Philippines while in the
10 export processing zone, be subject to internal revenue laws of the
11 Philippines as domestic goods sold, transferred or disposed of for local
12 consumption;

13 (iv) Merchandise sent from the BSEZFP to the customs territory shall,
14 whether or not combined with or made part of other articles while in the
15 zone, be subject to rules and regulations governing imported
16 merchandise. The duties and taxes shall be based on the value of said
17 imported materials except when the final product is exempt;

18 (v) Domestic merchandise on which all internal revenue taxes have been paid,
19 if subject thereto, and foreign merchandise previously imported on
20 which has been paid, or which have been admitted free of duty and tax,
21 may be taken into the BSEZFP from the customs territory of the
22 Philippines and be brought back thereto free of quotas, duty or tax;

23 (vi) Subject to such regulations respecting identity and safeguarding of the
24 revenue as the BSEZFPA may deem necessary when the identity of an
25 article entered into the export processing zone under the immediately
26 preceding paragraph has been lost, such article when removed from the
27 zone and taken to the customs territory shall be treated as foreign
28 merchandise entering the country for the first time, under the provisions
29 of the Tariff and Customs Code of the Philippines, as amended;

1 (vi) Articles produced or manufactured in the BSEZFP and exported there
2 from shall, on subsequent importation into the customs territory, be
3 subject to the import laws applicable to like articles manufactured in a
4 foreign country;

5 (viii) Unless the contrary is shown, merchandise taken out of the export
6 processing zone shall be considered for tax purposes to have been sent to
7 customs territory.

8 (2) Tax treatment merchandise in free trade/free port zone. The BSEZFP shall be
9 operated and managed as a separate customs territory ensuring free flow or movement of
10 goods within, into and exported out of the free trade/free port zone. Importations of raw
11 materials and capital equipment are tax and duty free. However, exportations or removal
12 of goods from the free trade/free port zones to the other parts of the Philippines territory
13 shall be subject to customs and internal revenue regulations.

14 (3) Tax treatment of services in the BSEZFP –

15 (i) Sale of service by an entity from the customs territory to a registered
16 ecozone or free trade enterprise, or by a registered ecozone or freeport
17 enterprise to another ecozone or freeport enterprise shall be treated as
18 indirect export, and hence, entitled to the benefits allowed by law for
19 such transaction.

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

23 (L) Registered export oriented enterprise shall have access to the utilization of the
24 bonded warehousing system in accordance with the rules and regulations of the Bureau of
25 Customs;

26 (M) Employment of Foreign Nationals. – Subject to the provisions of Section 29
27 of Commonwealth Act No. 613, as amended, a registered enterprise may employ foreign
28 nationals in supervisory or technical positions for a period not exceeding ten (10) years
29 from its registration: *Provided*, That when the majority of the capital stock of a registered

1 enterprise is owned by foreign investors, the positions of the president, treasurer and
2 general manager or their equivalents may be retained by foreign nationals beyond the
3 period set forth herein and such officer is the owner or a stockholder owning at least ten
4 percent (10%) of the outstanding capital stock of the registered enterprise and he remains
5 the owner or maintains his stockholdings therein. Foreign nationals under employment
6 contract within the purview of this incentive, their spouses and unmarried children under
7 twenty-one (21) years of age, who are not excluded by Section 29 of Commonwealth Act
8 No. 613, as amended, shall be permitted to enter and reside in the Philippines during the
9 period of employment of such foreign nationals. They shall be issued a multiple-entry
10 visa, valid for a period of three years, to enter and leave the Philippines without further
11 documentary requirements other than valid passports or other travel documents in the
12 nature of passports. The validity of the multiple-entry visa shall be extendible yearly.

13 The foreign national admitted herein, as well as their respective spouses and
14 dependents shall be exempt from: (i) Obtaining Alien Certificate of Registration and
15 Emigration Clearance Certificates; and (ii) Securing the Alien Employment Permit (AEP)
16 and all types of clearances, permits, licenses or their equivalents required by any
17 government department or agency.

18 SEC. 6. Incentive to Investors. – Any foreign national covered under subsection
19 (M) of Section 5 of this Act, who invests an amount of One Hundred Fifty Thousand US
20 dollars (US\$150,000.00), either in cash and/or equipment, in a registered enterprise shall
21 be entitled to an investor's visa: Provided, That he has the following qualifications:

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

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

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

6 SEC. 7. Administration, Implementation and Monitoring of Incentives. – The
7 BSEZFPA shall be responsible for the administration and implementation of the
8 incentives granted to its respective registered enterprises: *Provided*, That any incentive
9 administration policy adopted by the BOI for registered enterprises shall be uniformly
10 applied by BSEZFPA.

11 The following are the duties and responsibilities of the BSEZFPA in the
12 administration of incentives:

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

15 (B) To adopt and implement systems and procedures affecting trade and customs
16 policies in accordance with the requirements established by the DOF and the
17 BOI;

18 (C) To submit data and information to the DOF and the BOI as required by any of
19 these agencies to ascertain consistency of investment policies and incentives.
20 including their implementation as provided in Subsection (A), and to ensure
21 proper implementation of systems and procedures affecting trade and customs
22 policies as provided in Subsection (B); and

23 (D) To perform all other duties and responsibilities as may be required by the
24 President.

25 For proper monitoring, the BOI shall create a single database of all incentives
26 provided by all incentives granting agencies, including BSEZFPA, and all information
27 thereto. Double entry accounting shall be done by the BOI in recording all incentives
28 granted by the government for transparency purposes.

1 SEC. 8. Extension of Period Of Availment. – The availment period of the
2 incentives provided herein may be extended by BSEZFPA, in the event that the registered
3 enterprise has suffered operational force *majeure* that has impaired its viability,
4 equivalent thereto.

5 SEC. 9. Duration of Incentives. – Enterprises registered with BSEZFPA may
6 enjoy the ITH or the NOLCO granted by the authority prior to the availment of the five
7 percent (5%)GIE.

8 Fiscal incentives under this Act shall be terminated after a cumulative period of
9 twenty (20) years from date of registration or start of commercial operation, whichever is
10 applicable, except that it could be extended with regard to industries deemed
11 indispensable to national development:

12 The industries exempted from this provision shall be recommended by BOI, with
13 the concurrence of the Secretaries of the DOF and DTI.

14 SEC. 10. Creation of the Bataan Special Economic Zone and Free Port Authority
15 (BSEZFPA). – There is hereby created a body corporate to be known as the Bataan
16 Special Economic Zone and Free Port Authority, herein referred to as the BSEZFPA,
17 which shall manage and operate the BSEZFP, in accordance with the provisions of this
18 Act. This corporate franchise shall expire in fifty (50) years counted from the first year
19 after the effectivity of this Act, unless otherwise extended by Congress. It shall be
20 organized within one hundred eighty (180) days after the effectivity of this Act.

21 SEC. 11. Principal Office of the BSEZFPA. – The BSEZFPA shall maintain its
22 principal office in the Municipality of Mariveles, Province of Bataan, but it may establish
23 branches within the Philippines as may be necessary for the proper conduct of its
24 business.

25 SEC. 12. Powers and Functions of the BSEZFPA. – The BSEZFPA shall have
26 the following functions:

1 (a) To adopt, alter, use a Corporate seal; to contract, lease, buy, sell, acquire, own
2 and dispose properties of whatever nature;

3 (b) To sue and be sued in order to carry out its duties, responsibilities, privileges,
4 powers and functions as granted and provided for in this Act and to exercise the power
5 of eminent domain for public use and public purpose;

6 (c) To operate, administer, manage and develop the BSEZFP according to the
7 principles and provisions set forth in this Act and to coordinate with the LGUs for the
8 development plans, activities and operation of the BSEZFP;

9 (d) To recommend to the President the issuance of a proclamation to fix and
10 delimit the site of the BSEZFP;

11 (e) To register, regulate and supervise the enterprises in the BSEZFP in an
12 efficient and decentralized manner, subject to existing laws;

13 (f) To regulate and undertake the establishment, operation and maintenance of
14 utilities, other services and infrastructure in the BSEZFP such as, but not limited to, heat,
15 light and power, water supply, telecommunications, transport, toll roads and bridges,
16 port services, etc., and to fix just, reasonable and competitive rates, fares, charges and
17 prices thereof;

18 (g) To construct, acquire, own, lease, operate and maintain on its own or through
19 contracts, franchises, licenses, bulk purchase from the private sector or permits under
20 any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-Transfer Law,
21 as amended by Republic Act No. 7718), or under a joint venture with the private sectors,
22 any or all of the public utilities and infrastructure required or needed for the operation
23 and development of the BSEZFP, in coordination with appropriate national and local
24 government authorities and in conformity with applicable laws thereon;

25 (h) To operate on its own, either directly or through a license to other tourism-
26 related activities, including games, amusements, recreational and sports facilities;

27 (i) To raise or borrow, within the limitation provided by law, adequate and
28 necessary funds from local or foreign sources, subject to the approval of the President
29 and the Monetary Board of the BSP upon the recommendation of the DOF, to finance its

1 projects and programs under this Act, and for that purpose, to issue bonds, promissory
2 notes, and other forms of securities, and to secure the same by a guarantee, pledge,
3 mortgage, deed of trust, or an assignment of all or part of its property or assets;

4 (j) To provide security for the BSEZFP in coordination with the national and local
5 governments. For this purpose, the BSEZFPA may establish and maintain its security
6 forces and firefighting capability or hire others to provide the same. In the event that an
7 assistance of the military force is necessary, it shall not interfere in the internal affairs of
8 the BSEZFP except to provide the necessary security and defense, and their expenses
9 shall be borne by the national government;

10 (k) To protect, preserve, maintain and develop the virgin forests, beaches, coral
11 and coral reefs, and maintain ecological balance within the BSEZFP. For this purpose,
12 the rules and regulations of the Department of Environment and Natural Resources
13 (DENR) and other government agencies involved in the above functions shall be
14 implemented by the BSEZFPA;

15 (l) To create, operate and/or contract to operate such functional units or offices of
16 the BSEZFPA as it may deem necessary;

17 (m) To issue certificates of origin for products manufactured or processed in the
18 BSEZFP in accordance with prevailing rules of origin, and the pertinent regulations of
19 the DTI or the DOF;

20 (n) To issue rules and regulations consistent with the provisions of this Act as
21 may be necessary to implement and accomplish the purposes, objectives and policies
22 provided herein; and

23 (o) To exercise such powers as may be essential, necessary or incidental to the
24 powers granted to it hereunder as well as those that shall enable it to carry out, implement
25 and accomplish the purposes, objectives and policies of this Act.

26 SEC. 13. Board of Directors of the BSEZFP. – The powers of the BSEZFPA shall
27 be vested in and exercised by a Board of Directors, hereinafter referred to as the Board,
28 which shall be composed of the following:

1 (a) The chairman who shall, at the same time be the administrator of the
2 BSEZFPA;

3 (b) A vice chairman who shall come from among the members of the Board;

4 (c) Members consisting of:

5 (1) The Governor of the Province of Bataan

6 (2) The Congressional Representative of the district covering the site of the
7 BSEZFP;

8 (3) The Mayor of the Municipality of Mariveles, Province of Bataan;

9 (4) One (1) representative from the domestic investors;

10 (5) One (1) representative from the foreign investors; and

11 (6) One (1) representative from the workers working in the BSEZFP.

12 The Chairman of the Board shall sit as the Administrator of the BSEZFPA. The
13 governor, the congressional representative and the mayor of the Municipality of
14 Mariveles, Province of Bataan, shall serve as *ex officio* members of the Board, whose
15 term in the Board corresponds to their terms as elected officials.

16 The Chairman and the members of the Board, except the *ex officio* members.
17 shall be appointed by the President of the Philippines to serve for a term of six (6) years.
18 unless sooner separated from service due to death, voluntary resignation or removal for
19 cause. In case of death, resignation or removal for cause, the replacement shall serve only
20 the unused portion of the term.

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

27 The members of the Board shall each receive *per diem* at rates to be determined
28 by the Department of Budget and Management (DBM) in accordance with existing rules

1 and regulations: *Provided, however,* That the total *per diem* collected each month shall
2 not exceed the equivalent per diem for four (4) meetings.

3 SEC. 14. Powers and Duties of the Chairman-Administrator. – The chairman-
4 administrator shall have the following powers and duties:

5 (a) To direct and manage the affairs of the BSEZFPA in accordance with the
6 policies of the Board;

7 (b) To establish the internal organization of the BSEZFPA under such conditions
8 that the Board may prescribe;

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

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

13 (e) To submit to the Board for its approval policies, systems, procedures, rules
14 and regulations that are essential to the operation of the BSEZFPA;

15 (f) To create a mechanism in coordination with relevant agencies for the
16 promotion of industrial peace, the protection of the environment, and the advancement of
17 the quality of life in the BSEZFP; and

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

20 SEC. 15. Organization and Personnel. – The BSEZFPA Board of Directors shall
21 provide for an organizational structure and appoint employees, subject to the civil service
22 law. Upon the recommendation of the chairman-administrator and with the approval of
23 the Secretary of the DTI, the Board shall appoint and fix the remuneration and other
24 emoluments of its officers and employees in accordance with existing laws on
25 compensation and position classification: *Provided,* That the Board shall exercise
26 administrative supervision on their employees.

1 The officers and employees of the BSEZFPA, including all members of the
2 Board, shall not engage directly or indirectly in partisan activities nor take part in any
3 election, except to vote.

4 No officer or employee of the BSEZFPA, subject to Civil Service laws and
5 regulations, shall be removed or suspended except for cause, as provided by law.

6 SEC. 16. Resolution of Labor Disputes. – The right of labor to form unions or
7 associations shall be observed. However, strikes and lockouts shall be prohibited within
8 the economic and Freeport zone, notwithstanding the provisions of the Labor Code and
9 other pertinent laws. Labor disputes shall be resolved through mediation, conciliation and
10 such other modes of dispute resolution authorized by law.

11 SEC. 17. Exemptions. – The BSEZFPA is hereby exempted from the payment of
12 all taxes, duties, fees, imposts, charges, costs and service fees in any court or
13 administrative proceedings in which it may be a party.

14 The foregoing exemptions may, however, be wholly or partially lifted by the
15 President of the Philippines upon the recommendation of the Secretary of Finance, not
16 earlier than five (5) years from the effectivity of this Act, upon reasonable assessment
17 that the BSEZFPA is financially stable to pay such taxes, customs duties, fees and other
18 charges after satisfying debt service requirements of the BSEZFPA and of its projected
19 capital and operating expenditures.

20 SEC. 18. Banking Rules and Regulations. – Existing banking laws and
21 rules/regulations of the BSP shall apply to banks and financial institutions to be
22 established in the BSEZFP.

23 SEC. 19. Remittances. – In the case of foreign investments, a registered enterprise
24 in the Bataan ECOZONE shall have the right to remit earnings from the investment in the
25 currency in which the investment was originally made and at the exchange rate prevailing
26 at the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265,
27 as amended.

1 SEC. 20. Applicability Clause. – The provisions of Sections 30-41 of Republic
2 Act No. 7916, otherwise known as "The Special Economic Zone Act of 1995", as
3 amended, shall likewise apply to the BSEZFP.

4 SEC. 21. Capitalization. – The BSEZFPA shall have an authorized capital stock
5 of two billion (2,000,000,000) no par-shares with a minimum issue of Ten pesos (P10.00)
6 each, the majority shares of which shall be subscribed and paid for by the national
7 government and the local government unit (LGU) embracing the BSEZFP. The Board of
8 BSEZFPA with the written concurrence of the Secretary of the DOF may sell shares,
9 representing not more than forty *per centum* (40%) of the capital stock of the BSEZFPA
10 to the general public under such policy as the Board and the Secretary of the DOF may
11 determine. The national government and the LGU shall, in no case, own less than sixty
12 *per centum* (60%) of the total issued and outstanding capital of the BSEZFPA.

13 The amount necessary to subscribe and pay for the shares of the national
14 government to the capital stock of the BSEZFPA shall be included in the annual General
15 Appropriations Act. For LGU, the funds shall be taken from its internal revenue
16 allotment and other local funds.

17 SEC. 22. Supervision and Control. – For purposes of policy direction and
18 coordination, the BSEZFPA shall be under the direct control and supervision of the
19 Office of the President of the Philippines.

20 SEC. 23. Regional Development Council. – The BSEZFPA shall determine the
21 development goals for the BSEZFP within the framework of national development plans,
22 policies and goals. The Administrator shall, upon approval by the Board, submit the
23 BSEZFP plans, programs and projects to the Regional Development Council for
24 inclusion and inputs to the overall regional development plan.

25 SEC. 24. Relationship with Local Government Units. – Except as herein
26 provided, the Municipality of Mariveles in the Province of Bataan shall operate and
27 function in accordance with the Local Government Code of 1991. In case of any conflict

1 between the BSEZFPA and the Municipality of Mariveles on matters affecting the
2 BSEZFP other than defense and security matters, the decision of the BSEZFPA shall
3 prevail.

4 SEC. 25. Interpretation/Construction. – The powers, authorities and functions that
5 are vested in the BSEZFPA are intended to establish decentralization of governmental
6 functions and authority and promote an efficient and effective working relationship
7 between the BSEZFPA, the national government and the LGU.

8 SEC. 26. Audit. – The Commission on Audit shall appoint a full time auditor in
9 the BSEZFPA or may assign such number of personnel as may be necessary in the
10 performance of their functions.

11 SEC. 27. Implementing Rules and Regulations. – The DTI, the DOF, and the
12 LGU and the Department of the Interior and Local Government shall formulate the
13 implementing rules and regulations of this Act within ninety (90) days after its approval.
14 Such rules and regulations shall take effect fifteen (15) days after their publication in a
15 newspaper of general circulation in the Philippines.

16 SEC. 28. Separability Clause. – If any provisions of this Act shall be held
17 unconstitutional or invalid, the other provisions not otherwise affected shall remain in full
18 force and effect.

19 SEC. 29. Repealing Clause. – Republic Act No. 5490 and Presidential Decree No.
20 66 are hereby amended. All laws, executive orders or issuances or any part thereof which
21 are inconsistent herewith are hereby repealed or amended accordingly.

22 SEC. 30. Effectivity Clause. – This Act shall take effect upon its publication in at
23 least one (1) newspaper of general circulation.

Approved,