

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

SEP 16 P3:34

SENATE

Senate Bill No. 1688

RECEIVED BY: *je*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

This bill seeks to create the Maasim-Kiamba-Maitum Industrial Triangle (MAKIMA-IT) Special Economic Zone in the Province of Sarangani. The strategic geographical location of Sarangani provides great potential for economic development in Mindanao through tourism and investments.

Additionally, this measure is in consonance with Section 5 of R.A. No. 7916, also known as the "Special Economic Zone Act of 1995" which identifies Sarangani as a priority area for the establishment of economic zones.

The special economic zone, covering the three (3) municipalities of Sarangani, namely, Maasim, Kiamba and Maitum, aims to facilitate employment generation, increased family standards and improved human development. It shall be considered as a separate customs territory and shall have a governing tax system comparable to other economic zones in the country. Specifically, the locators to the special economic zone shall be granted an income tax holiday for 6 up to 20 years and shall be allowed to enjoy tax-free importation of capital equipment, machineries, parts, supplies and breeding stocks, among others.

Further, this bill aims to increase the economic activity not only in the MAKIMA municipalities but also province-wide and within the region where raw materials for production and support services shall come from resulting in increased incomes and Gross Domestic Product. It is also envisioned to enhance linkages among MAKIMA, Sarangani, regional and national government agencies and private business enterprises resulting to better coordination and relations.

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


JINGGOY EJERCITO ESTRADA
Senator



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AN ACT

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

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

SECTION 1. Short Title. - This Act shall be known as the "**Sarangani Province Special Economic Zone Act**".

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

SEC. 3. Creation of the Sarangani Province Special Economic Zone. - In pursuit of the foregoing declared policy and subject to the concurrence of the concerned local government units (LGUs) of Sarangani Province affected by the zone, there is hereby established a special economic zone, hereinafter referred to as Sarangani Province Special Economic Zone or the Ecozone for brevity. The Ecozone shall cover the entire area embraced by: Sitio Seguil, Barangay Tinoto and Barangay Kamanga, Malbang and Colon in the Municipality of Maasim; Portions of Brgy. Kanantong, Portions of Barangay Nalus, and Tambillil, in the Municipality of Kiamba and Barangays Kalaong, Mabay and Old Poblacion in the Municipality of Maitum. The specific meters and bounds of the Sarangani Ecozone shall be more particularly described and defined as follows:

(A) IN THE MUNICIPALITY OF MAASIM:

Sitio Seguil, Barangay Tinoto with a land area of 573.9409 hectares - its perimeter at a point marked "1" on the mouth of Tapat Creek (125.15, 5.55) following its course upstream to point 2 with a distance of 1,398.1924 meters.

Thence, 4,737.5478 meters due north to point 3. Thence, 2,598.9690 meters on a course downstream to point 4 at the mouth of Seguil River. Thence 4,558.4607 meters following the coastal line southward to the point of beginning.

Portions of Barangays Kamanga, Malbang and Colon with an aggregate land area of 1,637.8349 hectares - its perimeter beginning at a point marked "1" (125.05,5.416666) 336.1009 meters due north point 2. Thence N76-00W 3,409.0859 meters to point 3. Thence N65-00E meters to point 4. Thence 4,684.8956 meters to point 7. Thence 3,433.6432 meters following the coastal line westward to point 8. Thence 383.8778 meters due north to point 9. Thence 1,129.2888 meters due west to point 10. Thence 430.3896 meters following Kamanga River downstream to point 11. Thence 2,864.7673 meters following the coastal line westward to the point of beginning.

(B) IN THE MUNICIPALITY OF KIAMBA:

Portions of Brgy. Kanantong, Municipality of Kiam, ba with an aggregate area of 67.0493 hectares more or less and specifically covered by the following metes and bounds:

- (1) No. T 44960 containing a land area of Eighty Nine Thousand Four Hundred Thirty Three (89,433) square meters more or less beginning at a point marked "1" on the plan being N.9 deg. 25'E, 683.62 m. from B.L.B. No.2, Be. of Kanantong, Mpl. Dist. Of Kling, before the Municipality of Kiamba, now, thence N. 72 deg, 52'W., 225.01 m. to point 2; then N. 16 deg. 0'E, 199.89m. to point 3; thence S. 75 deg. 07'E , 434.98 m. to 4; thence S. 15 deg. 24'W., 203.14 m. to point 5, thence N. 76 deg. 38'W.,212.29 to point of beginning. All points referred to are indicated on the plan and are marked on the ground by B.L. cyl. Connc. mons. bearings true; declination 2 deg. 39'E, date of survey October 1, 1926 and that of the approval September 7, 1927;
- (2) No T.44961 containing a land area of One Hundred Seventy Six Thousand One Hundred Sixty Three (176,163) square meters more or less beginning at a point marked "1" on plan being N. 22 deg. 28"E., 1297.30 m. from B.L.B. M. NO.2, Bo. Of Kanantong, Mpl. Dist. of Kling, before, Municipality of Kiamba now; thence S. 18 deg. 05'W., 397.29 m. to point 2; thence, N. '75 deg. 97'W., 434.98 m. to point 3; thence N. 16 deg 00'E, 400.02 m. to point 4; thence S. 74 deg. 42'E ., 449.34 m. to the point of beginning. All points referred to are indicated in the plan and are marked on the ground by B.L. cyl. Connc. mons. bearing true; declination 2 deg. 39'E, date of survey October 1, 1926 and that of the approval September 7, 1927;
- (3) No. T 44962 containing a land area of One Hundred eighty Thousand Ninety One (180,091) square meters more or less beginning at a point marked "1" on the plan, being N. 22 deg. 28'E., 1397.30 m. form B.L.L.M. No.2 Bo. Of Kanantong Mpl. Dist of Kling, before; Municipality of Kiamba now; thence N. 74 deg. 42'W., 449.34 m. to point E; thence N. 16 deg. 00'E, 400.07 m. to point 3; thence S. 75 deg, 22'E., 447.33 m. to point 4; thence S. 16 deg. 21'W., 193.86 m. to point 5; thence S. 15 deg. 06'W., 211. 44 m. to the point of beginning. All points referred to are indicated in the plan and are marked on the ground by B.L. cyl. Connc., mons. bearings true; declination 2 deg. 39'E, date of survey October 1, 1926 and that of the approval September 7. 1927;

- (4) No. T 44963 containing a land area of Two Hundred Twenty Four Thousand Eight Hundred Six (224, 806) square meters, beginning at a point marked "1" in the plan being W. 22 deg. 28'E., 1297. 30 m. from B.L.B. M. No.2, Bo. Of Kanantong, Mpl. Dist. Of Kling. Before, now Municipality of Kiamba; thence N. 15 deg. 06'E., 211.44 m. to pint 2; thence S. 75 deg; 25'E. ,266.64 m. to point 3; thence S. 17 deg. 14'W., 884.12 m. to point 4; thence N. 74 deg. 08'W., 93.86 m. to point 5; thence N. 51 deg. 55'W., 175.45 m. to point 6; thence N. 15 deg. 24'E., 203.14 m. to point 7; thence N. 18 deg 05'E., 397.29 m. to the point of beginning. All points referred to are indicated in the plan and are marked on the ground by B.L. cyl. Connc .. mons. bearings true; declination 2 deg. 39'E, date of survey October 1 1926 and that of the approval September 7. 1927;

Portions of Barangay Nalus with an aggregate land area of 249.1030 hectares its perimeter beginning at a point marked "1" thence N33-35W 361.33 meters to point 2. Thence S89-23E 3,453.03 meters to point 3. Thence S84-32E 806.26 meters to point 4. Thence SOO-51E 2,478.97 meters to point 5. Thence S73-03W 379.35 meters to point 6. Thence N62-12W 1,317.44 meters to the point of beginning.

Portions of Barangay Tambilil with an aggregate land are of 503.7911 hectares- its perimeter beginning at a point marked "1" thence S76-36E 1,641.96 meters to point 2. Thence S33-23E 603.15 meters to point 3. Thence SOO-42W 1,477.55 meters to point 4. Thence S60-35E 2,468.84 meters to point 5. Thence S05-44W 1,379.94 meters to point 6. Thence N81-32W 2,332.38 meters to point 7. Thence N47-54W 517.59 meters to point 8. Thence N89-53W 1,425.27 meters to point 9. Thence N71-29W 550.76 meters to point 10. Thence N60-01W 1,709.29 meters to point 11. Thence N34-08E 3,900.98 meters to the point of beginning.

(C) IN THE MUNICIPALITY OF MAITUM:

Portions of Kalaong with an aggregate land are of 151.5394 hectares - its perimeters beginning at a point marked "1" thence N11-19E 1,381.30 meters to point 2. Thence S80-16E 564.58 meters to point 3. Thence N59-27E 839.24 meters to point 4. Thence N48-38E 524.90 meters to point 5. Thence S34-38E 1,400.29 meters to point 6. Thence N78-16W 494.26 meters to point 7. Thence S19-28E 700.50 meters to point 8. Thence S32-40W 587.22 meters to point 9. Thence S83-32W 597.25 meters to point 10. Thence S05-03W 666.02 meters to point 11. Thence SOI-31E 801.96 meters to point 12. Thence N76-26W 262.49 meters to point 13. Thence N46-30W 910.83 meters to point 14. Thence N11-31W 783.73 meters to the point of beginning.

Portions of Barangay Mabay with an aggregate land area of 168.7388 hectares- its beginning at a point marked "1" thence S02-45E 507.39 meters to point 2. Thence N31-40E 328.29 meters to point 3. Thence N86-15E 560.80 meters to point 4. Thence N70-58W 744.74 meters to point 5. Thence N54-04E 1,940.88 meters to point 6. Thence N19-00E 321.55 meters to point 7. Thence N88-54W 162.98 meters to point 8. Thence 872-49E 395.78 meters to point 9. Thence S73-23E 1,150.48 meters to point 10. Thence S33-22W 1,603.10 meters to point 11. Thence N86-37W 1,102.62 meters to point 12. Thence 518- 57W 464.35 meters to point 13. Thence N26-01W 567.47 meters to point 14. Thence N35- 09W 101.43 meters to point 15. Thence N83-37W 609.47 meters to the point of beginning.

Portions of Barangay Old Poblacion with an aggregate land area of 164.9358 hectares - its perimeter beginning at a point marked "1" thence S52-24E 1,296.72 meters to point 2. Thence S34-47W 792.71 meters to point 3. Thence S74-20W 386.33 meters to point 4. Thence N89-59W 212.16 meters to point 5. Thence S34-33W 2,050.56 meters to point 6. Thence N62-28E 784.01 meters to point 7. Thence N17-03W 282.76 meters to point 8. Thence N77-41W 2,394.85 meters to point 9. Thence N31-21E 981.65 meters to point 10. Thence S23-58E 121.02 meters to point 11. Thence N77-14E 416.209 meters to point 12. Thence N2-42E 1,218 meters to point 13. Thence N05-26E 1,366.79 meters to the point of beginning.

SEC. 4. Governing Principles. - The Sarangani Province Special Economic Zone shall be managed by the Maasim-Kiamba-Maitum Industrial Triangle (MAKIMA-IT) Special Economic Zone Authority, hereinafter referred to as the MITSEZA, created under Section 10 of this Act under the following principles:

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

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

(c) The Sarangani Ecozone may establish mutually beneficial economic relations with other entities or enterprises within the country or, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.

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

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

(f) Goods manufactured by a Sarangani Ecozone enterprise shall be made for immediate retail sale in the domestic market, subject to the payment of corresponding taxes on raw materials and other regulations that maybe formulated by the MITSEZA, together with the PEZA, the Bureau of Customs, and the DTI. However, in order to protect domestic industries, a negative list of industries shall be drawn up and regularly updated by the PEZA. Enterprises engaged in industries included in such negative list shall not be allowed to sell their products locally.

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

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

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

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

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

- (1) Located in less developed areas as defined by the BOI; or
- (2) Producing/Rendering new products/services or having strong backward or forward linkages.

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

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

For this purpose, a registered enterprise shall be defined as any person, natural or juridical, licensed to do business in the Philippines and registered with the MAKIMA -IT Special Economic Zone Authority (MITSEZA) to transact business within the Sarangani Ecozone. A registered export enterprise shall be defined as any registered enterprise engaged directly or indirectly in the production, manufacture or trade of products or services which earns at least seventy percent (70%) of its normal operating revenues from the sale of its products or service abroad for foreign currency. A registered domestic enterprise, meanwhile, shall be defined as any registered enterprise not falling under the definitions of a registered export enterprise.

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

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

The Bureau of Internal Revenue (BIR) shall require a registered enterprise availing of ITH or Net Operating Loss Carryover (NOLCO) to secure a certificate of eligibility from the MITSEZA before submitting its income tax return (ITR) with the MITSEZA for validation.

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

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

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

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

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

(b) Two percent (2%) shall be remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.

All persons and service establishments in the Sarangani Ecozone shall be subject to national and local taxes under the National Internal Revenue Code of 1997, as amended, and the Local Government Code.

(D) 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 allowed 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 National Internal Revenue Code of 1997, as amended.

(E) Capital Equipment Incentives. - (1) Importations of capital equipment, spare parts, tools and dye, or those required for pollution abatement and control, cleaner production and waste reduction including consignment thereof by registered enterprises upon effectivity of this law, shall be exempted to the extent of one hundred percent (100%) of the taxes and customs duties; Provided, That the imported items thereof shall be used exclusively by the registered enterprise in

its registered activity; Provided, further, That the importation of machinery and equipment and accompanying parts shall comply with the following conditions:

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

(ii) They are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the MITSEZA 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; and,

(iii) Approval of the MITSEZA was obtained, by the registered enterprise for the importation of such machinery, equipment and spare parts,

Approval of the MITSEZA must be secured before any sale, transfer or disposition of the imported capital equipment, machinery or spare parts is made; Provided, That if such sale, transfers or disposition is made within the first five years from date of importation, any of the following conditions must be present:

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

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

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

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

When the aforementioned sale, transfer or disposition is made under any of the conditions provided for in the foregoing paragraph other than paragraph (2) herein, the registered firm shall not pay the taxes and duties waived on such items; Provided, further, that if the registered enterprise shall sell, transfer or dispose the aforementioned imported items without prior approval within five years from the date of importation, the registered 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, machinery or spare parts is approved after five years from the date of importation, the registered enterprises are still liable to pay the taxes and duties based on the net book value of the capital equipment, machinery or spare parts if any of the registration terms and conditions has been violated. Otherwise, they shall no longer be subject to the payment of the taxes and duties waived thereon.

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

The registered export-oriented enterprise shall be granted a tax credit equivalent to the amount of duties that would have been waived on the machinery, capital equipment, raw materials, supplies, parts and semi-finished products used in the fabrication of machinery and capital equipment, had these items been imported, upon submission to the Department of Finance (DOF) of the bill of

materials evidencing the transaction value of such and other documents, for verification and proper endorsement.

The availment by a registered export enterprise of the incentive stated under the immediately preceding two paragraphs shall be subject to the following conditions: (a) that said capital equipment, machinery and spare parts will be used exclusively by the registered enterprise in its registered activity; (b) that the capital equipment or machinery 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 MITSEZA is obtained by the registered enterprise. If the registered enterprise sells, transfer or disposes of these machineries, capital equipment and spare parts, the provision in the preceding paragraph for such disposition shall apply.

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

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

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

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

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

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

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

(b) Merchandise sent from the Sarangani Ecozone to areas outside the said ecozone shall, whether or not combined with or made part of other articles while in the zone, be subject to rules and regulations governing imported merchandise, The duties and taxes shall be based on the value of,said imported materials (except when the final product is exempt).

(c) Articles produced or manufactured in the Sarangani Ecozone 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.

(d) Unless the contrary is shown, merchandise taken out of the Sarangani Ecozone shall be considered for tax purposes to have been sent to customs territory,

(K) Tax Treatment of Raw Materials and Capital Equipment in the Sarangani Ecozone - Importations of raw materials and capital equipment shall be treated as in the Omnibus Investment Code,

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

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. They shall be entitled to a multiple entry visa, valid for a period of three years, and shall be allowed to enter and leave the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports. The validity of the multiple entry visa shall be extendible yearly.

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

SEC. 6. Incentive to Investors. - Any foreign national covered under Subsection (L) of Section 5 of this Act, who invests an amount of 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 in securing the investor's visa, the alien-applicant shall be entitled to the same privileges provided for under paragraph (L), Section 5 hereof.

As a holder of 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 investment in the country. Should said alien withdraw his investments from the Philippines, then the investor's visa issued to him shall automatically expire.

SEC. 7. Administration, Implementation and Monitoring Incentives. - The MITSEZA shall be responsible for the administration and implementation of the incentives granted to its respective registered enterprises shall be uniformly applied by MITSEZA, consistent with the national policy.

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

- (A) To adopt consistent procedures of administering incentives in accordance with the guidelines established by the BOI;
- (B) To adopt and implement systems and procedures affecting trade and customs policies in accordance with the requirements established by the Department of Finance (DOF) and the BOI;
- (C) To submit information on registered enterprises to the DOF and the BOI as required by any of these agencies to ascertain consistency of investment policies and incentives, including their implementation as provided in paragraph (a) herein, and to ensure proper implementation of systems and procedures affecting trade and customs policies as provided in paragraph (b) herein; and
- (D) To perform all other duties and responsibilities as may be required by the President of the Philippines, which are necessary to carry out, implement and accomplish the objectives and policies of this Act.

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

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

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

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

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

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

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

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

(a) To operate, administer, manage and develop the Sarangani Ecozone according to the principles and provisions set forth in this Act and consistent with the national policy;

(b) To register, regulate and supervise the enterprises in the Sarangani Ecozone in an efficient and decentralized manner, subject to existing laws;

(c) To coordinate with local government units and exercise general supervision over the development plans, activities and operations of the, Sarangani Ecozone;

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

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

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

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

(h) To protect, preserve, maintain and develop the virgin forests, beaches, coral and coral reefs and maintain ecological balance within the Sarangani Ecozone.

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

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

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

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

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

(n) To issue rules and regulations consistent with the provisions of this Act as may be necessary to accomplish and implement the purpose, objectives and policies provided herein, in coordination with the Philippine Export Zone Authority (PEZA) and the Bureau of Customs (BOC).

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

SEC. 14. *Remittance of Earnings* - In the case of foreign investments, a registered enterprise in the MITSEZA shall have 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, as amended.

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

(a) The Chairman who shall come from among the members of the Board of Directors;

(b) A Vice Chairman who shall come from among the members of the Board;

(c) Members consisting of:

(1) The Governor of the Province of Sarangani;

(2) The Congressional Representative of the lone district of Sarangani Province;

(3) The Mayors of the Municipalities of Maasim, Kiamba, and Maitum, all in the Province of Sarangani;

(4) The Presidents of the Chambers of Commerce and Industry in the Municipalities of Maasim, Kiamba, and Maitum, all in the Province of Sarangani;

(5) Two (2) representatives of Industry in Sarangani Province; and

(6) One (1) representative from the workers working in the MAKIMA-IT Special Economic Zone.

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

The Chairman shall be appointed by the President of the Philippines upon the nomination of the Board of Directors to serve for a term of six (6) years, unless separated from service due to death, voluntary resignation or removal for cause. In case of death, resignation or removal for cause, the replacement shall serve only the unexpired portion of the term.

All members of the Board, except ex-officio members, shall be appointed by the President of the Philippines to serve for a term of six (6) years. In case of death, resignation or removal for cause, the replacement shall serve only the unexpired portion of the term.

The members of the Board shall each receive per diem at a rate to be determined by the Department of Budget and Management in accordance with existing rules and regulations; Provided, however, That the total per diem collected each month shall not exceed the equivalent per diem for four (4) meetings. Unless and until the President of the Philippines has fixed a higher per diem for the

members of the Board, such per diem shall not be more than ten thousand pesos (P110,000.00) for every Board meeting.

SEC. 16. *Qualifications, Powers and Duties of the Administrator.* The Administrator shall be appointed by the President of the Philippines for a six (6) year term, upon the recommendation of the Board of Directors; Provided, That no person shall be appointed as Administrator unless he is a Filipino citizen, of good moral character, of proven probity and integrity, and a degree-holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with a least ten (10) years relevant working experience preferably in the field of management or public administration.

The Administrator shall have the following powers and duties:

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

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

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

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

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

(f) To create a mechanism in coordination with relevant agencies and stakeholders for the promotion of industrial peace, the protection of the environment, and the advancement of the quality of life in the Sarangani Ecozone; and

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

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

The officer or employee of the MITSEZA, including all members of the Board, shall not engage directly or indirectly in partisan activities nor take part in any election, except to vote.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 28. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,