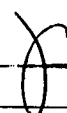




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SENATE

S. No. 798

REF. BY: 

Introduced by Senator Ralph G. Recto

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

Explanatory Note

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

The United Nations Conference On Trade And Development Foreign Direct Investments (FDI) Attraction Index, which measures the success of economies in attracting FDI (combining total FDI inflows and inflows relative to GDP), features 5 developing and 5 developing economies in the top ten (10). At \$1.76 Trillion global FDI in 2015, the FDI inflows in the country last year amounted to USD5.234 billion while FDI outflows, or Philippine companies' investments in different parts of the world, was higher at USD5.602 billion.^[1]

The Philippines ranked eleventh in most preferred host for multinational enterprises' investments in the next years, wherein among the most promising industries for attracting FDI are the sectors of agriculture, utilities, food and beverages, and information and communication.

This measure also aims to end the indiscriminate dispensation of fiscal perks to investors who are primarily motivated by the prospects in the domestic market and investments that would have been made even without incentives. These redundant incentives, in the form of income tax holidays and VAT exemptions, are enough to pave 12,500 kilometers of national roads^[2], fund various PPP projects^[3], construct 41,728 classrooms, and even wipe out tuberculosis.^[4]

This bill will streamline the administration of fiscal incentives. At present there are more than 200 laws which created a myriad of incentive-providing authorities. It aims to consolidate all Investment Promoting Agencies (IPAs) into one centralized agency. Thus, the Board of Investments (BOI) and Philippine Economic Zone Authority (PEZA) will be merged to form the Philippine Investment Promotion Administration (PIPA). This would then prevent locators from cherry-picking incentives by registering with different IPAs to avail themselves of the best possible incentives package.

¹ United Nations Publication. "World Investment Report 2016. Investor Nationality: Policy Challenges"

² Cost estimates for work item of projects as of March 2015 given by the DPWH – Bureau of Construction: asphalt/concrete overlay of national road 50mm thickness = P9.69 M/km

³ Modernization of the Philippine Orthopedic Center P5.7 B, LRT Line 1 South Extension Project P59.2 B, NLEX-SLEX Connector Road P21.2 B, Cavite-Laguna Expressway P43.33 B, http://ppp.gov.ph/wp-content/uploads/2012/10/PPPBrochure_Sept2012.pdf

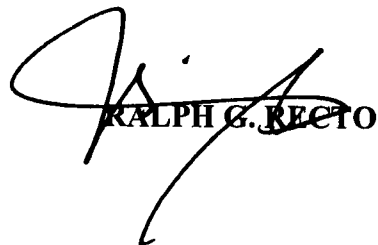
⁴ Per the World Health Organization's Global Tuberculosis Report 2015, the total funding required for TB Care and control would be US\$ 298 million. http://www.who.int/tb/publications/global_report/en/ (Accessed on 30 June 2016)

Under this proposal, incentives are given to registered domestic enterprises that locate in any of the 30 poorest provinces, bring in investments of P500 million and above, or generate at least 200 jobs. They also get reduced income tax rate of 15%, net operating losses carry over during the first 5 years, and accelerated depreciation.

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

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

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

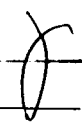


RALPH G. RECTO

'16 JUL 21 P2:11

SENATE

S. No. 798

REC'D BY: 

Introduced by Senator Ralph G. Recto

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

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

1 PRELIMINARY TITLE

2 TITLE AND DECLARATION OF POLICY

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

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

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

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

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

23 (4) In the granting of fiscal incentives, the State will make efforts to
24 ascertain that the incentives are not redundant: that the investments they benefit
25 require and are truly motivated by the incentives or that the incentives, as much as

possible, are not given to investors who would have made the investments even in the absence of incentives.

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

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

(7) The State shall undertake investment promotion activities.

TITLE I

DEFINITION OF TERMS

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

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

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

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

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

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

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

16 (g) "Information Technology Activities" are activities which involve the
17 use of any IT software and/or system for value addition, IT, being the collective
18 term for various technologies involved in processing and transmitting information
19 which include computing, multimedia, telecommunications, microelectronics and
20 their interdependencies, including the convergence of various information-based,
21 broadcast and mass media communication technologies.

22 (h) An "export enterprise" is a registered enterprise which is a
23 manufacturer, processor or service provider and whose export sale of its products
24 or services is at least seventy percent (70%) of its output.

25 (i) A "domestic enterprise" is a registered enterprise whose export sales is
26 less than seventy percent (70%) of its output, and is located in the thirty (30)
27 poorest provinces as determined by the Department of Finance (DOF): *Provided*,
28 That such domestic enterprise has a minimum investment of Five hundred million
29 pesos (P500,000,000) or can provide a minimum employment of two hundred
30 (200) jobs: *Provided, further*, That existing enterprises already located in the
31 thirty (30) poorest provinces as determined by the DOF before the effectivity of
32 this Act and have satisfied the minimum investment of Five hundred million
33 pesos (P500,000,000) or minimum employment of two hundred (200) jobs are
34 qualified to register and avail of the incentives provided in this Act.

35 (j) "Capital Equipment" refers to machinery, spare parts, tools and
36 devices, or those required for pollution abatement and control, cleaner production
37 and water reduction.

1 (k) "Source documents" are input materials and documents reasonably
2 needed by IT and IT-enabled industries such as, but not limited to, books,
3 directories, magazines, newspapers, brochures, pamphlets, medical records/files,
4 legal records/files, instruction materials, drawings/blueprints/outlines.

5 (l) "Processing" is converting raw materials into marketable form through
6 physical, mechanical, chemical, electrical, biochemical, biological or other
7 means, or by a special treatment or a series of actions, such as slaughtering,
8 milling, pasteurizing, drying or desiccating, quick freezing, that results in a
9 change in the nature or state of the products. Mere packing or packaging shall not
10 constitute processing.

11 (m) "Industrial Estate (IE)" refers to a tract of land subdivided and
12 developed according to a comprehensive plan under a unified continuous
13 management and with provisions for basic infrastructure and utilities, with or
14 without pre-built standard factory buildings and community facilities for the use
15 of a community of industries.

16 (n) "Export Processing Zone (EPZ)" refers to a specialized industrial
17 estate and predominantly oriented to export production.

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

24 (p) "Tourism Estate" is a tract of land with defined boundaries, suitable
25 for development into an integrated resort complex, with prescribed carrying
26 capacities, of tourist facilities and activities, such as, but not limited to, sport and
27 recreation centers, accommodations, convention and cultural facilities, food and
28 beverage outlets, commercial establishments and other special interest and
29 attraction activities/establishments, and provided with roads, water supply
30 facilities, power distribution facilities, drainage and sewage systems, and other
31 necessary infrastructures and facilities. A tourism estate shall be under unified
32 and continuous management, and can either be a component of an ecozone or the
33 whole ecozone itself.

34 (q) "Freeport" is an isolated and policed area adjacent to a port of entry as
35 defined by Section 3519 of the Tariff and Customs Code, which shall be operated
36 and managed as a separate customs territory to ensure free flow or movement of
37 goods, except those expressly prohibited by law, within, into and exported out in
38 the freeport zone where imported goods may be unloaded for immediate

1 transshipment or stored, repacked, sorted, mixed, or otherwise manipulated
2 without being subject to import duties. However, movement of these imported
3 goods from the free-trade area to a non-free-trade area in the country shall be
4 subject to import duties and taxes.

5 TITLE II

6 CREATION OF THE PHILIPPINE INVESTMENT PROMOTION

7 ADMINISTRATION (PIPA)

8 **SEC. 4.** *Creation of The Philippine Investment Promotion Administration (PIPA).*

9 - The Board of Investments (BOI) created under Executive Order No. 226, Series of
10 1987, as amended, and the Philippine Economic Zone Authority (PEZA) created under
11 Republic Act No. 7916, as amended, are hereby merged, renamed, and reorganized as the
12 Philippine Investment Promotion Administration (PIPA), attached to the Department of
13 Trade and Industry (DTI), and which shall implement the provisions of this Act except as
14 otherwise provided herein. The unexpended appropriations, assets and properties of BOI
15 and the assets and properties of PEZA are hereby transferred to PIPA.

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

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

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

32 1. To establish, operate, administer, manage and develop the
33 ecozones and freeports according to the principles and provisions set forth in this
34 Act;

35 2. To register, regulate and supervise the enterprises in the ecozones
36 and freeports in an efficient and decentralized manner;

37 3. To register, regulate and supervise qualified enterprises outside the
38 ecozones and freeports;

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

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

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

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

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

28 9. To coordinate the formulation and preparation of the development
29 plans of the qualified enterprises;

30 10. To formulate and implement industrial development plans and
31 programs;

32 11. To formulate and coordinate investments promotion activities;

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

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

36 14. To coordinate with the National Economic and Development
37 Authority, Department of Trade and Industry, Department of Science and

1 Technology, and the local government units and appropriate government agencies
2 for policy and program formulation and implementation; and

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

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

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

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

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

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

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

36 (4) Approve, deny, suspend, revoke applications for registration with
37 the Board, imposing terms and conditions as it may deem necessary to promote
38 the purposes of this Act, including the refund and forfeiture of incentives when

1 appropriate, restricting availment of incentives not needed by the project as
2 determined by the Board, requiring performance bonds from PIPA-accredited
3 bonding companies, and payment of application, registration, publication and
4 other fees when warranted;

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

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

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

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

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

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

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

36 (12) Recommend to the President, subject to constitutional limitations
37 and other nationalization laws, the suspension of the nationality requirement
38 provided for in this Act in cases involving bilateral or regional investments or

1 trading agreements of the Philippines with other countries or when the existing
2 laws of another country where the investor comes from provides no nationality
3 restrictions for Filipino investors or provides for reciprocal nationality
4 accommodations;

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

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

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

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

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

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

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

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

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

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

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

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

33 The Director-General shall be assisted by six (6) Deputy Directors-General each
34 for policy and planning, administration, operations, investment promotion, industry
35 development, and Investments One-Stop-Action-Center (OSAC), who shall be appointed
36 by the Board, upon the recommendation of the Director-General. The Deputy Directors-
37 General shall be at least thirty-five (35) years old, with proven probity and integrity, and

1 a degree holder in any of the following fields: economics, business, public
2 administration, law, management or their equivalent.

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

5 (1) Execute all acts of administration;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 TITLE III

37 INCENTIVES TO REGISTERED ENTERPRISES

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

3 (a) export enterprises; or

4 (b) domestic enterprises

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

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

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

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

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

36 (e) Raw Material Incentives. – Every registered export enterprise shall
37 be entitled to duty-free importation of raw materials which are used in the
38 manufacture, processing as defined in Section 3 of this Act, or production of its

1 export products: *Provided*, That value-added tax shall be refunded upon
2 presentation of proof of exportation of their products under the mechanism
3 provided in Section 17 of this Act.

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

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

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

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

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

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

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

34 A registered export enterprise shall train Filipinos as understudies of
35 foreign nationals in administrative, supervisory and technical skills and shall
36 submit annual reports on such training to the Board: *Provided*, That employment
37 of foreign nationals hired by registered export enterprises in a supervisory,

1 technical or advisory capacity shall not exceed five percent (5%) of its workforce
2 without the express authorization of the Secretary of DOLE.

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

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

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

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

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

27 **SEC. 16. Incentives to Investors.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE IV

REGISTRATION OF ENTERPRISES

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

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

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

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

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

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

1 person except with the consent of the applicant or upon an order of a court of competent
2 jurisdiction.

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

- 5 (a) Impact of the activity on the overall economy and fiscal sustainability;
- 6 (b) Overall viability of the activity;
- 7 (c) Extent to which investment incentives are redundant;
- 8 (d) The extent of employment and skills and foreign exchange generation;
- 9 (e) The extent to which technological advances are applied and adapted to
10 local conditions;
- 11 (f) Extent to which the output of the applicant supports national export
12 objectives;
- 13 (g) Extent to which incentives contribute to the reduction of poverty and
14 inequality; and
- 15 (h) The extent to which incentives promote investments that help improve
16 the quality of the environment.

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

28 TITLE V

29 BASIC RIGHTS AND GUARANTEES OF REGISTERED ENTERPRISES

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

- 33 (a) **Repatriation of Investments.** – In the case of foreign investments, the
34 right to repatriate the entire proceeds of the liquidation of the investment in the
35 currency in which the investment was originally made and at the exchange rate
36 prevailing at the time of repatriation, subject to the provisions of Section 72 of
37 Republic Act No. 7653, entitled, “The New Central Bank Act”. For investments

1 made pursuant to Executive Order No. 32, series of 1986 and its implementing
2 rules and regulations, remittability shall be as provided therein;

3 (b) Remittance of Earnings. – In the case of foreign investments, the right
4 to remit earnings from the investment in the currency in which the investment was
5 originally made and at the exchange rate prevailing at the time of remittance,
6 subject to the provisions of Section 72 of Republic Act No. 7653, entitled, “The
7 New Central Bank Act”;

8 (c) Foreign Loans and Contracts. – The right to remit at the exchange rate
9 prevailing at the time of remittance such sums as may be necessary to meet the
10 payments of interest and principal on foreign loans and foreign obligations arising
11 from technological assistance contracts, subject to the provisions of Section 72 of
12 Republic Act No. 7653, entitled, “The New Central Bank Act”;

13 (d) Freedom from Expropriation. – There shall be no expropriation by the
14 government of the property represented by investments or of the property of the
15 enterprise except for public use or in the interest of national welfare or defense
16 and upon payment of just compensation. In such cases, foreign investors or
17 enterprises shall have the right to remit sums received as compensation for the
18 expropriated property in the currency in which the investment was originally
19 made and at the exchange rate at the time of remittance, subject to the provisions
20 of Section 72 of Republic Act No. 7653, entitled, “The New Central Bank Act”;
21 and

22 (e) Requisition of Investment. – There shall be no requisition of the
23 property represented by the investment or of the property of enterprises, except in
24 the event of war or national emergency and only for the duration thereof. Just
25 compensation shall be determined and paid either at the time of requisition or
26 immediately after cessation of the state of war or national emergency. Payments
27 received as compensation for the requisitioned property may be remitted in the
28 currency in which the investment was originally made and at the exchange rate
29 prevailing at the time of remittance, subject to the provisions of Section 72 of
30 Republic Act No. 7653, entitled, “The New Central Bank Act”.

31 TITLE VI

32 ADMINISTRATION OF INCENTIVES

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

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

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

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

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

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

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

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

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

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

TITLE VII

SPECIAL ECONOMIC ZONES (ECOZONES)

SEC. 29. *Establishment of Ecozones.* – The metes and bounds of each ecozone are to be delineated and more particularly described in a proclamation to be issued by the President of the Philippines, upon the recommendation of the Board in coordination with

1 municipal and/or city council, the National Land Use Coordinating Committee and/or the
2 Regional Land Use Committee.

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

- 4 1) Private initiative;
- 5 2) Local government initiative with the assistance of the national
6 government; and
- 7 3) National Government initiative.

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

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

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

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

18 (d) the extent of vacant lands available for industrial and commercial
19 development and future expansion of the ecozone as well as of lands adjacent to
20 the ecozone available for development of residential areas for the ecozone
21 employees;

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

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

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

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

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

36 **SEC. 30.** *Ecozone to be a Decentralized Agro-Industrial, Industrial,*
37 *Commercial/Trading, Tourist, Investment and Financial Community.* - Within the
38 framework of the constitution, the interest of national sovereignty and territorial integrity

1 of the Republic, the ecozone shall be developed, as much as possible, into a
2 decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-
3 industrial, tourist center with minimum government intervention. Each ecozone shall be
4 provided with transportation, telecommunications, and other facilities needed to generate
5 linkage with industries and employment opportunities for its own inhabitants and those of
6 nearby towns and cities.

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

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

16 **SEC. 33. *Administration of the National Building Code Inside the Ecozones.***
17 The administration and enforcement of the provisions of PD No. 1096, the
18 National Building Code of the Philippines (NBCP) in all ecozones and areas owned and
19 administered by PIPA shall be vested in the Director-General or his duly authorized
20 representative. He shall appoint such qualified personnel as may be necessary to act as
21 building official who shall be charged with the duty of issuing building permits in the
22 different zones. All fees and dues collected by the building official under the NBCP shall
23 accrue to PIPA.

24 TITLE VIII

25 FINAL PROVISIONS

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

1 **SEC. 35. *Suspension and Forfeiture of Incentives of Registered Enterprises,***
2 *Refund and Penalties.* – When there is probable cause to believe that the registered
3 enterprise has violated its registration terms and conditions, the Board may suspend its
4 availment of incentives after due notice and hearing. The Board may impose fines and
5 penalties and/or forfeit the incentives granted to the registered enterprise whenever there
6 are violations of the registration terms and conditions by the latter, without prejudice to
7 the cancellation of the registration of said enterprise: *Provided, however,* That the Board
8 may cancel or abate only the imposition of fines. In case of cancellation of the certificate
9 of registration granted under this Act, the Board may, in appropriate cases, require the
10 refund of incentives availed of and impose corresponding fines and penalties.

11 Any enterprise which violates any provision of this Act, its implementing rules
12 and regulations, the terms and conditions of its registration or any lawful directive of the
13 Board, or in the availment of incentives, including all official reports required to be
14 submitted to the Board, shall be subject to a fine not to exceed One million pesos
15 (P1,000,000) but without prejudice to the cancellation of its registration: *Provided,* That
16 any willful commission of fraudulent misrepresentation in its application for registration
17 or submission of reports or gross violation of this Act and its implementing rules and
18 regulations, a fine of at least One million pesos (P1,000,000) but not to exceed Ten
19 million pesos (P10,000,000) shall be imposed, in addition to other penalties that may be
20 imposed by the Board.

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

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

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

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

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

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

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

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

28 (1) Executive Order No. 226, series of 1987 - "The Omnibus Investments
29 Code of 1987";

30 (2) Republic Act No. 7888 – "An Act to Amend Article 7(13) of
31 Executive Order No. 226, otherwise known as the Omnibus Investment Code of
32 1987;

33 (3) Republic Act No. 7916, otherwise known as the "Special
34 Economic Zone Act of 1995";

35 (4) Republic Act No. 8748, otherwise known as "An Act Amending
36 Republic Act No. 7916";

37 (5) Presidential Decree No. 66 - "Creating the Export Processing Zone
38 Authority and Revising Republic Act No. 5490";

1 (6) Presidential Decree No. 529 - "Granting to Petroleum Exploration
2 Concessionaires under the Petroleum Act of 1949 Exemption from Customs Duty
3 and Compensating Tax on Importations of Machinery and Equipment, Spare Parts
4 and Materials Required for their Exploration Operations";

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

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

17 (9) Sections 8, 9 and 10 of Presidential Decree No. 538, entitled "Creating
18 and Establishing the PHIVIDEC Industrial Authority and Making its Subsidiary
19 Agency of the Philippine Veterans Investment Development Corporation
20 Defining Its Powers, Functions and Responsibilities and for Other Purposes", as
21 amended by Presidential Decree No. 1491;

22 (11) Section 36(f) of Presidential Decree No. 705, otherwise known as the
23 "Revised Forestry Code";

24 (12) Section 25 of Presidential Decree No. 857, entitled "Providing for the
25 Reorganization of Port Administration and Operation Functions in the
26 Philippines, Revising Presidential Decree No. 505 Dated July 11, 1974, Creating
27 the Philippine Port Authority, by Substitution, and for Other Purposes";

28 (13) Section 16 (a), (b), and (c), and Section 17 (a), (b), (c), (d) and (e) of
29 Presidential Decree No. 972, as amended, entitled "Promulgating an Act to
30 Promote an Accelerated Exploration, Development, Exploitation, Production and
31 Utilization of Coal";

32 (14) First sentence of the second paragraph of Section 10 of Presidential
33 Decree No. 972, as amended by Presidential Decree No. 1174, entitled
34 "Amending PD No. 972, Otherwise Known as the Coal Development Act of
35 1976";

36 (15) Sections 2 and 3 of Presidential Decree No. 1362, entitled "Allowing
37 Radio Broadcasting and Television Stations to Import Radio or Television

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

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

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

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

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

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

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

22 (22) Section 16 (a), (b), (c), (d), (e) and Section 17 of Republic Act No.
23 7844, otherwise known as the “Export Development Act of 1994”;

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

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

29 (25) Section 12 of Republic Act No. 8436, as amended by Republic Act
30 No. 9369, entitled, “An Act Amending Republic Act No. 8436, Entitled "An Act
31 Authorizing The Commission On Elections To Use An Automated Election
32 System In The May 11, 1998 National Or Local Elections And In Subsequent
33 National And Local Electoral Exercises, To Encourage Transparency, Credibility,
34 Fairness And Accuracy Of Elections, Amending For The Purpose Batas
35 Pampansa Blg. 881, As Amended, Republic Act No. 7166 And Other Related
36 Elections Laws, Providing Funds Therefor And For Other Purposes”;

37 (26) Section 9 of Republic Act No. 8479, otherwise known as the
38 “Downstream Oil Deregulation Act of 1998”;

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Approved,