

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

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S E N A T E

COMMITTEE REPORT NO. 81

Submitted by the Committee on Ways & Means on 24 JUL 2006

Re: S.B. No. 2411

Recommending its approval in substitution of H.B. No. 3295, taking into consideration S.B. Nos. 513, 798, 1104, 1328, 1332, and 1839.

Sponsor: Senator Ralph G. Recto

MR. PRESIDENT:

The Committee on Ways and Means to which were referred House Bill No. 3295, introduced by Representatives Salceda, De Venecia, Jr., Lapus, Cua, *et al*, entitled:

“THE CONSOLIDATED INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES”;

Senate Bill No. 513, introduced by Senator Villar, entitled:

“AN ACT
RESTRUCTURING THE FISCAL INCENTIVES UNDER EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987, AS AMENDED, AMENDING PERTINENT ARTICLES OF THE CODE, PROVIDING FOR PENALTIES IN VIOLATION THEREOF, AND FOR OTHER PURPOSES”;

Senate Bill No. 798, introduced by Senator Villar, entitled:

“AN ACT
FURTHER AMENDING ARTICLE 39, TITLE III OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987, AS AMENDED, AND FOR OTHER PURPOSES”;

Senate Bill No. 1104, introduced by Senator Drilon, entitled:

“THE INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES”;

Senate Bill No. 1328, introduced by Senator Recto, entitled:

“AN ACT
HARMONIZING AND RATIONALIZING THE ADMINISTRATION AND GRANT
OF FISCAL AND NON-FISCAL INCENTIVES, REPEALING FOR THE PURPOSE
CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN
AS THE OMNIBUS INVESTMENTS CODE OF 1987”,

Senate Bill No. 1332, introduced by Senator Recto, entitled:

“AN ACT
GRANTING TAX INCENTIVES ON CAPITAL EQUIPMENT, AMENDING FOR
THE PURPOSE EXECUTIVE ORDER NO. 226, AS AMENDED, OTHERWISE
KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987”,

Senate Bill No. 1839, introduced by Senators Drilon, Flavier, Pangilinan and Gordon,
entitled:

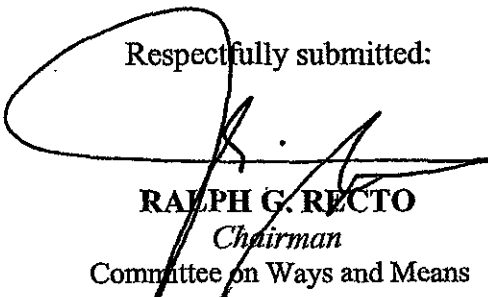
“AN ACT
RATIONALIZING THE FISCAL INCENTIVES SYSTEM BY WITHDRAWING THE
TAX AND DUTY EXEMPTION AND PREFERENTIAL TREATMENT GRANTED
TO GOVERNMENT AND PRIVATE ENTITIES UNDER SPECIAL LAWS, WITH
CERTAIN EXCEPTIONS, MANDATING THE FISCAL INCENTIVE REVIEW
BOARD TO OVERSEE THE ADMINISTRATION OF ALL FISCAL INCENTIVES
AND FOR OTHER PURPOSES”,

has considered the same and has the honor to report these bills back to the Senate with
the recommendation that the attached SB No. 2411 prepared by the Committee,
entitled:

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

be approved in substitution of H.B. No. 3295, taking into consideration S.B. Nos. 513,
798, 1104, 1328, 1332, and 1839 with Senators Villar, Drilon, Recto, Flavier, Pangilinan
and Gordon as authors thereof.

Respectfully submitted:



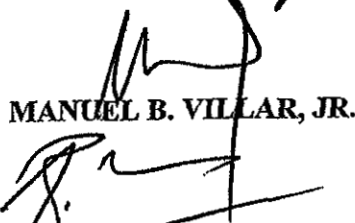
RALPH G. RECTO
Chairman
Committee on Ways and Means



JOKER P. ARROYO
Vice-Chairman

Members:


JUAN PONCE ENRILE


MANUEL B. VILLAR, JR.


RICHARD J. GORDON


COMPANERA PIA S. CAYETANO


RODOLFO G. BIAZON

w/ Reservations

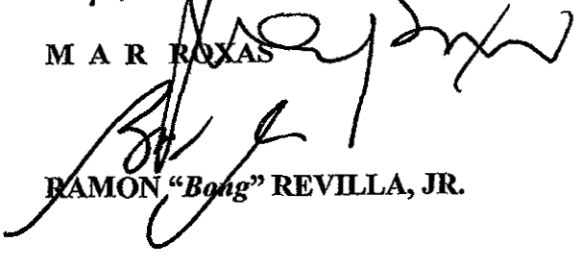
ALFREDO S. LIM

EDGARDO J. ANGARA

RAMON B. MAGSAYSAY, JR.

w/ Reservations & amendments

M A R ROXAS

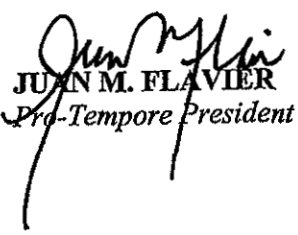

RAMON "Bong" REVILLA, JR.

SERGIO R. OSMEÑA III


PANFILO M. LACSON

JINGGOY EJERCITO ESTRADA

Ex-Officio Members:


JUAN M. FLAVIER
Pro-Tempore President


FRANCIS N. PANGILINAN
Majority Floor Leader

may amend.

AQUILINO Q. PIMENTEL, JR.
Minority Floor Leader

HON. FRANKLIN M. DRILON
Senate President
Pasay City

1 Act: *Provided, however,* That the term “registered enterprise” shall not include
2 commercial banks, savings and mortgage banks, rural banks, savings and loan
3 associations, building and loan associations, developmental banks, trust
4 companies, investment banks, finance companies, brokers and dealers in
5 securities, consumers cooperatives and credit unions, and other business
6 organizations whose principal purpose or principal source of income is to receive
7 deposits, lend or borrow money, buy and sell or otherwise deal, trade or invest in
8 common or preferred stocks, debentures, bonds or other marketable instruments
9 generally recognized as securities, or discharge other similar intermediary, trust or
10 fiduciary functions.

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

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

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

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

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

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

23 (j) "Capital Equipment" refers to machinery, spare parts, tools and dies, or those required
24 for pollution abatement and control, cleaner production and water reduction.

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

- 1 (l) "Processing" is converting raw materials into marketable form through physical,
2 mechanical, chemical, electrical, biochemical, biological or other means, or by a
3 special treatment or a series of actions, such as slaughtering, milling, pasteurizing,
4 drying or desiccating, quick freezing, that results in a change in the nature or state
5 of the products. Mere packing or packaging shall not constitute processing.
- 6 (m) "Industrial Estate (IE)" refers to a tract of land subdivided and developed according
7 to a comprehensive plan under a unified continuous management and with
8 provisions for basic infrastructure and utilities, with or without pre-built standard
9 factory buildings and community facilities for the use of a community of
10 industries.
- 11 (n) "Export Processing Zone (EPZ)" refers to a specialized industrial estate and
12 predominantly oriented to export production.
- 13 (o) "Special Economic Zones (SEZ)" hereinafter referred to as ecozones, are selected
14 areas with highly developed or which have the potential to be developed into
15 agro-industrial, industrial, information technology, tourist/recreational centers.
16 An ecozone may contain any or all of the following: industrial estates (IEs),
17 export processing zones (EPZs), IT parks and centers, and tourism estates.
- 18 (p) "Tourism Estate" is a tract of land with defined boundaries, suitable for
19 development into an integrated resort complex, with prescribed carrying
20 capacities, of tourist facilities and activities, such as, but not limited to, sport and
21 recreation centers, accommodations, convention and cultural facilities, food and
22 beverage outlets, commercial establishments and other special interest and
23 attraction activities/establishments, and provided with roads, water supply
24 facilities, power distribution facilities, drainage and sewage systems, and other
25 necessary infrastructures and facilities. A tourism estate shall be under unified
26 and continuous management, and can either be a component of an ecozone or the
27 whole ecozone itself.
- 28 (q) "Freeport" is an isolated and policed area adjacent to a port of entry as defined by
29 Section 3519 of the Tariff and Customs Code, which shall be operated and

1 managed as a separate customs territory to ensure free flow or movement of
2 goods, except those expressly prohibited by law, within, into and exported out in
3 the freeport zone where imported goods may be unloaded for immediate
4 transshipment or stored, repacked, sorted, mixed, or otherwise manipulated
5 without being subject to import duties. However, movement of these imported
6 goods from the free-trade area to a non-free-trade area in the country shall be
7 subject to import duties and taxes.

8 TITLE II

9 CREATION OF THE PHILIPPINE INVESTMENT PROMOTION

10 ADMINISTRATION (PIPA)

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

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

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

26 Existing Conventions or Agreements for the Avoidance of Double Taxation and the
27 Prevention of Fiscal Evasion with Respect to Taxes on Income (income tax treaties) that
28 grant reduced income tax rates on dividends, interests and royalties paid by BOI-
29 registered enterprises to foreign persons shall, after the merger of BOI and PEZA by

1 virtue of this Act, continue to grant the reduced rates to foreign persons until the
2 expiration of the enterprises' registration certificates with BOI and after such enterprises
3 registered with PIPA.

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

- 6 1. To establish, operate, administer, manage and develop the ecozones and freeports
7 according to the principles and provisions set forth in this Act;
- 8 2. To register, regulate and supervise the enterprises in the ecozones and freeports in
9 an efficient and decentralized manner;
- 10 3. To register, regulate and supervise qualified enterprises outside the ecozones and
11 freeports;
- 12 4. To coordinate with local government units and exercise general supervision over
13 the development, plans, activities and operations of ecozones, industrial estates,
14 export processing zones, free trade zones, and the like;
- 15 5. To regulate and undertake the establishment, operation and maintenance of
16 utilities, other services and infrastructure in the ecozones, such as heat, light and
17 power, water supply, telecommunications, transport, toll roads and bridges, port
18 services, and others, and to fix just, reasonable and competitive rates, charges,
19 and fees therefor: *Provided*, That the appropriate government regulatory agencies
20 shall regulate the operation, maintenance and services of utilities such as heat,
21 light, power, water supply, telecommunications, transport, toll roads and bridges,
22 port services, and others based inside the ecozones insofar as such services are
23 rendered outside the ecozones.
- 24 6. To construct, acquire, own, lease, operate and maintain on its own or through
25 contract, franchise, license, bulk purchase from the private sector and build-
26 operate-transfer scheme or joint venture, adequate facilities and infrastructure,
27 such as light and power systems, water supply and distribution systems,
28 telecommunication and transportation, buildings, structures, warehouses, roads,
29 bridges, ports and other facilities for the operation and development of the

1 ecozones and freeports, in coordination with the local government units
2 concerned and appropriate agencies,;

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

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

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

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

12 11. To formulate and coordinate investments promotion activities;

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

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

16 14. To coordinate with the National Economic and Development Authority,
17 Department of Trade and Industry, Department of Science and Technology, and
18 the local government units and appropriate government agencies for policy and
19 program formulation and implementation; and

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

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

26 SEC. 7. *Composition of the Board.* - The Board shall be composed of thirteen
27 (13) members as follows: the Secretary of the Department of Trade and Industry (DTI)
28 as Chairman; the Director-General of PIPA as Vice-Chairman; an undersecretary of the
29 Department of Finance (DOF), Department of Labor and Employment (DOLE),

1 Department of Environment and Natural Resources (DENR), Department of Public
2 Works and Highways (DPWH), Department of Science and Technology (DOST), and
3 Department of Energy (DOE); the Deputy Director-General of the National Economic
4 and Development Authority (NEDA); the Commissioner of Bureau of Internal Revenue
5 (BIR); the Commissioner of Bureau of Customs (BOC); one (1) representative from the
6 labor sector; and one (1) representative from the investors/business sector. The
7 representatives from the labor and investors/business sectors shall be appointed by the
8 President from the nominees of their respective sectors and from among the enterprises
9 registered with PIPA. In case of the unavailability of the Secretary of DTI to attend a
10 particular Board meeting, the Director-General of PIPA shall act as chairman.

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

- 17 (1) Set the general policies on the establishment and operations of the ecozones,
18 industrial estates, export processing zones, free trade zones, and the like;
- 19 (2) Promulgate rules and regulations to implement the purposes of this Act and such
20 other laws as the Board is mandated to implement;
- 21 (3) Formulate investment promotion policies under a ‘one country approach’;
- 22 (4) Approve, deny, suspend, revoke applications for registration with the Board,
23 imposing terms and conditions as it may deem necessary to promote the purposes
24 of this Act, including the refund and forfeiture of incentives when appropriate,
25 restricting availment of incentives not needed by the project as determined by the
26 Board, requiring performance bonds from PIPA-accredited bonding companies,
27 and payment of application, registration, publication and other fees when
28 warranted;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 19 (1) Execute all acts of administration;
- 20 (2) Prepare and recommend to the Board the staffing pattern and personnel
21 complement of PIPA and establish regional offices, when necessary, subject to
22 the approval of the Board.
- 23 (3) Prepare the agenda for the meetings of the Board and submit for its consideration
24 and approval the policies and measures which the Chairman deems necessary and
25 proper to carry out the provisions of this Act;
- 26 (4) Preside over the meetings of the Board in the absence of the Chairman;
- 27 (5) Assist registered enterprises and prospective investors to expedite processing of
28 papers required by all government offices, agencies, instrumentalities and

1 financial institutions; and in addition he shall have the following specific powers
2 and responsibilities:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 TITLE III

27 INCENTIVES TO REGISTERED ENTERPRISES

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

1 (a) export enterprises; or

2 (b) domestic enterprises

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

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

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

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

23 (d) *Capital Equipment Incentives.* – Importations of capital equipment, including
24 consignment thereof by registered export enterprises upon the effectivity of this
25 Act, shall be exempt from customs duties: *Provided,* That the importation thereof,
26 shall be used exclusively by the registered export enterprise in its registered
27 activity. If the capital equipment shall be used by the registered export enterprise
28 other than for its registered activity, the availment of incentives under this
29 paragraph shall be subject to the rules and regulations to be promulgated by PIPA:

1 *Provided, further,* That for export enterprises, value-added tax paid on imported
2 capital equipment shall be refunded upon proof of exportation of their products
3 under the mechanism and guidelines provided in Section 17 of this Act.

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

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

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

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

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

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

24 (i) Employment of Foreign Nationals. – Subject to the provisions of Section 29 of
25 Commonwealth Act No. 613, as amended, a registered export enterprise may
26 employ foreign nationals in supervisory, technical or advisory positions for a
27 period not exceeding five (5) years from its registration, extendible for limited
28 periods at the discretion of the Board: *Provided, however,* That when the
29 majority of the capital stock of a registered enterprise is owned by foreign

1 investors, the positions of president, treasurer and general manager of their
2 equivalents may be retained by foreign nationals beyond the period set forth
3 within.

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

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

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

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

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

27 (c) Accelerated Depreciation. - Accelerated depreciation of plant, machinery, and
28 equipment that are reasonably needed and actually used for the production and
29 transport of goods and services may be depreciated using a rate not exceeding

1 twice the rate which would have been used had the annual allowance been
2 computed in accordance with the rules and regulations prescribed by the Secretary
3 of Finance and the provisions of the National Internal Revenue Code of 1997, as
4 amended.

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

10 SEC. 16. *Incentives to Investors.*

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

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

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

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

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

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

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

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

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

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

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

1 TITLE IV

2 REGISTRATION OF ENTERPRISES

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

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

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

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

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

27 SEC. 19. *Application.* – Applications shall be filed with PIPA and recorded in a
28 registration book. The date appearing therein and stamped on the application shall be
29 considered the date of official acceptance. In the event that an enterprise shall transfer to

1 another IPA or government assets enjoying incentives will be privatized, only the
2 remaining unutilized incentives shall be enjoyed by the enterprise or the transferee,
3 vendee or assignee of the government corporation. All applications and their supporting
4 documents filed under this Act shall be confidential and shall not be disclosed to any
5 person except with the consent of the applicant or upon an order of a court of competent
6 jurisdiction.

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

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

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

1 act upon the application within ten (10) working days from compliance with the cause of
2 the last deferment.

3 TITLE V

4 BASIC RIGHTS AND GUARANTEES OF REGISTERED ENTERPRISES

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

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

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

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

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

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

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

11 TITLE VI

12 ADMINISTRATION OF INCENTIVES

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

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

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

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

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

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

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

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

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

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

23 TITLE VII

24 SPECIAL ECONOMIC ZONES (ECOZONES)

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

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

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

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

9 (a) The proposed area must be identified as a regional growth center in the
10 Medium-Term Philippine Development Plan (MTPDP) or by the Regional Development
11 Council;

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

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

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

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

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

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

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

27 Other areas which do not meet the foregoing criteria may be established as
28 ecozones: *Provided*, That the said area shall be developed only through local government
29 and/or private sector initiative, and without any financial exposure on the part of the

1 National Government: *Provided, further,* That the area can be easily secured to curtail
2 smuggling activities: *Provided, finally,* That after five (5) years, the area must have
3 attained a substantial degree of development, the indicators of which shall be formulated
4 by PIPA.

5 SEC. 30. *Ecozone to be a Decentralized Agro-Industrial, Industrial,*
6 *Commercial/Trading, Tourist, Investment and Financial Community.* - Within the
7 framework of the constitution, the interest of national sovereignty and territorial integrity
8 of the Republic, the ecozone shall be developed, as much as possible, into a
9 decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-
10 industrial, tourist center with minimum government intervention. Each ecozone shall be
11 provided with transportation, telecommunications, and other facilities needed to generate
12 linkage with industries and employment opportunities for its own inhabitants and those of
13 nearby towns and cities.

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

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

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

24 The administration and enforcement of the provisions of PD No. 1096, the
25 National Building Code of the Philippines (NBCP) in all ecozones and areas owned and
26 administered by PIPA shall be vested in the Director-General or his duly authorized
27 representative. He shall appoint such qualified personnel as may be necessary to act as
28 building official who shall be charged with the duty of issuing building permits in the

1 different zones. All fees and dues collected by the building official under the NBCP shall
2 accrue to PIPA.

3 TITLE VIII

4 FINAL PROVISIONS

5 SEC. 34. *Protection of the Environment.* – PIPA, in coordination with the
6 appropriate agencies, shall take concrete and appropriate steps to enact the proper
7 measures for the protection of the environment, and shall coordinate with the
8 Environmental Management Bureau of DENR to avoid undue delay in the issuance of the
9 required Environmental Compliance Certificate (ECC): *Provided, however,* That
10 applications for environmental clearances, permits, and/or licenses of registered
11 enterprises shall be acted upon by the appropriate government agency within one hundred
12 twenty (120) days from date of official acceptance. In the event that the appropriate
13 government agency failed to act within the aforementioned date, the application for the
14 said environmental requirement shall be deemed complied with for purposes of operation
15 of the registered enterprise: *Provided, finally,* That the Board may withdraw the
16 certificate of registration issued to the enterprise should the appropriate government
17 agency eventually deny the application.

18 SEC. 35. *Suspension and Forfeiture of Incentives of Registered Enterprises,*
19 *Refund and Penalties.* – When there is probable cause to believe that the registered
20 enterprise has violated its registration terms and conditions, the Board may suspend its
21 availment of incentives after due notice and hearing. The Board may impose fines and
22 penalties and/or forfeit the incentives granted to the registered enterprise whenever there
23 are violations of the registration terms and conditions by the latter, without prejudice to
24 the cancellation of the registration of said enterprise: *Provided, however,* That the Board
25 may cancel or abate only the imposition of fines. In case of cancellation of the certificate
26 of registration granted under this Act, the Board may, in appropriate cases, require the
27 refund of incentives availed of and impose corresponding fines and penalties.

28 Any enterprise which violates any provision of this Act, its implementing rules
29 and regulations, the terms and conditions of its registration or any lawful directive of the

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

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

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

27 SEC. 37. *Transitory Provisions*. – The incentives already granted to enterprises
28 registered with BOI, PEZA, other IPAs and under existing investment laws shall continue
29 to be legally binding in accordance with the terms and conditions stated in their

1 respective registration certificates. Existing enterprises registered with BOI, PEZA and
2 other IPAs may opt to register with PIPA and be governed by the provisions of this Act
3 prior to the expiration of their existing contracts. For activities or entities, whether
4 government or private, whose tax and/or duty exemptions or preferential treatment under
5 special laws are withdrawn or repealed by this Act, the pertinent provisions of the
6 National Internal Revenue Code of 1997, as amended; the Tariff and Customs Code, as
7 amended; and the Local Government Code of 1991, shall apply.

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

14 SEC. 38. *Revenue Gains or Savings from the Rationalization of Fiscal Incentives.*

15 - Revenue gains or savings from the implementation of this Act shall be utilized
16 exclusively for the following purposes: fifty percent (50%) for infrastructure and fifty
17 percent (50%) for education purposes.

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

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

23 SEC. 40. *Repealing Clauses.* - The following laws or provisions of laws are
24 hereby repealed:

- 25 (1) Executive Order No. 226, series of 1987 - "The Omnibus Investments Code of 1987";
26 (2) Republic Act No. 7888 - "An Act to Amend Article 7(13) of Executive Order No.
27 226, otherwise known as the Omnibus Investment Code of 1987;
28 (3) Republic Act No. 7916, otherwise known as the "Special Economic Zone Act of
29 1995";

- 1 (4) Republic Act No. 8748, otherwise known as "An Act Amending Republic Act No.
2 7916";
- 3 (5) Presidential Decree No. 66 - "Creating the Export Processing Zone Authority and
4 Revising Republic Act No. 5490";
- 5 (6) Presidential Decree No. 529 - "Granting to Petroleum Exploration Concessionaires
6 under the Petroleum Act of 1949 Exemption from Customs Duty and Compensating
7 Tax on Importations of Machinery and Equipment, Spare Parts and Materials
8 Required for their Exploration Operations";
- 9 (7) Section 8(d) of Republic Act No. 5487, entitled "An Act to Regulate the Organization
10 and Operation of Private Detective, Watchmen or Security Guard Agencies (The
11 Private Security Agency Law)";
- 12 (8) Subparagraph (a)(2) and last sentence of subparagraph (b) of Section 8 and Section 14
13 of Presidential Decree No. 269, entitled "Creating the National Electrification
14 Administration as a Corporation, Prescribing its Powers and Activities, Appropriating
15 the Necessary Funds Therefore and Declaring a National Policy Objective for the
16 Total Electrification of the Philippines on an Area Coverage Service Basis, the
17 Organization, Promotion and Development of Electric Cooperatives to Attain the
18 Said Objective, Prescribing Terms and Conditions for Their Operations, The Repeal
19 of Republic Act No. 6038, and for Other Purposes;
- 20 (9) Sections 8, 9 and 10 of Presidential Decree No. 538, entitled "Creating and
21 Establishing the PHIVIDEC Industrial Authority and Making its Subsidiary Agency
22 of the Philippine Veterans Investment Development Corporation Defining Its Powers,
23 Functions and Responsibilities and for Other Purposes";
- 24 (10) Section 36(f) of Presidential Decree No. 705, otherwise known as the "Revised
25 Forestry Code";
- 26 (11) Section 25 of Presidential Decree No. 857, entitled "Providing for the
27 Reorganization of Port Administration and Operation Functions in the Philippines,
28 Revising Presidential Decree No. 505 Dated July 11, 1974, Creating the Philippine
29 Port Authority, by Substitution, and for Other Purposes";

- 1 (12) Section 16 (a), (b), and (c), and Section 17 (a), (b), (c), (d) and (e) of Presidential
2 Decree No. 972, as amended, entitled "Promulgating an Act to Promote an
3 Accelerated Exploration, Development, Exploitation, Production and Utilization of
4 Coal";
- 5 (13) First sentence of the second paragraph of Section 10 of Presidential Decree No. 972,
6 as amended by Presidential Decree No. 1174, entitled "Amending PD No. 972,
7 Otherwise Known as the Coal Development Act of 1976";
- 8 (14) Sections 2 and 3 of Presidential Decree No. 1362, entitled "Allowing Radio
9 Broadcasting and Television Stations to Import Radio or Television Equipment,
10 Spare Parts and Allied Technical and Program Materials to be Used Exclusively in
11 their Broadcast Operations Subject to Certain Conditions";
- 12 (15) Section 4 of Presidential Decree No. 1442, entitled "An Act to Promote the
13 Exploration and Development of Geothermal Resources";
- 14 (16) Sections 18, 19, 20 and 21 of Republic Act No. 6847, entitled "An Act Creating and
15 Establishing the Philippine Sports Commission, Defining its Powers, Functions and
16 Responsibilities Appropriating Funds Therefor, and for Other Purposes";
- 17 (17) Section 10 (1), (2), (3), (4), (5), and (6) of Republic Act No. 7156, entitled "An Act
18 Granting Incentives to Mini-Hydro Electric Power Developers and For Other
19 Purposes";
- 20 (18) Title 9, Section 21 of Republic Act No. 7306, entitled "An Act Providing for the
21 Establishment of the People's Television Network, Inc., Defining Its Powers and
22 Functions, Providing for Its Sources of Funding and For Other Purposes";
- 23 (19) Section 14 of Republic Act No. 7354, entitled "An Act Creating the Philippine
24 Postal Corporation, Defining Its Powers, Functions and Responsibilities, Providing
25 for Regulation";
- 26 (20) Last sentence of Section 17 of Republic Act No. 7820, entitled "An Act Creating the
27 Partido Development Administration, Defining Its Powers and Functions, Providing
28 Funds Therefor, and for Other Purposes";

- 1 (21) Section 16 (a), (b), (c), (d), (e) and Section 17 of Republic Act No. 7844, otherwise
2 known as the “Export Development Act of 1994”;
- 3 (22) Sections 83, 90, 91, 92 and 93 of Republic Act No. 7942, otherwise known as the
4 “Philippine Mining Act of 1995”;
- 5 (23) Section 18 of Republic Act No. 8044, entitled “An Act Creating the National Youth
6 Commission, Establishing a National Comprehensive and Youth Development,
7 Appropriating Funds Therefor, and for Other Purposes”;
- 8 (24) Section 8 of Republic Act No. 8436, entitled “An Act Authorizing the Commission
9 on Elections to Use an Automated Election System in the May 11, 1998 National or
10 Local Elections and in Subsequent National or Local Electoral Exercises, Providing
11 Funds Therefor and for Other Purposes”;
- 12 (25) Section 9 of Republic Act No. 8479, otherwise known as the “Downstream Oil
13 Deregulation Act of 1998”;
- 14 (26) Section 3 a), b), c), d), and h) of Republic Act No. 8502, entitled “An Act to
15 Promote the Development of the Jewelry Manufacturing Industry, Providing
16 Incentives Therefor and For Other Purposes”;
- 17 (27) Section 35 (b), (c) and (d) of Republic Act No. 8550, otherwise known as the
18 “Philippine Fisheries Code of 1998”;
- 19 (28) Section 26 (A.1, A.1.1, A.1.2) of Republic Act No. 9275, entitled “The Philippine
20 Clean Water Act of 2004”;
- 21 (29) Section 1 of Republic Act No. 9281, entitled “An Act to Strengthen Agriculture and
22 Fisheries Modernization in the Philippines by Extending the Effectivity of Tax
23 Incentives and its Mandated Funding Support, Amending for this Purpose Sections
24 109 and 112 of Republic Act No. 8435”;
- 25 (30) Section 3 of Republic Act No. 9290, entitled “An Act Promoting the Development
26 of the Footwear, Leather Goods and Tannery Industries, Providing Incentives
27 Therefor and for Other Purposes”
- 28 (31) Section 5 of Executive Order No. 80, Series of 1993 – “Authorizing the
29 Establishment of the Clark Development Corporation as the Implementing Arm of the

1 Bases Conversion and Development Authority for the Clark Special Economic Zone,
2 and Directing All Heads of Departments, Bureaus, Offices, Agencies and
3 Instrumentalities of Government to Support the Program”;

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

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

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

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

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

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

24 SEC. 41. *Effectivity.* – This Act shall take effect fifteen (15) days following its
25 publication in a newspaper of general circulation in the Philippines.

Approved,