

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

8 SEP -1 2015

SENATE

RECEIVED BY

S. B. No. 2580

 INTRODUCED BY THE HONORABLE MAR ROXAS

EXPLANATORY NOTE

The contemporary Bangsamoro rebellion is almost four decades old and counted among the world's longest-running ideology-based armed conflicts.¹ Over this same period, conflicts in Central America, the Balkans and in Africa have come and gone yet the Moro-GRP armed conflict in the Philippines has persisted.

The impact of the armed conflict on levels on living standards and human development in Mindanao is undeniable. Systematic analysis confirms a robust negative relationship between being a province in Muslim Mindanao on the one hand, and a host of indicators of human development, on the other. Specifically, a province in Muslim Mindanao tends on average to have an incidence of poverty that is higher by 32 percentage points; income per person that is P11,000 lower (in prices of 2000); cohort-survival rates in basic education that are 31 percentage points lower; infant-mortality rates that are 15 points higher.

Estimates of the economic losses due to the armed conflict in Mindanao, while less precise and highly conservative², are just as sobering. Direct economic or monetary loss from 1970-2002 is estimated at P5-7.5 billion annually, amounting to about 2.5 percent of regional GDP of central and south western Mindanao. If *foregone investments* were to be counted however, the economic cost of the Mindanao conflict would amount to at least P10 billion from 1975-2002, or a total of \$370 million. Foregone investment is both a local cost and spillover cost. On the one hand, community-level agricultural investments are inhibited by insecurity from the conflict. On the other, Mindanao-level equity investments – *expected based on the island's location and rich factor endowments* - are deflected to other areas in East and Southeast Asia. When the whole country suffered a sharp drop in durable investment growth after the 2001 Abu Sayyaf kidnap incident, the drop for Mindanao was much sharper and *continued* to shrink two years following the incident even after spending in the rest of the country began to recover.

Even harder to measure are costs due to the loss of human life in direct combat, *the deaths and morbidity due to internal displacement, and other injuries and indignities.*

All wish for peace. And lasting peace requires an institutional approach including a common framework, a national constituency, and a process of consultation and negotiations grounded on transparency. However, fundamental human development

¹ Unless otherwise specified, analysis cited in the first five paragraphs of this note are taken from the 2005 Philippine Human Development Report.

² Estimates of lost output based on current performance are understated since current performance may itself be small because of the presence of the conflict.

investments, such as in education and employment, are also required since their *absence and poor quality* fuel armed conflict. Indeed it has been shown empirically that such socio-economic investments, although necessary and desirable in and of themselves, are potentially effective in reducing the probability of armed conflict.

It is for this purpose that this bill is being proposed. Specifically, it seeks to facilitate employment generation, increased family living standards and improved human development for Mindanao through enabling an environment of increased equity investments, supervised by Mindanaoans themselves. To this end the bill provides for the creation of a Mindanao Special Economic Zone and Freeport covering the 6 regions and 27 provinces of Mindanao, including ARMM. The zone and Freeport shall be considered as a separate customs territory and will have a governing tax system comparable to other successful economic zones across the country. It shall be managed by the Mindanao Special Economic Zone and Freeport Authority (MEZFA), run by a Board composed of provincial governors and investor and worker representatives, and will have a capitalization base not less than 60% of which shall be funded by the National Government.

To reiterate, the proposed MEZFA shall be a vehicle by which the State can actively encourage, promote, induce, and accelerate the sound and balanced industrial, economic and social development of Mindanao, in order to provide productive jobs, improve individual and family income, and thereby improve the level and quality of living conditions. By supporting Mindanaoans to achieve their own vision for Mindanao, this bill will complement initiatives on the political and education sector fronts which likewise try to address the conditions of deprivation that enable armed conflict. Its urgency cannot be understated particularly in the light of recent events which drive home the fact that status quo counterinsurgency and anti-poverty strategies have failed to resolve the conflict in the South.

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



MAR Roxas
Senator

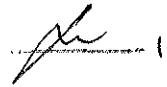
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AN ACT

ESTABLISHING THE MINDANAO SPECIAL ECONOMIC ZONE AND
FREEPORT, CREATING FOR THE PURPOSE THE MINDANAO SPECIAL
ECONOMIC ZONE AND FREEPORT AUTHORITY, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES.

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

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

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

10 Sec. 3. *Creation of the Mindanao Special Economic Zone and Freeport.* – In pursuit of the
11 foregoing declared policy and subject to the concurrence of the concerned local government
12 units (LGUs) of Mindanao affected by the zone, there is hereby established a Mindanao Special
13 Economic Zone and Freeport, hereinafter referred to as the Mindanao Ecozone. The Mindanao
14 Ecozone shall cover the entire area embraced by Region IX – ZAMABOANGA PENINSULA,
15 Region X – NORTHERN MINDANAO, Region XI – DAVAO REGION, Region XII –

1 SOCCSKSARGEN, Region XIII – CARAGA and ARMM – AUTONOMOUS REGION OF
2 MUSLIM MINDANAO. The metes and bounds of the Mindanao Ecozone shall be delineated in a
3 proclamation to be issued by the President of the Philippines.

4 **Sec. 4. *Governing Principles.*** – The Mindanao Ecozone shall be managed and operated by
5 the Mindanao Special Economic Zone and Freeport Authority, herein referred to as the MEZFA,
6 created under Section 10 of this Act, under the following principles:

7 (a) Within the framework and limitations of the Constitution and applicable
8 provisions of the Local Government Code, the Mindanao Ecozone shall be developed into and
9 operated as a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-
10 industrial, tourist, banking, financial and investment center, and free port with suitable
11 residential areas which shall generate employment opportunities in and around the zone and
12 attract and promote productive foreign investments.

13 (b) The Mindanao Ecozone shall be operated and managed as a separate customs
14 territory ensuring free flow or movement of goods and capital within, into and exported out of
15 the Mindanao Ecozone, as well as provide incentives such as tax and duty free importations of
16 raw materials, capital and equipment. However, exportation or removal of goods from the
17 territory of the Mindanao Ecozone to the other parts of the Philippine territory shall be subject
18 to customs duties and taxes under the Tariff and Customs Code and other relevant tax laws of the
19 Philippines.

20 (c) The Mindanao Ecozone shall be provided with transportation,
21 telecommunications and other facilities needed to attract legitimate and productive investments,
22 generate linkage industries and employment opportunities for the people of the Province of
23 Mindanao and its neighboring towns and cities.

24 (d) The Mindanao Ecozone may establish mutually beneficial economic relations
25 with other entities or enterprises within the country or, subject to the administrative guidance of

1 the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA)
2 and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.

3 (e) Goods manufactured by a Mindanao Ecozone enterprise shall be made available
4 for immediate retail sale in the domestic market, subject to the payment of corresponding taxes
5 on raw materials and other regulations that may be formulated by the MEZFA, together with the
6 PEZA, the Bureau of Customs and the DTI. However, in order to protect domestic industries, a
7 Negative List of industries shall be drawn up and regularly updated by PEZA. Enterprises
8 engaged in industries included in such Negative List shall not be allowed to sell their products
9 locally.

10 (f) The national government shall maintain its ability to coordinate with the
11 Mindanao Ecozone and the local government units.

12 **Sec. 5. *Incentives to Registered Enterprises*** – The Mindanao Special Economic Zone and
13 Freeport Authority (MEZFA) may administer the following incentives to the registered
14 enterprises located therein to the extent of the activity/project:

15 (A) *Income Tax Holiday (ITH)*. – Registered enterprises shall be entitled to an income tax
16 holiday from the start of their commercial operations to the extent of their activity under the
17 following categories:

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

21 Category B – Registered domestic enterprise on the following shall be entitled to a
22 six-year income tax holiday:

23 (1) Located in less developed areas as defined by the BOI; or

24 (2) Producing/rendering new products/services or having strong backward or
25 forward linkages

1 Category C – Registered export enterprise shall be entitled to a six- year income tax
2 holiday; *Provided, however,* That if the export enterprise complies with the following:

3 (1) large capital investments or sizeable employment generation, or (2) use high level of
4 technology or (3) located outside Metro-Manila, it shall be entitled to an eight-year
5 income tax holiday.

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

9 For this purpose, a registered enterprise shall be defined as any person, natural or
10 juridical, licensed to do business in the Philippines and registered with the MEZFA to transact
11 business within the Mindanao Ecozone. A registered export enterprise shall be defined as any
12 registered enterprise engaged directly or indirectly in the production, manufacture or trade of
13 products or services which earns at least seventy percent (70%) of its normal operating revenues
14 from the sale of its products or services abroad for foreign currency. A registered domestic
15 enterprise, meanwhile, shall be defined as any registered enterprise not falling under the
16 definition of a registered export enterprise.

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

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

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

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

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

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

18 (C) *Imposition of a tax rate of five percent (5%) on Gross Income Earned (GIE)*. – Except
19 for real property tax on land, no local and national taxes as prescribed under Republic Act No.
20 8424, also known as “*The National Internal Revenue Code of 1997, as Amended*” such as income
21 tax, excise tax, and franchise taxes, shall be imposed on registered enterprises operating within
22 the Mindanao Ecozone. In lieu thereof, five percent (5%) of the gross income earned shall be
23 paid as follows:

24 (a) Three percent (3%) to the national government;

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

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

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

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

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

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

24 (c) Approval of the MEZFA was obtained by the registered enterprise for the importation
25 of such machinery, equipment and spare parts.

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

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

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

24 (2) The purchase of machinery, capital equipment, raw materials, supplies, parts and
25 semi-finished products to be used in the fabrication of machinery and capital equipment by a

1 registered export-oriented enterprise from a domestic manufacturer shall be subject to zero
2 percent (0%) value-added tax.

3 The registered export-oriented enterprise shall be granted a tax credit equivalent to the
4 amount of duties that would have been waived on the machinery, capital equipment, raw
5 materials, supplies, parts and semi-finished products used in the fabrication of machinery and
6 capital equipment, had these items been imported, upon its submission to the DOF of the bill of
7 materials evidencing the transaction value of such and other pertinent documents, for
8 verification and proper endorsement.

9 The availment by a registered export enterprise of the incentive stated under the
10 immediately preceding two paragraphs shall be subject to the following conditions:

11 (a) That said capital equipment, machinery and spare parts will be used exclusively by the
12 registered enterprise in its registered activity;

13 (b) That the capital equipment or machinery where the raw materials, supplies, parts and
14 semi-finished products were used would have qualified for tax and duty-free importation;
15 and

16 (c) That the approval of the MEZFA is obtained by the registered enterprise.

17 If the registered enterprise sells, transfers or disposes of these machineries, capital
18 equipment and spare parts, the provision in the preceding paragraphs for such disposition shall
19 apply.

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

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

24 (G) *Raw Materials Incentives.* – Every registered export-oriented enterprise shall enjoy a
25 tax credit equivalent to the internal revenue taxes and customs duties paid on the supplies, raw
26 materials and semi-manufactured products provided the same are not sufficient in quantity,

1 quality or are not competitively priced in the Philippines and which are used in the manufacture,
2 processing or production of its export products forming part thereof, exported directly and
3 indirectly by the registered export-oriented enterprise, based on the actual taxes and duties paid
4 for such materials/supplies/semi-manufactured products by the registered enterprise.

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

7 (H) *Incentives on Breeding Stocks and Genetic Materials.* – Importation of breeding
8 stocks and genetic materials within ten (10) years from the date of registration of commercial
9 operation of the enterprise shall be exempt from all taxes and duties; *Provided,* That such
10 breeding stocks and genetic materials are reasonably needed in the registered activity; and
11 approved by the MEZFA.

12 The availment of the incentives by the registered enterprise shall be subject to the
13 following conditions:

14 (a) That said breeding stocks and genetic materials would have been qualified for tax and
15 duty-free importation under the preceding paragraph;

16 (b) That the breeding stocks and genetic materials are reasonably needed in the registered
17 activity;

18 (c) That approval of the MEZFA has been obtained by the registered enterprise; and

19 (d) That the purchase is made within ten (10) years from the date of registration of
20 commercial operation of the registered enterprise.

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

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

25 (J) *Deferred Imposition of the Minimum Corporate Income Tax.* – The Minimum
26 Corporate Income Tax (MCIT) of two percent (2%) of the gross income as of the end of the

1 taxable year shall be imposed when the MCIT is greater than the income tax computed under the
2 NIRC of 1997, as amended, for the taxable year; *Provided, however,* That said MCIT shall be
3 imposed only after the enterprise's entitlement period to the income tax-based incentives has
4 expired.

5 (K) *Tax Treatment of Merchandise in the Mindanao Ecozone.* –

6 a. Domestic merchandise sent from the Mindanao Ecozone to areas outside the said
7 Ecozone shall, whether or not combined with or made part of other articles likewise of local
8 origin or manufactured in the Philippines while in the export processing zone, be subject to
9 internal revenue laws of the Philippines as domestic goods sold, transferred or disposed of for
10 local consumption.

11 b. Merchandise sent from the Mindanao Ecozone to areas outside the said special
12 economic zone and freeport shall, whether or not combined with or made part of other articles
13 while in the zone, be subject to rules and regulations governing imported merchandise. The
14 duties and taxes shall be based on the value of said imported materials except when the final
15 product is exempt.

16 c. Articles produced or manufactured in the Mindanao Ecozone and exported
17 therefrom shall, on subsequent importation into the customs territory, be subject to the import
18 laws applicable to like articles manufactured in a foreign country.

19 d. Unless the contrary is shown, merchandise taken out of the Mindanao Ecozone
20 shall be considered for tax purposes to have been sent to customs territory.

21 (L) *Tax Treatment of Raw Materials and Capital Equipment in the Mindanao Ecozone.* –

22 Importations of raw materials and capital equipment shall be treated as in the Omnibus
23 Investments Code.

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

1 (N) *Employment of Foreign Nationals.* – Subject to the provisions of Section 29 of
2 Commonwealth Act No. 613, as amended, a registered enterprise may employ foreign nationals
3 in supervisory or technical positions for a period not exceeding ten (10) years from its
4 registration.

5 Foreign nationals under employment contract within the purview of this incentive, their
6 spouses and unmarried children under twenty-one (21) years of age, who are not excluded by
7 Section 29 of Commonwealth Act No. 613, as amended, shall be permitted to enter and reside in
8 the Philippines during the period of employment of such foreign nationals. They shall be
9 entitled to a multiple entry visa, valid for a period of three years, and shall be allowed to enter
10 and leave the Philippines without further documentary requirements other than valid passports
11 or other travel documents in the nature of passports. The validity of the multiple entry visa shall
12 be extendible yearly.

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

18 Sec. 6. *Incentive to Investors.* – Any foreign national covered under Subsection (N) of
19 Section 5 of this Act, who invests an amount of US \$ 150,000.00, either in cash and/or
20 equipment, in a registered enterprise shall be entitled to an investor's visa; *Provided, That,*

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

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

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

24 (4) He has not been institutionalized for any mental disorder or disability.

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

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

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

10 The following are the duties and responsibilities of the MEZFA in the administration of
11 incentives:

- 12 (A) To adopt consistent procedures of administering incentives in accordance with the
13 guidelines established by the BOI;
- 14 (B) To adopt and implement systems and procedures affecting trade and customs
15 policies in accordance with the requirements established by the Department of
16 Finance (DOF) and the BOI;
- 17 (C) To submit information on registered enterprises to the DOF and the BOI as
18 required by any of these agencies to ascertain consistency of investment policies
19 and incentives, including their implementation as provided in paragraph (A)
20 herein, and to ensure proper implementation of systems and procedures affecting
21 trade and customs policies as provided in paragraph (B) herein; and
- 22 (D) To perform all other duties and responsibilities as may be required by the President
23 of the Philippines.

24 For proper monitoring, the BOI shall create a single database of all incentives provided by
25 all incentives granting agencies, including MEZFA, and all information thereto. Double entry

1 accounting shall be done by the BOI in recording all incentives granted by the government for
2 transparency purposes.

3 **Sec. 8. *Extension of Period of Availment.*** -- The availment period of the incentives
4 provided herein may be extended by MEZFA, in the event that the registered enterprise suffers
5 operational *force majeure* or any event equivalent thereto, impairing its viability; *Provided,* That
6 the availment period shall not exceed the duration of the said *force majeure* or equivalent event.

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

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

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

15 **Sec. 10. *Creation of the Mindanao Special Economic Zone and Freeport Authority***
16 ***(MEZFA).*** -- There is hereby created a body corporate to be known as the Mindanao Special
17 Economic Zone and Freeport Authority, hereinafter referred to as the MEZFA, which shall
18 manage and operate, in accordance with the provisions of this Act, the Mindanao Ecozone. This
19 corporate franchise shall expire in fifty (50) years counted from the first day of the fifth (5th)
20 calendar year after the effectivity of this Act, unless otherwise extended by Congress. It shall be
21 organized within one hundred eighty (180) days after the effectivity of this Act.

22 **Sec. 11. *Principal Office of MEZFA.*** -- The MEZFA shall maintain its principal office at
23 Davao City, but it may establish branches in any part of Mindanao and within the Philippines as
24 may be necessary for the proper conduct of its business.

25 **Sec. 12. *Powers and Functions of the MEZFA.*** -- The MEZFA shall have the following
26 powers and functions:

- 1 (a) To operate, administer, manage and develop the Mindanao Ecozone according to the
2 *principles and provisions set forth in this Act;*
- 3 (b) To register, regulate and supervise the enterprises in the Mindanao Ecozone in an
4 efficient and decentralized manner, subject to existing laws;
- 5 (c) To coordinate with local government units and exercise general supervision over the
6 development plans, activities and operations of the Mindanao Ecozone;
- 7 (d) To regulate and undertake the establishment, operation and maintenance of utilities,
8 other services and infrastructure in the Mindanao Ecozone such as but not limited to
9 heat, light and power, water supply, telecommunications, transport, toll roads and
10 bridges, port services, and to fix just, reasonable and competitive rates, fares, charges
11 and prices thereof;
- 12 (e) To construct, acquire, own, lease, operate and maintain on its own or through
13 contracts, franchise, licenses, bulk purchase from the private sector, joint venture or
14 permits under any of the schemes allowed in Republic Act No. 6957 or the Build-
15 Operate-Transfer Law, as amended by RA 7718, adequate facilities and infrastructure
16 required or needed for the operation and development of the Mindanao Ecozone, in
17 coordination with appropriate national and local government authorities and in
18 conformity with applicable laws thereon;
- 19 (f) To operate on its own, either directly or through a license to other tourism-related
20 activities, including games, amusements, recreational and sports facilities;
- 21 (g) Subject to the approval of the President and the Monetary Board of the *Bangko*
22 *Sentral ng Pilipinas* upon the recommendation of the Department of Finance, to raise
23 or borrow adequate and necessary funds from local or foreign sources to finance its
24 projects and programs under this Act, and for that purpose to issue bonds, promissory
25 notes, and other forms of securities, and to secure the same by a guarantee, pledge,
26 mortgage, deed of trust, or an assignment of all or part of its property or assets;

- 1 (h) To protect, preserve, maintain and develop the virgin forests, beaches, coral and coral
2 reefs and maintain ecological balance within the Mindanao Ecozone;
- 3 (i) To create, operate and/or contract to operate such functional units of offices of the
4 MEZFA as it may deem necessary;
- 5 (j) To adopt, alter and use a corporate seal; make contracts, leases, own, or otherwise
6 dispose of personal or real property; sue and be sued; and otherwise carry out its
7 functions and duties as provided for in this Act;
- 8 (k) To issue certificates of origin for products manufactured or processed in the
9 Mindanao Ecozone in accordance with prevailing rules of origin, and the pertinent
10 regulations of the PEZA, DTI and/or the Department of Finance (DOF);
- 11 (l) To issue working visas renewable every two (2) years to foreign executives and
12 foreign technicians with highly specialized skills which no Filipinos possesses, as
13 certified by the Department of Labor and Employment;
- 14 (m) To report to the Bureau of Immigration the names of the foreigners who have been
15 granted permanent resident status and working visas within thirty (30) days after
16 issuance of such grant;
- 17 (n) To exercise such powers as maybe essential, necessary or incidental to the powers
18 granted to it hereunder as well as those that shall enable it to carry out, implement
19 and accomplish the purposes, objectives and policies of this Act; and
- 20 (o) To issue rules and regulations consistent with the provisions of this Act as maybe
21 necessary to accomplish and implement the purposes, objectives and policies
22 provided herein.

23 **Sec. 13. *Banking Rules and Regulations.*** – Existing laws and rules and regulations of the
24 *Bangko Sentral ng Pilipinas* (BSP) shall apply to banks and financial institutions to be established
25 in the Mindanao Ecozone, such as those governing foreign exchange and other concurrent
26 account transactions (trade and non-trade), local and foreign borrowings, foreign investments,

1 establishment and operation of local and foreign banks, foreign currency deposit units, offshore
2 banking units and other financial institutions under the supervision of the BSP.

3 Sec. 14. *Remittance of Earnings.* – In the case of foreign investments, a registered
4 enterprise in the MEZFA shall have the right to remit earnings from the investment in the
5 currency in which the investment was originally made and at the exchange rate prevailing at the
6 time of remittance, subject to the provisions of Section 74 of Republic Act No. 265, as amended.

7 Sec. 15. *Board of Directors of the MEZFA.* – The powers of the MEZFA shall be vested in
8 and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be
9 composed of the following:

10 a) The Chairman, who shall at the same time be the administrator of the MEZFA;

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

12 c) Members consisting of:

13 (1) One (1) Provincial Governor representative per region of Mindanao, the
14 manner of selection and tenure of representation to be determined by the
15 Governors from that region;

16 (2) One (1) representative per region of Mindanao who will represent investors
17 from that Region, and

18 (3) One (1) representative per region of Mindanao who will represent workers
19 working from that Region.

20 The Governors of Mindanao shall serve as *ex-officio* members of the Board, whose term
21 in the Board corresponds to their term as elected officials.

22 The Chairman and the members of the Board, except the *ex-officio* members, shall be
23 appointed by the President of the Philippines to serve for a term of six (6) years, unless sooner
24 separated from service due to death, voluntary resignation, or removal for cause. In case of
25 death, resignation or removal for cause, the replacement shall serve only the unexpired portion
26 of the term.

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

7 The Members of the Board, except *ex-officio* members, shall each receive per diem at rate
8 to be determined by the Department of Budget and Management in accordance with existing
9 rules and regulations; *Provided, however,* That the total per diem collected each month shall not
10 exceed the equivalent *per diem* for four (4) meetings. Unless and until the President of the
11 Philippines has fixed a higher per diem for the members of the board, such per diem shall not be
12 more than ten thousand pesos (P10,000.00) for every Board meeting.

13 **Sec. 16. Powers and Duties of the Chairman-Administrator.** – The Chairman-
14 Administrator shall have the following powers and duties:

- 15 a) To direct and manage the affairs of the MEZFA in accordance with the policies of
16 the Board;
- 17 b) To establish the internal organization of the MEZFA under such conditions that
18 the Board may prescribe;
- 19 c) To submit an annual budget and necessary supplemental budget to the Board for
20 its approval;
- 21 d) To submit within thirty (30) days after the close of each fiscal year an annual
22 report to the Board and such other reports as may be required;
- 23 e) To submit to the Board for its approval policies, systems, procedures, rules and
24 regulations that are essential to the operation of the Mindanao Ecozone;

- 1 f) To create a mechanism in coordination with relevant agencies for the promotion
2 of industrial peace, the protection of the environment, and the advancement of
3 the quality of life in the Mindanao Ecozone;
- 4 g) To propose to the Board of Directors of the MEZFA the internal rules that will
5 govern the internal rules of the MEZFA Board; *Provided*, That the internal rules
6 to be operative must be approved by two-thirds (2/3) of all the members of the
7 said Board in a meeting duly called for that purpose. Any amendments thereto
8 shall be approved in the same manner; and
- 9 h) To perform such other duties as may be assigned to him by the Board or which are
10 necessary or incidental to his office.

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

19 The officers and employees of the MEZFA, including all Members of the Board, shall not
20 engage directly or indirectly in partisan political activities nor take part in any election, except to
21 vote.

22 Subject to Civil Service laws and regulations, no officer or employee of the MEZFA shall
23 be removed or suspended except for cause, as provided by law.

24 **Sec. 18. *Ipsa Facto Clause.*** – Sections 30-41 of Republic Act 7916 or the Special Economic
25 Zone Act of 1995, shall *ipso facto* apply to the Mindanao Ecozone.

1 **Sec. 19. Capitalization.** – The MEZFA shall have an authorized capital stock of Five
2 Billion Pesos (Php 5,000,000,000) no par shares with a minimum issue of Ten Pesos (Php10.00)
3 each, the majority shares of which shall be subscribed and paid for by the National Government
4 and the Local Government Units (LGUs) embracing the Mindanao Ecozone. The Board of
5 Directors of the MEZFA may, with the written concurrence of the Secretary of Finance, sell
6 shares, representing not more than forty per centum (40%) of the capital stock of the MEZFA to
7 the general public under such policy as the Board and the Secretary of Finance may determine.
8 The National Government and the LGUs shall in no case own less than sixty per centum (60%) of
9 the total issued and outstanding capital of the Mindanao Ecozone Authority.

10 The amount necessary to subscribe and pay for the shares of the National Government to
11 the capital stock of the MEZFA shall be included in the Annual General Appropriations Act. For
12 LGUs, the funds shall be taken from their internal revenue allotment and other local funds

13 **Sec. 20. Supervision.** – The Mindanao Ecozone shall be under the direct control and
14 supervision of the Philippine Economic Zone Authority (PEZA) for purposes of policy direction
15 and coordination.

16 **Sec. 21. Defense and Security.** – The defense of the Mindanao Ecozone and the security of
17 its perimeters shall be the responsibility of the National Government in coordination with the
18 MEZFA. The MEZFA shall provide and establish its own internal security and firefighting
19 forces.

20 **Sec. 22. Relationship with the Regional Development Councils.** – The MEZFA shall
21 determine the development goals for the Mindanao Ecozone within the framework of national
22 development plans, policies and goals. The Administrator shall, upon approval by the Board,
23 submit the Mindanao Ecozone plans, programs and projects to the Regional Development
24 Councils for inclusion and coordination of the same to the other regional development plans.

25 **Sec. 23. Relationship with Local Government Units.** – Except as herein provided, the
26 local government units comprising the Mindanao Ecozone shall retain their basic autonomy and

1 identity. All local government units covered under the territory of the Mindanao Ecozone shall
2 operate and function in accordance with the Local Government Code of 1991. In case of any
3 conflict between the MEZFA and any of the Local Government Units of Mindanao on matters
4 affecting the Mindanao Ecozone, other than defense and security matters, the decision of the
5 MEZFA shall prevail.

6 **Sec. 24. *Interpretation/Construction.*** – The powers, authorities and functions that are
7 vested in the MEZFA are intended to decentralize governmental functions and authority and
8 promote an efficient and effective working relationship between the Mindanao Ecozone, the
9 National Government, and the Local Government Units.

10 **Sec. 25. *Auditing.*** – The Commission on Audit shall appoint a representative who shall
11 be a full time auditor of the MEZFA and assign such number of personnel as may be necessary to
12 assist said representative in the performance of his/her duties. The salaries and emoluments on
13 the assigned auditor and personnel shall be in accordance with pertinent laws, rules and
14 regulations.

15 **Sec. 26. *Separability Clause.*** – If any provisions of this Act shall be held unconstitutional
16 or invalid, the other provisions not otherwise affected shall remain in full force and effect.

17 **Sec. 27. *Repealing Clause.*** – All laws, executive orders and issuances, or any parts
18 thereof, which are inconsistent herewith are hereby repealed or amended accordingly.

19 **Sec. 28. *Effectivity Clause.*** – This Act shall take effect upon its publication in at least one
20 (1) newspaper of general circulation.

21 Approved,