



**HOUSE OF REPRESENTATIVES**

**H. No. 5344**

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BY REPRESENTATIVES GARCIA (A.) AND DURANO, PER COMMITTEE  
REPORT NO. 1443

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

*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 “Bataan  
2 Special Economic Zone and Freeport Act of 2008”.

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

1 country and through measures that will attract legitimate and productive  
2 foreign investments.

3       SEC. 3. *Conversion of the Bataan Economic Zone into the Bataan*  
4 *Special Economic Zone and Freeport.* – The existing Bataan Economic Zone  
5 (BEZ) located in the Municipality of Mariveles, Province of Bataan is hereby  
6 converted into a special economic zone and freeport to be known as the Bataan  
7 Special Economic Zone and Freeport (BSEZF). The BSEZF shall cover  
8 portions of barangays Maligaya, Malaya, Alas-asin, Baseco and Sisiman, all in  
9 the Municipality of Mariveles, Province of Bataan.

10       SEC. 4. *Governing Principles.* – The BSEZF shall be managed and  
11 operated by the Bataan Special Economic Zone and Freeport Authority,  
12 hereinafter referred to as the BSEZFA, created under Section 10 of this Act,  
13 under the following principles:

14       (a) Within the framework and limitations of the Constitution and  
15 applicable provisions of the Local Government Code, the BSEZF shall be  
16 developed into and operated as a decentralized, self-reliant and self-sustaining  
17 industrial, commercial/trading, agro-industrial, tourist, banking, financial and  
18 investment and tourist center with suitable residential areas;

19       (b) The BSEZF shall continue to be provided with transportation,  
20 telecommunications and other facilities needed to attract legitimate and  
21 productive investments, generate linkage industries and employment  
22 opportunities for the people of the Province of Bataan and its neighboring  
23 towns and cities;

24       (c) The BSEZF may establish mutually beneficial economic relations  
25 with other entities or enterprises within the country or, subject to the  
26 administrative guidance of the Department of Foreign Affairs (DFA), the  
27 Philippine Economic Zone Authority (PEZA) and/or the Department of Trade  
28 and Industry (DTI), with foreign entities or enterprises;

1 (d) Foreign citizens and companies owned by non-Filipinos in  
2 whatever proportion may set up enterprises in the BSEZF, either by themselves  
3 or in joint venture with Filipinos in any sector of industry, international trade  
4 and commerce within the BSEZF;

5 (e) The BSEZF shall be managed and operated as a separate customs  
6 territory, thereby ensuring the free flow or movement of goods and capital  
7 within, into and out of the BSEZF, and shall likewise provide incentives such  
8 as tax- and duty-free importations of raw materials and capital equipment to  
9 registered enterprises located therein. However, exportation or removal of  
10 goods from the territory of the BSEZF to the other parts of the Philippine  
11 territory shall be subject to customs duties and taxes under the Tariff and  
12 Customs Code of the Philippines, as amended, and the National Internal  
13 Revenue Code (NIRC) of 1997, as amended;

14 (f) The areas comprising the BSEZF may be expanded or reduced  
15 when necessary. For this purpose, the BSEZF, in consultation with the local  
16 government unit (LGU), shall have the power to acquire either by purchase,  
17 negotiation or condemnation proceedings, any private land within or adjacent  
18 to the BSEZF for the following purposes: (1) consolidation of lands for BSEZF  
19 development; (2) acquisition of right-of-way to the BSEZF; and (3) the  
20 protection of watershed areas and natural assets valuable to the prosperity of  
21 the BSEZF;

22 (g) Goods manufactured by a BSEZF enterprise shall be made  
23 available for immediate retail sale in the domestic market, subject to the  
24 payment of corresponding taxes on raw materials and other regulations that  
25 may be formulated by the BSEZFA, together with the PEZA, the Bureau of  
26 Customs (BoC) and the DTI in accordance with the NIRC of 1997, as  
27 amended, and the Tariff and Customs Code of the Philippines, as amended.  
28 However, in order to protect domestic industries, a Negative List of industries

1 shall be drawn up and regularly updated by the PEZA. Enterprises engaged in  
2 industries included in such Negative List shall not be allowed to sell their  
3 products locally; and

4 (h) The defense of the BSEZF and the security of its perimeter fence  
5 shall be the responsibility of the national government in coordination with the  
6 BSEZF and the LGU. For this purpose, a special defense team shall be  
7 organized to define its power, duties and responsibilities.

8 *SEC. 5. Incentives to Registered Enterprises.* – The BSEZFA shall  
9 provide the following incentives to the registered enterprises located therein to  
10 the extent of the activity/project:

11 (a) Income Tax Holiday (ITH) – Registered enterprises shall be  
12 entitled to an ITH from the start of their commercial operations to the extent of  
13 their activity under the following categories:

14 (1) Category A – Registered domestic enterprises producing/rendering  
15 new products/services or having strong backward or forward linkages shall be  
16 entitled to a six (6)-year ITH.

17 (2) Category B – Registered export enterprises shall be entitled to a  
18 six (6)-year ITH: *Provided*, That if the export enterprise complies with the  
19 following:

20 (i) Large capital investments or sizeable employment generation; or

21 (ii) Use high level of technology, it shall be entitled to an eight (8)-year  
22 ITH.

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

27 Additional investments in the project shall be entitled to the ITH  
28 corresponding to such investments as may be determined by the BOI.

1 Additional ITH may be granted for as long as the investment is made on the  
2 same project: *Provided*, That the project is listed in the IPP at the same time  
3 the additional investment in the project is made: *Provided, further*, That the  
4 entitlement period for additional investments shall not exceed three (3) times  
5 the period provided under this subsection: *Provided, however*, That the total  
6 ITH period for an export enterprise availing of an eight (8)-year ITH shall not  
7 exceed twenty (20) years. Any unused incentives shall therefore be deemed  
8 forfeited if not used during the incentive period.

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

13 The Bureau of Internal Revenue (BIR) shall require a registered  
14 enterprise availing of the ITH or the net operating loss carryover (NOLCO) to  
15 secure a certificate of eligibility from the BSEZFA before submitting its  
16 income tax return (ITR) with the BSEZFA for validation.

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

21 (b) Net Operating Loss Carryover (NOLCO) – The net operating loss  
22 of the business or enterprise during the first three (3) years from the start of  
23 commercial operations which have not been previously offset as a deduction  
24 from the gross income shall be carried over as a deduction from the gross  
25 income for the next five (5) consecutive years immediately following the year  
26 of such loss: *Provided, however*, That operating loss resulting from availment  
27 of incentives provided in this Code shall not be entitled to NOLCO.

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

3 (c) Imposition of a Tax Rate of Five Percent (5%) on Gross Income  
4 Earned (GIE) – Except for real property tax on land, no local and national  
5 taxes, as prescribed under Republic Act No. 8424, also known as “the National  
6 Internal Revenue Code of 1997, As Amended”, such as the income tax, the  
7 excise tax and the franchise taxes shall be imposed on business establishments  
8 operating within the BSEZF. In lieu thereof, five percent (5%) of the gross  
9 income earned by all the business enterprises with the BSEZFA and remitted  
10 as follows:

11 (1) Two percent (2%) to the national government;

12 (2) One percent (1%) to the Province of Bataan; and

13 (3) Two percent (2%) shall be directly remitted by the business  
14 establishments to the treasurer’s office of the municipality where the enterprise  
15 is located.

16 All persons and service establishments in the BSEZF that are not  
17 covered by Section 5 herein shall be subject to national and local taxes under  
18 the NIRC of 1997, as amended, and the Local Government Code.

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

25 (e) Capital Equipment Incentives – Importations of capital equipment,  
26 spare parts, tools and dye, or those required for pollution abatement and  
27 control, cleaner production and waste reduction including consignment thereof  
28 by registered enterprises upon the effectivity of this Act shall be exempted to

1 the extent of one hundred percent (100%) of the taxes and customs duties:  
2 *Provided*, That the importation thereof shall be used exclusively by the  
3 registered enterprise in its registered activity within the BSEZF: *Provided*,  
4 *further*, That the importation of machinery and equipment and accompanying  
5 parts shall comply with the following conditions:

6 (1) These are not manufactured domestically in sufficient quantity, of  
7 comparable quality and at reasonable prices;

8 (2) These are reasonably needed and will be used exclusively by the  
9 registered enterprise in the manufacture of its products, unless prior approval  
10 of the BSEZFA is secured for the part-time utilization of said equipment in a  
11 nonregistered activity to maximize usage thereof or the proportionate taxes and  
12 duties are paid on a specific equipment and machinery being permanently used  
13 for nonregistered activities; and

14 (3) Approval of the BSEZFA was obtained by the registered enterprise  
15 for the importation of such machinery, equipment and spare parts.

16 Approval of the BSEZFA must be secured before any sale, transfer or  
17 disposition of the imported capital equipment, machinery or spare parts is  
18 made: *Provided*, That if such sale, transfer or disposition is made within the  
19 first five (5) years from the date of importation, any of the following conditions  
20 must be present:

21 (i) If made to another enterprise enjoying tax and duty exemption on  
22 imported capital equipment;

23 (ii) If made to another enterprise not covered by subparagraph (i)  
24 herein, upon payment of the taxes and duties on the net book value of the  
25 capital equipment to be sold;

26 (iii) Exportation of the capital equipment, machinery, spare parts or  
27 source documents or those required for pollution abatement and control; and

28 (iv) For reasons of proven technical obsolescence.

1           When the aforementioned sale, transfer or disposition is made under any  
2 of the conditions provided for in the foregoing paragraphs other than  
3 subparagraph (ii), the registered firm shall not pay the taxes and duties waived  
4 on such items: *Provided, further*, That if the registered enterprise sells,  
5 transfers or disposes the aforementioned imported items without prior approval  
6 within five (5) years from the date of importation, the registered enterprise and  
7 the vendee, transferee or assignee shall be solidarily liable to pay twice the  
8 amount of the tax and duty exemption given it: *Provided, finally*, That even if  
9 the sale, transfer or disposition of the capital equipment, machinery or spare  
10 parts is approved after five (5) years from the date of importation, the  
11 registered enterprise is still liable to pay the taxes and duties based on the net  
12 book value of the capital equipment, machinery or spare parts if it has violated  
13 any of its registration terms and conditions. Otherwise, it shall no longer be  
14 subject to the payment of the taxes and duties waived thereon.

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

19           The registered export-oriented enterprise shall be granted a tax credit  
20 equivalent to the amount of duties that would have been waived on the  
21 machinery, capital equipment, and raw materials, supplies, parts and semi-  
22 finished products used in the fabrication of machinery and capital equipment,  
23 had these items been imported, upon its submission to the Department of  
24 Finance (DOF) of the bill of materials evidencing the transaction value of such  
25 and other pertinent documents, for verification and proper endorsement.

26           The registered export enterprise availing of the incentive provided under  
27 the immediately preceding two (2) paragraphs shall be subject to the following:  
28 (i) that said capital equipment, machinery and spare parts will be used



1 exclusively by the registered enterprise in its registered activity; (ii) that the  
2 capital equipment or machinery where the raw materials, supplies, parts and  
3 semi-finished products were used would have qualified for tax- and duty-free  
4 importation; and (iii) that the approval of the BSEZFA is obtained by the  
5 registered enterprise. If the registered enterprise sells, transfers or disposes of  
6 these machineries, capital equipment and spare parts, the provision in the  
7 preceding paragraphs for such disposition shall apply.

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

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

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

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

24 (h) Incentives on Breeding Stocks and Genetic Materials – Importation  
25 of breeding stocks and genetic materials within ten (10) years from the date of  
26 registration of commercial operation of the enterprise shall be exempt from all  
27 taxes and duties: *Provided*, That such breeding stocks and genetic materials  
28 are reasonably needed in the registered activity and approved by the BSEZFA.

1           The availment of the incentives by a registered enterprise shall be  
2 subject to the following: (1) that said breeding stocks and genetic materials  
3 would have been qualified for tax- and duty-free importation under the  
4 preceding paragraph; (2) that the breeding stocks and genetic materials are  
5 reasonably needed in the registered activity; (3) that approval of the BSEZFA  
6 has been obtained by the registered enterprise; and (4) that the purchase is  
7 made within ten (10) years from the date of registration of commercial  
8 operations of the registered enterprise.

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

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

18           (j) (1) Tax Treatment of Merchandise in the BSEZF – The free  
19 trade/freeport zone shall be operated and managed as a separate customs  
20 territory ensuring free flow or movement of goods within, into and exported  
21 out of the free trade/freeport zone. Importations of raw materials and capital  
22 equipment are tax- and duty-free. However, exportations or removal of goods  
23 from the free trade/freeport zones to the other parts of the Philippine territory  
24 shall be subject to customs and internal revenue regulations.

25           (i) Except as otherwise provided in this Act, foreign and domestic  
26 merchandise, raw materials, supplies, articles, equipment, machineries, spare  
27 parts and wares of every description, except those prohibited by law, brought  
28 into the zone to be sold, stored, broken up, repacked, assembled, installed,

1 sorted, cleaned, graded or otherwise processed, manufactured, mixed with  
2 foreign or domestic merchandise, whether directly or indirectly related in such  
3 activity, shall not be subject to customs and internal revenue laws and  
4 regulations nor to local tax ordinances, any provision of law to the contrary  
5 notwithstanding.

6 (ii) Merchandise purchased by a registered BSEZF enterprise, from the  
7 customs territory and subsequently brought into the export processing zone,  
8 shall be considered as export sales and exportation thereof shall be entitled to  
9 the benefits allowed by law for such transaction.

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

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

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

25 (vi) Subject to such regulations respecting identity and safeguarding of  
26 revenue as the BSEZFA may deem necessary, when the identity of an article  
27 entered into the export processing zone under the immediately preceding  
28 paragraph has been lost, such article when removed from the zone and taken to

1 the customs territory shall be treated as foreign merchandise entering the  
2 country for the first time, under the provisions of the Tariff and Customs Code  
3 of the Philippines, as amended.

4 (vii) Articles produced or manufactured in the BSEZF and exported  
5 therefrom shall, on subsequent importation into the customs territory, be  
6 subject to the import laws applicable to like articles manufactured in a foreign  
7 country.

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

11 (2) Tax Treatment of Services in the BSEZF – (i) Sale of service by an  
12 entity from the customs territory to a registered ecozone or free trade  
13 enterprise, or by a registered ecozone or freeport enterprise to another ecozone  
14 or freeport enterprise shall be treated as indirect export and hence, entitled to  
15 the benefits allowed by law for such transaction; and (ii) Sale or service by a  
16 registered ecozone or freeport enterprise to the customs territory shall be  
17 subject to applicable internal revenue laws and regulations.

18 (k) Registered export-oriented enterprise shall have access to the  
19 utilization of the bonded warehousing system in accordance with the rules and  
20 regulations of the BoC.

21 (l) Employment of Foreign Nationals – Subject to the provisions of  
22 Section 29 of Commonwealth Act No. 613, as amended, a registered enterprise  
23 may employ foreign nationals in supervisory or technical positions for a period  
24 not exceeding ten (10) years from its registration: *Provided*, That when the  
25 majority of the capital stock of a registered enterprise is owned by foreign  
26 investors, the positions of the president, treasurer and general manager or their  
27 equivalents may be retained by foreign nationals beyond the period set forth  
28 herein and such officer is the owner or a stockholder owning at least ten

1 percent (10%) of the outstanding capital stock of the registered enterprise and  
2 he/she remains the owner or maintains his/her stockholdings therein.

3 Foreign nationals under employment contract within the purview of this  
4 incentive, their spouses and unmarried children under twenty-one (21) years of  
5 age, who are not excluded by Section 29 of Commonwealth Act No. 613, as  
6 amended, shall be permitted to enter and reside in the Philippines during the  
7 period of employment of such foreign nationals. They shall be issued multiple-  
8 entry visas, renewable every two (2) years, and shall be allowed to enter and  
9 leave the Philippines without further documentary requirements other than  
10 valid passports or other travel documents in the nature of passports.

11 The foreign nationals admitted herein, as well as their respective  
12 spouses and dependents, shall be exempt from: (1) obtaining alien certificates  
13 of registration and emigration clearance certificates; and (2) securing the alien  
14 employment permits (AEP) and all types of clearances, permits, licenses or  
15 their equivalents required by any government department or agency.

16 SEC. 6. *Incentive to Investors.* – Any foreign national covered under  
17 subsection (m) of Section 5 of this Act, who invests an amount of One hundred  
18 fifty thousand US Dollars (US\$150,000.00), either in cash and/or equipment,  
19 in a registered enterprise shall be entitled to an investor's visa: *Provided, That,*

20 (a) he is at least eighteen (18) years of age;

21 (b) he has not been convicted of a crime involving moral turpitude;

22 (c) he is not afflicted with any loathsome, dangerous or contagious  
23 disease; and

24 (d) He has not been institutionalized for any mental disorder or  
25 disability: *Provided, further,* That in securing the investor's visa, the alien-  
26 applicant shall be entitled to the same privileges provided for under the last  
27 paragraph of Section 5(m) herein.

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

7           SEC. 7. *Administration, Implementation and Monitoring of Incentives.*

8           – The BSEZFA shall be responsible for the administration and implementation  
9 of the incentives granted to its respective registered enterprises: *Provided,*  
10 That any incentive administration policy adopted by the BOI for incentives  
11 common to all registered enterprises shall be uniformly applied by the  
12 BSEZFA.

13           The following are the duties and responsibilities of the BSEZFA in the  
14 administration of incentives:

15           (a) Adopt consistent procedures of administering incentives in  
16 accordance with the guidelines established by the BOI and to amend the same  
17 when necessary;

18           (b) Adopt and implement systems and procedures affecting trade and  
19 customs policies in accordance with the requirements established by the DOF  
20 and the BOI and to amend the same when necessary;

21           (c) Submit data and information to the DOF and the BOI as required by  
22 any of these agencies to ascertain consistency of investment policies and  
23 incentives, including their implementation as provided in (a) and to ensure  
24 proper implementation of systems and procedures affecting trade and customs  
25 policies as provided in (b); and

26           (d) Perform all other duties and responsibilities as may be required by  
27 the President of the Philippines. For proper monitoring, the BOI shall create a  
28 single database of all incentives provided by all incentives-granting agencies,

1 including the BSEZFA and all information thereto. Double-entry accounting  
2 shall be done by the BOI in recording all incentives granted by the government  
3 for transparency purposes.

4       SEC. 8. *Extension of Period of Availment.* – The availment period of  
5 the incentives provided herein may be extended by the BSEZFA in the event  
6 that the registered enterprise suffers operational *force majeure* or any event  
7 equivalent thereto, impairing its viability.

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

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

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

18       SEC. 10. *Creation of the Bataan Special Economic Zone and Freeport*  
19 *Authority.* – There is hereby created a body corporate to be known as the  
20 Bataan Special Economic Zone and Freeport Authority, hereinafter referred to  
21 as the BSEZFA, which shall manage and operate the BSEZF in accordance  
22 with the provisions of this Act. This corporate franchise shall expire in fifty  
23 (50) years counted from the first year after the effectivity of this Act, unless  
24 otherwise extended by Congress. It shall be organized within one hundred  
25 eighty (180) days after the effectivity of this Act.

26       SEC. 11. *Principal Office of the Bataan Special Economic Zone and*  
27 *Freeport Authority.* – The BSEZFA shall maintain its principal office in the  
28 Municipality of Mariveles, Province of Bataan, but it may establish branches

1 within the Philippines as may be necessary for the proper conduct of its  
2 business.

3 SEC. 12. *Powers and Functions of the BSEZFA.* – The BSEZFA shall  
4 have the following functions:

5 (a) Operate, administer, manage and develop the BSEZF according to  
6 the principles and provisions set forth in this Act;

7 (b) Recommend to the President of the Philippines the issuance of a  
8 proclamation to fix and delimit the site of the BSEZF;

9 (c) Register, regulate and supervise the enterprises in the BSEZF in an  
10 efficient and decentralized manner, subject to existing laws;

11 (d) Coordinate with LGUs and exercise general supervision over the  
12 development plans, activities and operations of the BSEZF;

13 (e) Authorize or undertake, on its own or through others, and regulate  
14 the establishment, operation and maintenance of public utilities, services and  
15 infrastructure in the BSEZ such as shipping, barging, stevedoring, cargo  
16 handling, hauling, warehousing, storage of cargo, port services or  
17 concessions, piers, wharves, bulkheads, bulk terminals, mooring areas,  
18 storage areas, roads, bridges, terminals, conveyors, water supply and storage,  
19 sewerage, drainage, airport operations in coordination with the Civil  
20 Aeronautics Board, and such other services or concessions or infrastructure  
21 necessary or incidental to the accomplishment of the objectives of this Act:  
22 *Provided, however,* That the private investors in the BSEZF shall be given  
23 priority in the awarding of contracts, franchises, licenses or permits for the  
24 establishment, operation and maintenance of utilities, services and  
25 infrastructure in the BSEZF;

26 (f) Regulate and undertake the establishment, operation and  
27 maintenance of utilities, other services and infrastructure in the BSEZF such  
28 as, but not limited to, heat, light and power, water supply, telecommunications,



1 transport, toll roads and bridges, port services, and to fix just, reasonable and  
2 competitive rates, fares, charges and prices thereof;

3 (g) Construct, acquire, own, lease, operate and maintain on its own or  
4 through contracts, franchises, licenses, bulk purchases from the private sector  
5 or permits under any of the schemes allowed in Republic Act No. 6957 (the  
6 Build-Operate-Transfer Law, as amended), or joint ventures, adequate  
7 facilities and infrastructure required or needed for the operation and  
8 development of the BSEZF, in coordination with appropriate national and local  
9 government authorities and in conformity with applicable laws thereon;

10 (h) Operate on its own, either directly or through licenses to others,  
11 tourism-related activities, and sports facilities, such as golf courses and others,  
12 under priorities and standards set by the BSEZFA;

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

20 (j) Provide security for the BSEZF in coordination with the national  
21 and local governments. Military forces sent by the national government for the  
22 purpose of defense shall not interfere in the internal affairs of the BSEZF and  
23 expenditures for these military forces shall be borne by the national  
24 government. For this purpose, the BSEZFA may establish and maintain its  
25 security forces and firefighting capability or hire others to provide the same;

26 (k) Protect, preserve, maintain and develop the virgin forests, beaches,  
27 coral and coral reefs, and maintain ecological balance within the BSEZF;

1 (l) Create, operate and/or contract to operate such functional units or  
2 offices of the BSEZFA as it may deem necessary;

3 (m) Adopt, alter and use a corporate seal; contract, lease, buy, acquire,  
4 own or otherwise dispose of personal and/or real property of whatever nature;  
5 sue and be sued; and otherwise carry out its functions and duties as provided  
6 for in this Act;

7 (n) Issue certificates of origin for products manufactured or processed  
8 in the BSEZF in accordance with prevailing rules of origin, and the pertinent  
9 regulations of the DTI and/or the DOF;

10 (o) Issue working visas renewable every two (2) years to foreign  
11 executives and foreign technicians with highly specialized skills which no  
12 Filipino possesses, as certified by the Department of Labor and Employment  
13 (DOLE);

14 (p) Report to the Bureau of Immigration (BI) the names of the  
15 foreigners who have been granted permanent resident status and working visas  
16 within thirty (30) days after the issuance of such grant;

17 (q) Exercise such powers as may be essential, necessary or incidental to  
18 the powers granted to it hereunder, as well as those that shall enable it to carry  
19 out, implement and accomplish the purposes, objectives and policies of this  
20 Act; and

21 (r) Issue rules and regulations consistent with the provisions of this Act  
22 as may be necessary to accomplish and implement the purposes, objectives and  
23 policies provided herein.

24 SEC. 13. *Tax Exemptions.* – The BSEZFA is hereby declared exempt  
25 from the payment of all taxes, duties, fees, imports, charges, costs and service  
26 fees in any court or administrative proceedings in which it may be a party.

27 The foregoing exemptions may, however, be entirely or partially lifted  
28 by the President of the Philippines upon the recommendation of the Secretary

1 of Finance, not earlier than five (5) years from the effectivity of this Act, if the  
2 President of the Philippines shall find the BSEZFA to be self-sustaining and  
3 financially capable by then to pay such taxes, customs duties, fees and other  
4 charges after providing for debt service requirements of the BSEZFA and of its  
5 projected capital and operating expenditures.

6 Furthermore, all donations made by any person or entity in favor of the  
7 BSEZFA shall be exempt from the payment of the donor's tax and the same  
8 shall be considered as deductible from the gross income of the donor, pursuant  
9 to the NIRC of 1997, as amended.

10 SEC. 14. *Authority of the Bureau of Customs to Examine the Entry and*  
11 *Exit of Imported Articles in the BSEZFA.* – The BoC, in coordination with the  
12 appropriate government agencies such as, but not limited to, the Departments  
13 of Trade and Industry, Agriculture, Transportation and Communications, and  
14 Health shall have the authority to examine the entry and exit of imported  
15 articles in the BSEZFA for the purpose of determining: (a) the quantity and  
16 description of subject imported articles, and (b) the compliance with the  
17 sanitary and agricultural requirements.

18 SEC. 15. *Banking Rules and Regulations.* – Existing banking laws and  
19 rules/regulations of the BSP shall apply to banks and financial institutions to  
20 be established in the BSEZF, such as those governing foreign exchange and  
21 other current account transactions (trade and nontrade), local and foreign  
22 borrowings, foreign investments, establishment and operation of local and  
23 foreign banks, foreign currency deposit units, offshore banking units and other  
24 financial institutions under the supervision of the BSP.

25 SEC. 16. *Remittance of Earnings.* – In the case of foreign investments,  
26 a registered enterprise in the BSEZF shall have the right to remit earnings from  
27 the investment in the currency in which the investment was originally made

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

3 SEC. 17. *Board of Directors.* – The powers of the BSEZFA shall be  
4 vested in and exercised by the Board of Directors, hereinafter referred to as the  
5 Board, which shall be composed of the following:

6 (a) The chairperson who shall, at the same time, be the administrator of  
7 the BSEZFA;

8 (b) A vice chairperson who shall come from among the members of the  
9 Board;

10 (c) Members consisting of:

11 (1) The governor of the Province of Bataan;

12 (2) The congressional representative of the district covering the site of  
13 the BSEZF;

14 (3) The mayor of the Municipality of Mariveles;

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

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

17 (6) One (1) representative from labor from among the workers in the  
18 BSEZF.

19 The representative of the province, the representative of the  
20 congressional district and the representative from the Municipality of  
21 Mariveles, Province of Bataan shall serve as *ex officio* members of the Board,  
22 whose terms in the Board correspond to the term of the elected officials.

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

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

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

15           SEC. 18. *Powers and Duties of the Chairperson-Administrator.* – The  
16 chairperson-administrator shall have the following powers and duties:

17           (a) Direct and manage the affairs of the BSEZFA in accordance with  
18 the policies of the Board;

19           (b) Establish the internal organization of the BSEZFA under such  
20 conditions that the Board may prescribe;

21           (c) Submit an annual budget and necessary supplemental budget to the  
22 Board for its approval;

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

25           (e) Submit to the Board for its approval policies, systems, procedures,  
26 rules and regulations that are essential to the operation of the BSEZF;

1 (f) Create a mechanism in coordination with relevant agencies for the  
2 promotion of industrial peace, the protection of the environment and the  
3 advancement of the quality of life; and

4 (g) Perform such other duties as may be assigned to him/her by the  
5 Board or which are necessary or incidental to his/her office.

6 SEC. 19. *Organization and Personnel.* – The Board of Directors of the  
7 BSEZFA shall provide for the organization and staff of its officers and  
8 employees. Upon recommendation of the chairperson-administrator, the Board  
9 shall appoint and fix the remuneration and other emoluments of its officers and  
10 employees in accordance with existing laws on compensation and position  
11 classification: *Provided,* That the Board shall have exclusive and final  
12 authority to promote, transfer, assign or reassign officers of the BSEZFA, any  
13 provision of existing law to the contrary notwithstanding: *Provided, further,*  
14 That the chairperson-administrator may carry out removal of such officers and  
15 employees.

16 The officers and employees of the BSEZFA, including all members of  
17 the Board, shall not engage directly or indirectly in partisan activities nor take  
18 part in any election, except to vote.

19 No officer or employee of the BSEZFA, subject to civil service laws  
20 and regulations, shall be removed or suspended except for cause, as provided  
21 by law.

22 SEC. 20. *General Manager.* – The Board of Directors of the BSEZFA  
23 shall appoint a full-time professional and competent administrator and chief  
24 executive officer for the BSEZFA whose compensation shall be determined by  
25 its Board of Directors and shall be in accordance with the revised  
26 compensation and position classification system. The administrator as chief  
27 executive officer of the BSEZFA shall be responsible to the Board and to the

1 President of the Philippines for the efficient management and operation of the  
2 BSEZFA.

3 SEC. 21. *Applicability Clause.* – The provisions of Sections 30 to 41 of  
4 Republic Act No. 7916, as amended, on leases of lands and buildings, land  
5 conversion, shipping and shipping register, protection of environment,  
6 termination of business, registration of business enterprises, one-stop shop  
7 center and on industrial harmony in the ecozones shall apply to the BSEZFA.

8 SEC. 22. *Capitalization.* – The BSEZFA shall have an authorized  
9 capital stock of two billion (2,000,000,000) no par shares with a minimum  
10 issue of Ten pesos (P10.00) each, the majority shares of which shall be  
11 subscribed and paid for by the national government and the LGUs embracing  
12 the BSEZF. The Board of Directors of the BSEZFA may, with the written  
13 concurrence of the Secretary of Finance, sell shares, representing not more  
14 than forty *per centum* (40%) of the capital stock of the BSEZFA to the general  
15 public under such policy as the Board and the Secretary of Finance may  
16 determine. The national government and the LGUs shall, in no case, own less  
17 than sixty *per centum* (60%) of the total issued and outstanding capital of the  
18 BSEZFA.

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

23 SEC. 23. *Supervision and Coordination of Development Plans.* – For  
24 purposes of policy direction and coordination, the BSEZF shall be under the  
25 direct control and supervision of the Office of the President.

26 SEC. 24. *Relationship with the Regional Development Council* – The  
27 BSEZFA shall determine the development goals for the BSEZF within the  
28 framework of national development plans, policies and goals. The

1 administrator shall, upon approval by the Board, submit the BSEZF plans,  
2 programs and projects to the Regional Development Council for inclusion and  
3 inputs to the overall regional development plan.

4 SEC. 25. *Relationship with LGUs.* – Except as herein provided, the  
5 LGUs comprising the BSEZF shall retain their basic autonomy and identity.  
6 The Municipality of Mariveles shall operate and function in accordance with  
7 the Local Government Code of 1991. In case of any conflict between the  
8 BSEZFA and the Municipality of Mariveles on matters affecting the BSEZF  
9 other than defense and security matters, the decision of the BSEZFA shall  
10 prevail.

11 SEC. 26. *Legal Counsel.* – The BSEZFA shall have its own internal  
12 legal counsel under the supervision of the Office of the Government Corporate  
13 Counsel (OGCC). When the exigencies of its businesses and operations  
14 demand it, the BSEZFA may engage the services of an outside counsel either  
15 on a case to case or on a fixed retainer basis.

16 SEC. 27. *Interpretation/Construction.* – The powers, authorities and  
17 functions that are vested in the BSEZFA are intended to decentralize  
18 governmental functions and authority and promote an efficient and effective  
19 working relationship among the BSEZF, the national government and the  
20 LGUs.

21 SEC. 28. *Auditing.* – The Commission on Audit shall appoint a  
22 representative who shall be a full-time auditor of the BSEZFA and assign such  
23 number of personnel as may be necessary to assist said representative in the  
24 performance of his/her duties. The salaries and emoluments of the assigned  
25 auditor and personnel shall be in accordance with pertinent laws, rules and  
26 regulations.

27 SEC. 29. *Transitory Provision.* – All properties, assets, funds, rights,  
28 obligations, liabilities, records and contracts of the BEZ shall continue to be



1 vested in and assumed by the BSEZFA as a corporation pursuant to this Act.  
2 The BSEZFA shall be responsible for the operation, administration,  
3 management and development of the BSEZF.

4 The BSEZFA shall effect the transfer herein provided in a manner that  
5 will ensure the least disruption of ongoing programs of the BEZ. The qualified  
6 and necessary personnel of the BEZ shall be transferred to and be absorbed by  
7 the BSEZFA: *Provided*, That the tenure, rank, salaries and privileges of such  
8 personnel are not reduced or adversely affected. The personnel whose services  
9 are not retained by the BSEZFA shall be granted separation pay and retirement  
10 and other benefits they are entitled to under existing laws but in no case shall  
11 the separation pay be less than one (1) month for every year of service.

12 In the period prior to the actual assumption of duties by the BSEZFA,  
13 all officers and employees of the BEZ shall continue to exercise their functions  
14 and discharge their duties and responsibilities. The BEZ shall be deemed  
15 abolished upon the organization of the BSEZFA.

16 SEC. 30. *Implementing Rules and Regulations.* – The DTI, the DOF,  
17 the LGU and the Department of the Interior and Local Government shall  
18 formulate the implementing rules and regulations of this Act within ninety (90)  
19 days after its approval. Such rules and regulations shall take effect fifteen (15)  
20 days after their publication in a newspaper of general circulation in the  
21 Philippines.

22 SEC. 31. *Separability Clause.* – If any provision of this Act shall be  
23 held unconstitutional or invalid, the other provisions not otherwise affected  
24 shall remain in full force and effect.

25 SEC. 32. *Repealing Clause.* – All laws, executive orders or issuances or  
26 any part thereof which are inconsistent herewith are hereby repealed or  
27 amended accordingly.

1            SEC. 33. *Effectivity Clause.* – This Act shall take effect fifteen (15)  
2 days after its publication in at least two (2) national newspapers of general  
3 circulation.

Approved,

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