EXECUTIVE ORDER NO. 226
July 16, 1987

THE OMNIBUS INVESTMENTS CODE OF 1987

WHEREAS, the Government is committed to encourage investments in desirable areas of activities;

WHEREAS, to facilitate investment, there is a need to adopt a cohesive and consolidated investments incentives law;

WHEREAS, it is imperative to integrate basic laws on investment, to clarify and harmonize their provisions for the guidance of domestic and foreign investors;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order and ordain the following:

Article 1. Short Title. This Order shall be known as the "Omnibus Investments Code" of 1987.

Article 2. Declaration of Investment Policies. To accelerate the sound development of the national economy in consonance with the principles and objectives of economic nationalism and in pursuance of a planned economically feasible and practical dispersal of industries and the promotion of small and medium scale industries, under conditions which will encourage competition and discourage monopolies, the following are declared policies of the State:

1. The State shall encourage private Filipino and foreign investments in industry, agriculture, forestry, mining, tourism and other sectors of the economy which shall: provide significant employment opportunities relative to the amount of the capital being invested; increase productivity of the land, minerals, forestry, aquatic and other resources of the country, and improve utilization of the products thereof; improve technical skills of the people employed in the enterprise; provide a fountain for the future development of the economy; meet the tests of international competitiveness; accelerate development of less developed regions of the country; and result in increased volume and value of exports for the economy. 1.net

2. The State shall ensure the holistic development by safeguarding the well-being of the social, cultural and ecological life of the people. For this purpose, consultation with affected communities will be conducted whenever necessary.

3. The State shall extend to projects which will significantly contribute to the attainment of these objectives, fiscal incentives without which said projects may not be established in the locales, number and/or pace required for optimum national economic development. Fiscal incentive system shall be devised to compensate for market imperfections, to reward performance contributing to economic development, be cost-efficient and be simple to administer.

4. The State considers the private sector as the prime mover for economic growth. In this regard, private initiative is to be encouraged, with deregulation and self-regulation of business activities to be generally adopted where dictated by urgent social concerns.

5. The State shall principally play a supportive role, rather than a competitive one, providing the framework, the climate and the incentives within which business activity is to take place.

6. The State recognizes that there are appropriate roles for local and foreign capital to play in the development of the Philippine economy and that it is the responsibility of Government to define these roles and provide the climate for their entry and growth.

7. The State recognizes that industrial peace is an essential element of economic growth and that it is a principal responsibility of the State to ensure that such condition prevails.

8. Fiscal incentives shall be extended to stimulate the establishment and assist initial operations of the enterprise, and shall terminate after a period of not more than 10 years from registration or start-up of operation unless a specific period is otherwise stated.

The foregoing declaration of investment policies shall apply to all investment incentive schemes.

CHAPTER II BOARD OF INVESTMENTS

Article 3. The Board of Investments. The Board of Investments shall implement the provisions of Books One to Five of this Code.

Article 4. Composition of the Board. The Board of Investments shall be composed of seven (7) governors: The Secretary of Trade and Industry, three (3) Undersecretaries of Trade and Industry to be chosen by the President, and three (3) representatives from other government agencies and the private sector. The Secretary of Trade and Industry shall be concurrently Chairman of the Board and the Undersecretary of the Department of Trade and Industry for Industry and Investments shall be concurrently the Vice-Chairman of the Board and its Managing Head. The three (3) representatives from other government agencies and the private sector appointed by the President for a term of four (4) years: Provided, That upon the expiration of his term, a governor shall serve as such until his successor shall have been appointed and qualified: Provided, further, That no vacancy shall be filled except for the unexpired portion of any term, and that no one may be
designated to be governor of the Board in an acting capacity but all appointments shall be ad interim or permanent.

Article 5. Qualifications of Governors of the Board. The governors of the Board shall be citizens of the Philippines, at least thirty (30) years old, of good moral character and of recognized competence in the fields of economics, finance, banking, commerce, industry, agriculture, engineering, law, management or labor.

Article 6. Appointment of Board Personnel. The Board shall appoint its technical staff and other personnel subject to Civil Service Law, rules and regulations.

Article 7. Powers and Duties of the Board. The Board shall be responsible for the regulation and promotion of investments in the Philippines. It shall meet as often as may be necessary generally once a week on such day as it may fix. Notice of regular and special meetings shall be given all members of the Board. The presence of four (4) governors shall constitute a quorum and the affirmative vote of four (4) governors in a meeting validly held shall be necessary to exercise its powers and perform its duties, which shall be as follows:

(1) Prepare annually the Investment Priorities Plan as defined in Article 26, which shall contain a listing of specific activities that can qualify for incentives under Book I of this Code, duly supported by the studies of existing and prospective demands for such products and services in the light of the level and structure of income, production, trade, prices and relevant economic and technical factors of the regions as well as existing facilities;

(2) Promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Code relevant to the Board;

(3) Process and approve applications for registration with the Board, imposing such terms and conditions as it may deem necessary to promote the objectives of this Code, including refund of incentives when appropriate, restricting availment of certain incentives not needed by the project in the determination of the Board, requiring performance bonds and other guarantees, and payment of application, registration, publication and other necessary fees and when warranted may limit the availment of the tax holiday incentive to the extent that the investor’s country law or treaties with the Philippines allows a credit for taxes paid in the Philippines;

(4) After due hearing, decide controversies concerning the implementation of the relevant books of this Code that may arise between registered enterprises or investors therein and government agencies, within thirty (30) days after the controversy has been submitted for decision: Provided, That the investor or the registered enterprise may appeal the decision of the Board within thirty (30) days from receipt thereof to the President;

(5) Recommend to the Commissioner of Immigration and Deportation the entry into the Philippines for employment of foreign nationals under this Code;

(6) Periodically check and verify, either by inspection of the books or by requiring regular reports, the proportion of the participation of Philippine nationals in a registered enterprise to ascertain compliance with its qualification to retain registration under this Code;

(7) Periodically check and verify the compliance by registered enterprises with the relevant provisions of this Code, with the rules and regulations promulgated under this Code and with the terms and conditions of registration;

(8) After due notice, cancel the registration or suspend the enjoyment of incentives benefits of any registered enterprise and/or require refund of incentives enjoyed by such enterprise including interests and monetary penalties, for (a) failure to maintain the qualifications required by this Code for registration with the Board or (b) for violation of any provisions of this Code, of the rules and regulations issued under this Code, of the terms and conditions of registration, or of laws for the protection of labor or of the consuming public: Provided, That the registration of an enterprise whose project timetable, as set by the Board is delayed by one year, shall be considered automatically cancelled unless otherwise reinstated as a registered enterprise by the Board;

(9) Determine the organizational structure taking into account Article 6 of this Code; appoint, discipline and remove its personnel consistent with the provisions of the Civil Service Law and Rules;

(10) Prepare or contract for the preparation of feasibility and other pre-investment studies for pioneer areas either upon its own initiative; or upon the request of Philippine nationals who commit themselves to invest therein and show the capability of doing so; Provided, That if the venture is implemented, then the amount advanced by the Board shall be repaid within five (5) years from the date the commercial operation of said enterprise starts;

(11) When feasible and considered desirable by the Board, require registered enterprises to list their shares of stock in any accredited stock exchange or directly offer a portion of their capital stock to the public and/or their employees;

(12) Formulate and implement rationalization programs
for certain industries whose operation may result in dislocation, overcrowding or inefficient use of resources, thus impeding economic growth. For this purpose, the Board may formulate guidelines for progressive manufacturing programs, local content programs, mandatory sourcing requirements and dispersal of industries. In appropriate cases and upon approval of the President, the Board may restrict, either totally or partially, the importation of any equipment or raw materials or finished products involved in the rationalization program;

(13)To the extent that such activities are allowed by the Constitution and relevant laws, to recommend to the President of the Philippines, the suspension of the nationality requirement provided in this Code in cases of ASEAN projects, or investments by ASEAN nationals, regional ASEAN or multilateral financial institutions including their subsidiaries in preferred projects and/or projects allowed through either financial or technical assistance agreements entered into by the President, and in the case of regional complementation for the manufacture of a particular product which seeks to take advantage of economies of scale. For the purpose of this Act, a multilateral financial institution shall refer to a financial agency or entity, and its affiliates which satisfy the following qualifications:

(1) The institution is either owned or controlled by member countries but does not possess any national identity;

(2) The institution sources its funds from capital stock subscriptions and contributions by member countries; and

(3) The primary responsibility of the institution is to provide funds for developmental purposes and international economic stability.¹

(14) Extend the period of availment of incentives by any registered enterprise; Provided, That the total period of availment shall not exceed ten (10) years, subject to any of the following criteria:

(a) The registered enterprise has suffered operational force majeure that has impaired its viability;

(b) The registered enterprise has not fully enjoyed the incentives granted to it for reasons beyond its control;

(c) The project of the registered enterprise has a gestation period which goes beyond the period of availment of needed incentives; and

(d) The operation of the registered enterprise has been subjected to unforeseen changes in government policies, particularly, protectionalism policies of importing countries, and such other supervening factors which would affect the competitiveness of the registered firm;

(15) Regulate the making of investments and the doing of business within the Philippines by foreigners or business organizations owned in whole or in part by foreigners;

(16) Prepare or contract for the preparation of industry and sectoral development programs and gather and compile statistical, technical, marketing, financial and other data required for the effective implementation of this Code;

(17) Within four (4) months after the close of the fiscal year, submit annual reports to the President which shall cover its activities in the administration of this Code, including recommendations on investment policies;

(18) Provide, directly or through Philippine Diplomatic Missions, such information as may be of interest to prospective foreign investors;

(19) Collate, analyze and compile pertinent information and studies concerning areas that have been or may be declared preferred areas of investments; and

(20) Enter into agreements with other agencies of government for the simplification and facilitation of systems and procedures involved in the promotion of investments, operation of registered enterprises and other activities necessary for the effective implementation of this Code;

(21) Generally, exercise all the powers necessary or incidental to attain the purposes of this Code and other laws vesting additional functions on the Board.

Article 8. Powers and Duties of the Chairman. The Chairman shall have the following powers and duties:

(1) To preside over the meetings of the Board;

(2) To render annual reports to the President and such special reports as may be requested;

(3) To act as liaison between investors seeking joint venture arrangements in particular areas of investments;

(4) Recommend to the Board such policies and measures he may deem necessary to carry out the objectives of this Code; and

¹As amended by R.A. No. 7888
²As amended by R.A. No. 7918
Article 9. Powers and Duties of the Vice-Chairman. The Vice-Chairman shall have the following powers and duties:

(1) To act as Managing Head of the Board;

(2) To preside over the meetings of the Board in the absence of the Chairman;

(3) Prepare the Agenda for the meetings of the Board and submit for its consideration and approval the policies and measures which the Chairman deems necessary and proper to carry out the provisions of this Code;

(4) Assist registered enterprises and prospective investors to have their papers processed with dispatch by all government offices, agencies, instrumentalities and financial institutions; and

(5) Perform the other duties of the Chairman in the absence of the latter, and such other duties as may be assigned to him by the Board of Governors.

BOOK I INVESTMENTS WITH INCENTIVES

TITLE I

PREFERRED AREAS OF INVESTMENTS

CHAPTER I DEFINITIONS OF TERMS

Article 10. "Board" shall mean the Board of Investments created under this Code.

Article 11. "Registered Enterprises" shall mean any individual, partnership, cooperative, corporation or other entity incorporated and/or organized and existing under Philippine laws; and registered with the Board in accordance with this Book: Provided, however, That the term "registered enterprise" shall not include commercial banks, savings and mortgage banks, rural banks, savings and loan associations, building and loan associations, developmental banks, trust companies, investment banks, finance companies, brokers and dealers in securities, consumers cooperatives and credit unions, and other business organizations whose principal purpose or principal source of income is to receive deposits, lend or borrow money, buy and sell or otherwise deal, trade or invest in common or preferred stocks, debentures, bonds or other marketable instruments generally recognized as securities, or discharge other similar intermediary, trust of fiduciary functions.

Article 12. "Technological assistance contracts" shall mean contracts for: (1) the transfer, by license otherwise, of patents, processes, formulas or other technological rights of foreign origin; and/or (2) foreign assistance concerning technical and factory management, design, planning, construction, operation and similar matters.

Article 13. "Foreign loans" shall mean any credit facility or financial assistance other than equity investment denominated and payable in foreign currency or where the creditor has the option to demand payment in foreign exchange and registered with the Central Bank and the Board.

Article 14. "Foreign Investments" shall mean equity investments owned by a non-Philippine national made in the form of foreign exchange or other assets actually transferred to the Philippines and registered with the Central Bank and the Board, which shall assess and appraise the value of such assets other than foreign exchange.

Article 15. "Philippine national" shall mean a citizen of the Philippines or a domestic partnership or association wholly-owned by citizens of the Philippines; or a corporation organized under the laws of the Philippines of which at least sixty per cent (60%) of the capital stock outstanding and entitled to vote is owned and held by citizens of the Philippines, or a trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty per cent (60%) of the fund will accrue to the benefit of Philippine nationals. Provided, That where a registered and its non-Filipino stockholders own stock in a registered enterprise, at least sixty per cent (60%) of the capital stock outstanding and entitled to vote of both corporations must be owned and held by citizens of the Philippines and at least sixty per cent (60%) of the members of the Board of Directors of both corporations must be citizens of the Philippines in order that the corporation shall be considered a Philippine national.

Article 16. "Preferred areas of investments" shall mean the economic activities that the Board shall have declared as such in accordance with Article 28 which shall be either non-pioneer or pioneer.

Article 17. "Pioneer enterprise" shall mean a registered enterprise (1) engaged in the manufacture, processing or production, and not merely in the assembly or packaging of goods, products, commodities or raw materials that have not been or are not being produced in the Philippines on a commercial scale or (2) which uses a design, formula, scheme, method, process or system of production or transformation of any element, substance or raw materials into another raw material or finished goods which is new and untried in the Philippines or (3)
engaged in the pursuit of agricultural, forestry and mining activities and/or services including the industrial aspects of food processing whenever appropriate, pre-determined by the Board, in consultation with the appropriate Department, to be feasible and highly essential to the attainment of the national goal, in relation to a declared specific national food and agricultural program for self-sufficiency and other social benefits of the project or (4) which produces non-conventional fuels or manufactures equipment which utilize non-conventional sources of energy or uses or converts to coal or other non-conventional fuels or sources of energy in its production, manufacturing or processing operations. Provided, That the final product in any of the foregoing instances, involves or will involve substantial use and processing of domestic raw materials, whenever available; taking into account the risks and magnitude of investment: Provided, further, That the foregoing definitions shall not in any way limit the rights and incentives granted to less-developed-area enterprises provided under Title V, Book I, hereof.

Article 18. "Non-pioneer enterprise" shall include all registered producer enterprises other than pioneer enterprises.

Article 19. "Expansion" shall include modernization and rehabilitation and shall mean increase of existing volume or value of production or upgrading the quality of the registered product or utilization of inefficient or idle equipment under such guidelines as the Board may adopt.

Article 20. "Measured capacity" shall mean the estimated additional volume of production or service which the Board determines to be desirable in each preferred area of investment in order to supply the needs of the economy at reasonable prices, taking into account the export potential of the product, including economies of scale which would render such product competitive in the world market. Measured capacity shall not be less than the amount by which the measurable domestic and country's potential export market demand exceeds the existing productive capacity in said preferred areas. For export market industries, when warranted the Board shall base measured capacity on the availability of domestic raw materials after deducting the needs of the domestic market therefor.

Article 21. "Tax credit" shall mean any of the credits against taxes and/or duties equal to those actually paid or would have been paid to evidence which tax credit certificate shall be issued by the Secretary of Finance or his representative, or the Board, if so delegated by the Secretary of Finance. The tax credit certificates including those issued by the Board pursuant to laws repealed by this Code but without in any way diminishing the scope of negotiability under their laws of issue are transferable under such conditions as may be determined by the Board after consultation with the Department of Finance. The tax credit certificate shall be used to pay taxes, duties, charges and fees due to the National Government; Provided, That the tax credits issued under this Code shall not form part of the gross income of the grantee/transferee for income tax purposes under Section 29 of the National Internal Revenue Code and are therefore not taxable: Provided, further, That such tax credits shall be valid only for a period of ten (10) years from date of issuance.

Article 22. "Export products" shall mean manufactured or processed products the total F.O.B. Philippine port value of the exports of which did not exceed five million dollars in the United States Currency in the calendar year 1968 and which meet the local content requirement, if any, set by the Board, and standards of quality set by the Bureau of Product Standards, or, in default of such standards, by the Board or by such public or private organization, chamber, group or body as the Board may designate. The above definition notwithstanding, the Investment Priorities Plan may include other products for export subjects to such conditions and limited incentives as may be determined by the Board.

Article 23. "Export sales" shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of exports products exported directly by a registered export producer or the net selling price of export product sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same: Provided, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents: Provided, further, That without actual exportation the following shall be considered constructively exported for purposes of this provision: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) sales to export processing zones; (3) sales to registered export traders operating bonded trading warehouses supplying raw materials used in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue and the Bureau of Customs; (4) sales to foreign military bases, diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not: Provided, further, That export sales of registered export trader may include commission income: and Provided, finally, That exportation of goods on consignment shall not be
deemed export sales until the export products consigned are in fact sold by the consignee.

Sales of locally manufactured or assembled goods for household and personal use to Filipinos abroad and other non-residents of the Philippines as well as returning Overseas Filipinos under the Internal Export Program of the government and paid for in convertible foreign currency inwardly remitted through the Philippine banking systems shall also be considered export sales.

Article 24. "Production cost" shall mean the total of the cost of direct labor, raw materials, and manufacturing overhead, determined in accordance with generally accepted accounting principles, which are incurred in manufacturing or processing the products of a registered enterprise.

Article 25. "Processing" shall mean converting of raw materials into marketable from through physical, mechanical, chemical, electrical, biochemical, biological or other means or by a special treatment or a series of actions, such as slaughtering, milling, pasteurizing, drying or dessicating, quick freezing, that results in a change in the nature or state of the products. Merely packing or packaging shall not constitute processing.

Article 26. "Investment Priorities Plan" shall mean the over-all plan prepared by the Board which includes and contains:

(a) The specific activities and generic categories of economic activity wherein investments are to be encouraged and the corresponding products and commodities to be grown, processed or manufactured pursuant thereto for the domestic or export market;

(b) Specific public utilities which can qualify for incentives under this Code and which shall be supported by studies of existing and prospective regional demands for the services of such public utilities in the light of the level and structure of income, production, trade, prices and relevant economic and technical factors of the regions as well as the existing facilities to produce such services;

(c) Specific activities where the potential for utilization of indigenous non-petroleum based fuels or sources of energy can be best promoted; and

(d) Such other information, analyzes, data, guidelines or criteria as the Board may deem appropriate.

The specific and generic activities to be included in the Investment Priorities Plan with their status as pioneer or non-pioneer shall be determined by the Board in accordance with the criteria set forth in this Book.

CHAPTER II INVESTMENT PRIORITIES PLAN

Article 27. Investment Priorities Plan. Not later than the end of March of every year, the Board of Investments, after consultation with the appropriate government agencies and the private sector, shall submit to the President an Investment Priorities Plan: Provided, however, That the deadline for submission, may be extended by the President.

Article 28. Criteria in Investment Priority Determination. No economic activity shall be included in the Investment Priority Plan unless it is shown to be economically, technically and financially sound after thorough investigation and analysis by the Board.

The determination of preferred areas of investment to be listed in the Investment Priorities Plan shall be based on long-run comparative advantage, taking into account the value of social objectives and employing economic criteria along with market, technical, and financial analyses.

The Board shall take into account the following:

(a) Primarily, the economic soundness of the specific activity as shown by its economic internal rate of return;

(b) The extent of contribution of an activity to a specific developmental goal;

(c) Other indicators or comparative advantage;

(d) Measured capacity as defined in Article 20; and

(e) The market and technical aspects and considerations of the activity proposed to be included.

In any of the declared preferred areas of investment, the Board may designate as pioneer areas the specific products and commodities that meet the requirements of Article 17 of this Code and review yearly whether such activity, as determined by the Board, shall continue as pioneer, otherwise, it shall be considered as non-pioneer and accordingly listed as such in the Investment Priorities Plan or removed from the Investment Priorities Plan.

Article 29. Approval of the Investment Priorities Plan. The President shall proclaim the whole or part of such plan as in effect; or alternatively, return the whole or part of the plan to the Board of Investment for revision.

Upon the effectivity of the plan or portions thereof, the President shall issue all necessary directives to all departments, bureaus, agencies or instrumentalities of the government to ensure the implementation of the
plan by the agencies concerned in a synchronized and integrated manner. No government body shall adopt any policy or take any course of action contrary to or inconsistent with the plan.

**Article 30.** Amendments. Subject to publication requirements and the criteria for investment priority determination, the Board of Investments may, at any time, add additional areas in the plan, alter any of the terms of the declaration of an investment area or the designation of measured capacities, or terminate the status of preference. In no case, however, shall any amendment of the plan impair whatever rights may have already been legally vested in qualified enterprises which shall continue to enjoy such rights to the full extent allowed under this Code. The Board shall not accept applications in an area of investment prior to the approval of the same as a preferred area nor after approval of its deletion as a preferred area of investment.

**Article 31.** Publication. Upon approval of the plan, in whole or in part, or upon approval of an amendment thereof, the plan or the amendment, specifying and declaring the preferred areas of investment and their corresponding measured capacity shall be published in at least one (1) newspaper of general circulation and all such areas shall be open for application until publication of an amendment or deletion thereof, or until the Board approves registration of enterprises which fill the measured capacity.

**CHAPTER III REGISTRATION OF ENTERPRISES**

**Article 32.** Qualifications of a Registered Enterprises. To be entitled to registration under the Investment Priorities Plan, an applicant must satisfy the Board that:

(1) He is a citizen of the Philippines, in case the applicant is a natural person, or in case of a partnership or any other association, it is organized under Philippine laws and that at least sixty percent (60%) of its capital is owned and controlled by citizens of the Philippines; or in case of a corporation or a cooperative, it is organized under Philippine laws and that at least sixty per cent (60%) of the capital stock outstanding and entitled to vote is owned and held by Philippine nationals as defined under Article 15 of this Code, and at least sixty per cent (60%) of the members of the Board of Directors are citizens of the Philippines. If it does not possess the required degree of ownership as mentioned above by Philippine nationals, the following circumstances must be satisfactorily established:

(a) That it proposes to engage in a pioneer projects as defined in Article 17 of this Code, which, considering the nature and extent of capital requirements, processes, technical skills and relative business risks involved, is in the opinion of the Board of such a nature that the available measured capacity thereof cannot be readily and adequately filled by Philippine nationals; or, if the applicant is exporting at least seventy per cent (70%) of its total production, the export requirement herein provided may be reduced in meritorious cases under such conditions and/or limited incentives as the Board may determine;

(b) That it obligates itself to attain the status of a Philippine national, as defined in Article 15, within thirty (30) years from the date of registration or with such longer period as the Board may require taking into account the export potential of the project: Provided, That a registered enterprise which exports one hundred percent (100%) of its total production need not comply with this requirement;

(c) That the pioneer are it will engage in is one that is not within the activities reserved by the Constitution or other laws of the Philippines to the Philippine citizens or corporations owned and controlled by Philippine citizens;

(2) The applicant is proposing to engage in a preferred project listed or authorized in the current Investment Priorities Plan within a reasonable time to be fixed by the Board or, if not so listed, at least fifty percent (50%) of its total production is for export or it is an existing producer which will export part of production under such conditions and/or limited incentives as the Board may determine; or that the enterprise is engaged or proposing to engage in the sale abroad of export products bought by it from one or more export producers; or the enterprise in engaged or proposing to engage in rendering technical, professional or other services or in exporting television and motion pictures and musical recordings made or produced in the Philippines, either directly or through a registered trader.

(3) The applicant is capable of operating on a sound and efficient basis of contributing to the national development of the preferred area in particular and of the national economy in general; and

(4) If the applicant is engaged or proposes to engage in undertakings or activities other than preferred projects, it has installed or undertakes to install an accounting system adequate to identify the investments, revenues, costs, and profits or losses of each preferred project undertaken by the enterprise separately from the aggregate investment, revenues, costs and profits or losses of the whole enterprise or to establish a separate corporation for each preferred project if the Board should so require to facilitate proper implementation of this Code.
Article 33. Application. Applications shall be filed with the Board, recorded in a registration book and the date appearing therein and stamped on the application shall be considered the date of official acceptance.

Whenever necessary, the Board, through the People's Economic Councils, shall consult the communities affected on the acceptability of locating the registered enterprise within their community.

Article 34. Approval and Registration Procedures. The Board is authorized to adopt rules and regulations to facilitate action on applications filed with it; prescribe criteria for the evaluation of several applications filed in one preferred area; devise standard forms for the use of applicants and delegate to the regional offices of the Department of Trade and Industry the authority to receive and process applications for enterprises to be located in their respective regions.

Applications filed shall be considered automatically approved if not acted upon by the Board within twenty (20) working days from official acceptance thereof.

Article 35. Criteria for Evaluation of Applications. The following criteria will be considered in the evaluation of applications for registration under a preferred area:

(a) The extent of ownership and control by Philippine citizens of the enterprises;

(b) The economic rates of return;

(c) The measured capacity Provided, That estimates of measured capacities shall be regularly reviewed and updated to reflect changes in market supply and demand conditions; Provided, Further, That measured capacity shall not result in a monopoly in any preferred area of investment which would unduly restrict trade and fair competition nor shall it be used to deny the entry of any enterprise in any field of endeavor or activity;

(d) The amount of foreign exchange earned, used or saved in their operations;

(e) The extent to which labor, materials and other resources obtained from indigenous sources are utilized;

(f) The extent to which technological advances are applied and adopted to local condition;

(g) The amount of equity and degree to which the ownership of such equity is spread out and diversified; and

(h) Such other criteria as the Board may determine.

Article 36. Appeal from Board's Decision. Any order or decision of the Board shall be final and executory after thirty (30) days from its promulgation. Within the said period of thirty (30) days, said order or decision may be appealed to the Office of the President. Where an appeal has been filed, said order or decision shall be final and executory ninety (90) days after the perfection of the appeal, unless reversed.

Article 37. Certificate of Registration. A registered enterprise under this Code shall be issued a certificate of registration under the seal of the Board of Investments and the signature of its Chairman and/or such other officer or employee of the Board as it may empower and designate for the purpose. The certificate shall be in such form and style as the Board may determine and shall state, among other matters:

(a) The name of the registered enterprise;

(b) The preferred area of investment in which the registered enterprise is proposing to engage;

(c) The nature of the activity it is undertaking or proposing to undertake, whether pioneer or non-pioneer, and the registered capacity of the enterprise; and

(d) The other terms and conditions to be observed by the registered enterprise by virtue of the registration.

Title II Basic Rights and Guarantees

Article 38. Protection of Investments. All investors and registered enterprises are entitled to the basic rights and guarantees provided in the Constitution. Among other rights recognized by the Government of the Philippines are the following:

(a) Repatriation of Investments. In the case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation, subject to the provisions of Section 74 of Republic Act No. 265 as amended;

For investments made pursuant to Executive Order No. 32 and its implementing rules and regulations, remittability shall be as provided therein.

(b) Remittance of Earnings. In the case of foreign investments, the right to remit earnings from the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265 as amended;
(c) **Foreign Loans and Contracts.** The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from technological assistance contracts, subject to the provisions of Section 74 of Republic Act No. 265 as amended;

(d) **Freedom from Expropriation.** There shall be no expropriation by the government of the property represented by investments or of the property of the enterprise except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate at the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265 as amended;

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

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**TITLE III INCENTIVES TO REGISTERED ENTERPRISES**

[Article 39, as amended by R.A. No. 7918]

**Art. 39. Incentives to Registered Enterprises.** — All registered enterprises shall be granted the following incentives to the extent engaged in a preferred area of investment:

(a) **Income Tax Holiday.** —

(1) For six (6) years from commercial operation for pioneer firms and four (4) years for non-pioneer firms, new registered firms shall be fully exempt from income taxes levied by the national government. Subject to such guidelines as may be prescribed by the Board, the income tax exemption will be extended for another year in each of the following cases:

(i) The project meets the prescribed ratio of capital equipment to number of workers set by the Board;

(ii) Utilization of indigenous raw materials at rates set by the Board;

(iii) The net foreign exchange savings or earnings amount to at least US$500,000 annually during the first three (3) years of operation.

The preceding paragraph notwithstanding, no registered pioneer firm may avail of this incentive for a period exceeding eight (8) years.

(2) For a period of three (3) years from commercial operation, registered expanding firms shall be entitled to an exemption from income taxes levied by the national government proportionate to their expansion under such terms and conditions as the Board may determine: Provided, however, That during the period within which this incentive is availed of by the expanding firm it shall not be entitled to additional deduction for incremental labor expense.

(3) The provision of Article 7(14) notwithstanding, registered firms shall not be entitled to any extension of this incentive.

(b) **Additional Deduction for Labor Expense.** — For the first five (5) years from registration a registered enterprise shall be allowed an additional deduction from the taxable income of fifty percent (50%) of the wages corresponding to the increment in the number of direct labor for skilled and unskilled workers if the project meets the prescribed ratio of capital equipment to number of workers set by the Board: Provided, That this additional deduction shall be doubled if the activity is located in less developed areas as defined in Article 40.

(c) **Tax and Duty Exemption on Imported Capital Equipment and its Accompanying Spare Parts.** — New, expanding/modernizing enterprise which have been registered with the Board of Investments on or before December 31, 1994 shall be exempt to the extent of one hundred percent (100%) of national internal revenue taxes and customs duties on importations of machinery, equipment and accompanying spare parts within the prescribed period under its law of registration or until December 31, 1997 whichever comes first: Provided, however, That the enterprise which shall register after December 31, 1994 shall be subject to the provisions of Republic Act No. 7716, and three percent (3%) customs duties up to December 31, 1997: Provided, finally, That the importation of machinery, equipment and accompanying spare parts shall comply with the following conditions:
(1) They are not manufactured domestically in sufficient quantity, or comparable quality, and at reasonable prices;

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

(3) The approval of the Board was obtained by the registered enterprise for the importation of such machinery, equipment and accompanying spare parts.

In granting the approval of the importations under this paragraph, the Board may require international canvassing but if the total cost of the capital equipment or industrial plant exceeds US$5,000,000, the Board shall apply or adopt the provisions of Presidential Decree No. 1764 on international competitive bidding.

If the registered enterprise sells, transfers or disposes of these machinery, equipment and spare parts without prior approval of the Board within five (5) years from date of acquisition, the registered enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of the tax exemptions given it. The Board shall allow and approve the sale, transfer or disposition of the said items until December 31, 1997 or December 31, 1999 as the case may be if made:

(aa) To another registered enterprise or registered domestic producer enjoying similar activities;

(bb) For reasons of proven technical obsolescence; or

(cc) For purpose of replacement to improve and/or expand the operations of the registered enterprise.

(d) Tax Credit on Domestic Capital Equipment. — A tax credit equivalent to one hundred percent (100%) of the value of the national internal revenue taxes and customs duties that would have been waived on the machinery, equipment and spare parts, had these items been imported shall be given to the new and expanding enterprise registered with the Board of Investments as of December 31, 1994 which purchases machinery, equipment and spare parts from a domestic manufacturer: Provided, (1) That the said equipment, machinery and spare parts are reasonably needed and will be used exclusively by the registered enterprise in its registered activity, unless prior approval of the Board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof; (2) That the equipment would have qualified for tax and duty exemption under paragraph (c) hereof; (3) That the approval of the Board was obtained by the registered enterprise; and (4) That the purchase is made on or before December 31, 1997 or December 31, 1999 as the case may be. If the registered enterprise sells, transfers, or disposes of these machinery, equipment and spare parts, the provision in the preceding paragraph for such disposition shall apply.

(e) Simplification of Customs Procedures. — Customs procedures for the importation of equipment, spare parts, raw materials and supplies, exports of processed products by registered enterprises shall be simplified by the Bureau of Customs.

(f) Unrestricted Use of Consigned Equipment. — Provisions of existing laws notwithstanding, machinery, equipment and spare parts consigned to any enterprise shall not be subject to restrictions as to period of use of such machinery, equipment and spare parts: Provided, That the appropriate re-export bond is posted unless importation is otherwise covered under subsections (c) and (1) of this Article: Provided, further, That such consigned equipment shall be for the exclusive use of the registered enterprise.

If such equipment is sold, transferred or otherwise, Article 39(c)(3) shall apply. Outward remittance of foreign exchange covering the proceeds of such sale, transfer or disposition shall be allowed only upon prior BangkoSentralngPilipinas approval.

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

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

A registered enterprise shall train Filipinos as understudies of foreign nationals in administrative, supervisory and technical skills and shall submit annual reports on such training to the Board.

(h) Exemption on Breeding Stocks and Genetic Materials. — The importation of breeding stocks and genetic materials within ten (10) years from the date of registration of commercial operation of the enterprise shall be exempt from all taxes and duties: Provided, That such breeding stocks and genetic materials are: (1) not locally available and/or obtainable locally in comparable quality and at reasonable prices; (2) reasonably needed in the registered activity; and (3) approved by the Board.

(i) Tax Credit on Duty Portion of Domestic Breeding Stocks and Genetic Materials. — A tax credit equivalent to one hundred percent (100%) of the value of national internal revenue taxes and customs duties that would have been waived on the importation of breeding stocks and genetic materials had these items been imported shall be given to the registered enterprise which purchases breeding stocks and genetic materials from a domestic producer: Provided, (1) That said breeding stocks and genetic materials would have qualified for tax and duty-free importation under the preceding paragraph; (2) That the breeding stocks and genetic materials are reasonably needed in the registered activity; (3) That approval of the Board has been obtained by the registered enterprise; and (4) That the purchase is made within ten (10) years from the date of registration of commercial operation of the registered enterprise.

(j) Tax Credit for Taxes and Duties on Raw Materials. — Every registered enterprise shall enjoy a tax credit equivalent to the national internal revenue taxes and customs duties paid on the supplies, raw materials and semi-manufactured products used in the manufacture, processing or production of its export products and forming part thereof; Provided, however, That the taxes on the supplies, raw materials and semi-manufactured products domestically purchased are indicated as a separate item in the sales invoice.

Nothing herein shall be construed as to preclude the Board from setting a fixed percentage of exports sales as the approximate tax credit for taxes and duties of raw materials based on an average or standard usage for such materials in the industry.

(k) Access to Bonded Manufacturing/Trading System. — Registered export-oriented enterprises shall have access to the utilization of the bonded warehousing system in all areas required by the project subject to such guidelines as may be issued by the Board upon prior consultation with the Bureau of Customs.

(l) Exemption from Taxes and Duties on Imported Spare Parts. — Importation of required supplies and spare parts for consigned equipment or those imported tax and duty-free by a registered enterprise with a bonded manufacturing warehouse shall be exempt from customs duties and national internal revenue taxes payable thereon: Provided, however, That such spare parts and supplies are not locally available at reasonable prices, sufficient quantity and comparable quality; Provided, finally, That all such spare parts and supplies shall be used only in the bonded manufacturing warehouse of the registered enterprise under such requirements as the Bureau of Customs may impose.

(m) Exemption from Wharfage Dues and Export Tax, Duty, Imposts and Fee. — The provision of law to the contrary notwithstanding, exports by a registered enterprise of its non-traditional export products shall be exempted from any wharfage dues, and any export tax, duty impost and fee.

TITLE IV INCENTIVES TO LESS-DEVELOPED-AREA REGISTERED ENTERPRISE

Article 40. A registered enterprise regardless of nationality located in a less-developed-area included in the list prepared by the Board of Investments after consultation with the National Economic & Development Authority and other appropriate government agencies, taking into consideration the following criteria: low per capita gross domestic product; low level of investments; high rate of unemployment and/or underemployment; and low level of infrastructure development including its accessibility to develop urban centers, shall be entitled to the following incentives in addition to those provided in the preceding article:

(a) Pioneer incentives. An enterprise in a less-developed-area registered with the Board under Book I of this Code, whether proposed, or an expansion of an existing venture, shall be entitled to the incentives provided for a pioneer registered enterprise under its law of registration.

2As amended by R.A. No. 7918
(b) Incentives for necessary and Major Infrastructure and Public Utilities. Registered enterprise establishing their production, processing or manufacturing plants in an area that the Board designates as necessary for the proper dispersal of industry or in area which the Board finds deficient in infrastructure, public utilities, and other facilities, such as irrigation, drainage or other similar waterworks infrastructure may deduct from taxable income an amount equivalent to one hundred percent (100%) of necessary and major infrastructure works it may have undertaken with the prior approval of the Board in consultation with other government agencies concerned; Provided, That the title to all such infrastructure works shall upon completion, be transferred to the Philippine Government: Provided, further, That any amount not deducted for a particular year may be carried over for deduction for subsequent years not exceeding ten (10) years from commercial operation.

TITLE V GENERAL PROVISIONS

Article 41. Power of the President to Rationalize Incentives. The President may, upon recommendation of the Board and in the interest of national development, rationalize the incentives scheme herein provided; extend the period of availment of incentives or increase rates of tax exemption of any project whose viability or profitability require such modification.

Article 42. Refund and Penalties. In case of cancellation of the certificate granted under this Code, the Board may, in appropriate cases, require the refund of incentives availed of and impose corresponding fines and penalties.

Article 43. Benefits of Multiple Area Enterprises. When a registered enterprise engages in activities or endeavors that have not been declared preferred areas of investments, the benefits and incentives accruing under this Code to registered enterprises and investors therein shall be limited to the portion of the activities of such registered enterprise as is a preferred area of investment.

BOOK II FOREIGN INVESTMENTS WITHOUT INCENTIVES

TITLE I
CHAPTER I DEFINITIONS AND SCOPE OF THIS BOOK

[Sections 44-56 already repealed by R.A. No. 7042]

Republic Act No. 7042
June 13, 1991

AN ACT TO PROMOTE FOREIGN INVESTMENTS, PRESCRIBE THE PROCEDURES FOR REGISTERING ENTERPRISES DOING BUSINESS IN THE PHILIPPINES, AND FOR OTHER PURPOSES

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

Section 1. Title. - This Act shall be known as the, "Foreign Investments Act of 1991".

Section 2. Declaration of Policy. - It is the policy of the State to attract, promote and welcome productive investments from foreign individuals, partnerships, corporations, and governments, including their political subdivisions, in activities which significantly contribute to national industrialization and socioeconomic development to the extent that foreign investment is allowed in such activity by the Constitution and relevant laws. Foreign investments shall be encouraged in enterprises that significantly expand livelihood and employment opportunities for Filipinos; enhance economic value of farm products; promote the welfare of Filipino consumers; expand the scope, quality and volume of exports and their access to foreign markets; and/or transfer relevant technologies in agriculture, industry and support services. Foreign investments shall be welcome as a supplement to Filipino capital and technology in those enterprises serving mainly the domestic market.

As a general rule, there are no restrictions on extent of foreign ownership of export enterprises. In domestic market enterprises, foreigners can invest as much as one hundred percent (100%) equity except in areas included in the negative list. Foreign owned firms catering mainly to the domestic market shall be encouraged to undertake measures that will gradually increase Filipino participation in their businesses by taking in Filipino partners, electing Filipinos to the board of directors, implementing transfer of technology to Filipinos, generating more employment for the economy and enhancing skills of Filipino workers.

Section 3. Definitions. - As used in this Act:

a) the term Philippine national shall mean a citizen of the Philippines; or a domestic partnership or association wholly owned by citizens of the Philippines; or a corporation organized under the laws of the Philippines of which at least sixty percent (60%) of the
capital stock outstanding and entitled to vote is owned and held by citizens of the Philippines; or a corporation organized abroad and registered as doing business in the Philippines under the Corporation Code of which one hundred percent (100%) of the capital stock outstanding and entitled to vote is wholly owned by Filipinos or a trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent (60%) of the fund will accrue to the benefit of Philippine nationals; provided, that where a corporation and its non-Filipino stockholders own stocks in a securities and exchange commission (SEC) registered enterprise, at least sixty percent (60%) of the capital stock outstanding and entitled to vote of each of both corporations must be owned and held by citizens of the Philippines and at least sixty percent (60%) of the members of the board of directors, in order that the corporation shall be considered a Philippine national.

b) The term "investment" shall mean equity participation in any enterprise organized or existing under the laws of the Philippines;

c) The term "foreign investment" shall mean as equity investment made by a non-Philippine national in the form of foreign exchange and/or other assets actually transferred to the Philippines and duly registered with the Central Bank which shall assess and appraise the value of such assets other than foreign exchange;

d) The phrase "doing business" shall include soliciting orders, service contracts, opening offices, whether called "liaison" offices or branches; appointing representatives or distributors domiciled in the Philippines or who in any calendar year stay in the country for a period or periods totalling one hundred eighty (180) days or more; participating in the management, supervision or control of any domestic business, firm, entity or corporation in the Philippines; and any other act or acts that imply a continuity of commercial dealings or arrangements, and contemplate to that extent the performance of acts or works, or the exercise of some of the functions normally incident to, and in progressive prosecution of, commercial gain or of the purpose and object of the business organization: Provided, however, That the phrase "doing business: shall not be deemed to include mere investment as a shareholder by a foreign entity in domestic corporations duly registered to do business, and/or the exercise of rights as such investor; nor having a nominee director or officer to represent its interests in such corporation; nor appointing a representative or distributor domiciled in the Philippines which transacts business in its own name and for its own account;

e) The term "export enterprise" shall mean an enterprise which produces goods for sale, or renders services to the domestic market entirely or if exporting a portion of its output fails to consistently export at least sixty percent (60%) thereof; and

g) The term "Foreign Investments Negative List" or "Negative List" shall mean a list of areas of economic activity whose foreign ownership is limited to a maximum of forty percent (40%) of the equity capital of the enterprise engaged therein.

Section 4. Scope. - This Act shall not apply to banking and other financial institutions which are governed and regulated by the general banking Act and other laws under the supervision of the Central Bank.

Section 5. Registration of Investments of Non-Philippine Nationals. - Without need of prior approval, a non-Philippine national, as that term is defined in Section 3 a), and not otherwise disqualified by law may upon registration with the Securities and Exchange Commission (SEC), or with the Bureau of Trade Regulation and Consumer Protection (BTRCP) of the Department of Trade and Industry in the case of single proprietorships, do business as defined in Section 3 (d) of this Act or invest in a domestic enterprise up to one hundred percent (100%) of its capital, unless participation of non-Philippine nationals in the enterprise is prohibited or limited to a smaller percentage by existing law and/or limited to a smaller percentage by existing law and/or under the provisions of this Act. The SEC or BTRCP, as the case may be, shall not impose any limitations on the extent of foreign ownership in an enterprise additional to those provided in this Act: Provided, however, That any enterprise seeking to avail of incentives under the Omnibus Investment Code of 1987 must apply for registration with the Board of Investments (BOI), which shall process such application for registration in accordance with the criteria for evaluation prescribed in said Code: Provided, finally, That a non-Philippine national intending to engage in the same line of business as an existing joint venture in his application for registration with SEC. During the transitory period as provided in Section 15 hereof, SEC shall disallow registration of the applying non-Philippine national if the existing joint venture enterprise, particularly the Filipino partners therein, can reasonably prove they are capable to make the investment needed

3As amended by R.A. No. 8719
for they are competing applicant. Upon effectivity of this Act, SEC shall effect registration of any enterprise applying under this Act within fifteen (15) days upon submission of completed requirements.

Section 6. Foreign Investments in Export Enterprises. - Foreign investment in export enterprises whose products and services do not fall within Lists A and B of the Foreign Investment Negative List provided under Section 8 hereof is allowed up to one hundred percent (100%) ownership.

Export enterprises which are non-Philippine nationals shall register with BOI and submit the reports that may be required to ensure continuing compliance of the export enterprise with its export requirement. BOI shall advise SEC or BTRCP, as the case may be, of any export enterprise that fails to meet the export ratio requirement. The SEC or BTRCP shall thereupon order the non-complying export enterprise to reduce its sales to the domestic market to not more than forty percent (40%) of its total production; failure to comply with such SEC or BTRCP order, without justifiable reason, shall subject the enterprise to cancellation of SEC or BTRCP registration, and/or the penalties provided in Section 14 hereof.

Section 7. Foreign Investments in Domestic Market Enterprises. - Non-Philippine nationals may own up to one hundred percent (100%) of domestic market enterprises unless foreign ownership therein is prohibited or limited by the Constitution and existing law or the Foreign Investment Negative List under Section 8 hereof.

A domestic market enterprise may change its status to export enterprise if over a three (3) year period it consistently exports in each year thereof sixty per cent (60%) or more of its output.

Section 8. List of Investment Areas Reserved to Philippine Nationals (Foreign Investment Negative List). - The Foreign Investment Negative List shall have three (3) component lists: A, B, and C:

a) List A shall enumerate the areas of activities reserved to Philippine nationals by mandate of the Constitution and specific laws.

b) List B shall contain the areas of activities and enterprises pursuant to law:

1) Which are defense-related activities, requiring prior clearance and authorization from Department of National Defense (DND) to engage in such activity, such as the manufacture, repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar materials; unless such manufacturing or repair activity is specifically authorized, with a substantial export component, to a non-Philippine national by the Secretary of National Defense; or

2) Which have implications on public health and morals, such as the manufacture and distribution of dangerous drugs; all forms of gambling; nightclubs, bars, beerhouses, dance halls; sauna and steambath houses and massage clinics.

"Small and medium-sized domestic market enterprises with paid-in equity capital less than the equivalent of Two hundred thousand US dollars (US$200,000.00), 5 are reserved to Philippine nationals: provided, that if (1) they involve advanced technology, or (2) they employ at least fifty (50) direct employees, then a minimum paid-in capital of One hundred thousand US dollars (US$100,000.00) 6 shall be allowed to non-Philippine nationals. 7

Amendments to List B 8 may be made upon recommendation of the Secretary of National Defense, or the Secretary of Health, or the Secretary of Education, Culture and Sports, indorsed by the NEDA, or upon recommendation motupropio of NEDA, approved by the President, and promulgated by Presidential Proclamation.

c) List C shall contain the areas of investment in which existing enterprises already serve adequately the needs of the economy and the consumer and do not require further foreign investments, as determined by NEDA applying the criteria provided in Section 9 of this Act, approved by the President and promulgated in a Presidential Proclamation. 9

"The Transitory Foreign Investment Negative List established in Section 15 hereof shall be replaced at the end of the transitory period by the first Regular Negative List to be formulated and recommended by NEDA, following the process and criteria, provided in Sections 8 and 9 of this Act. The first Regular Negative Lists shall be published not later than sixty (60) days before the end of the transitory period provided in said section and shall

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5 formerly US$500,000
6 formerly US$500,000
7 As amended by Sec.3 of R.A. No. 8719
8 removing List C
9 As amended by Sec.3 of R.A. No. 8719

4 As amended by Sec.2 of R.A. No. 8719
become immediately effective at the end of the transitory period. Subsequent Foreign Investment Negative Lists shall become effective fifteen (15) days after publication in a newspaper of general circulation in the Philippines: provided, however, that each Foreign Investment Negative List shall be prospective in operation and shall in no way affect foreign investment existing on the date of its publication.

Amendments to List B and C after promulgation and publication of the first Regular Foreign Investment Negative List at the end of the transitory period shall not be made more often than once every two (2) years.

"Sec. 9. Investment Rights of Former Natural-born Filipinos. – For purposes of this Act, former natural born citizens of the Philippines shall have the same investment rights of a Philippine citizen in Cooperatives under Republic Act No. 6938. Rural Banks under Republic Act No. 7353, Thrift Banks and Private Development Banks under Republic Act No. 7906, and Financing Companies under Republic Act No. 5980. These rights shall not extend to activities reserved by the Constitution, including (1) the exercise of profession, (2) in defense related activities under Sec. 8 (b) hereof, unless specifically authorized by the Secretary of National Defense, and (3) activities covered by Republic Act No. 1180 (Retail Trade Act), Republic Act No. 5487 (Security Agency Act). Republic Act No. 7076 (Small Scale Mining Act). Republic Act No. 3018, as amended (Rice and Corn Industry Act), and P.D. 449 (Cockpits Operations and Management)."

"Sec. 10. Other Rights of Natural Born Citizen Pursuant to the Provisions of Article XII, Sec. 8 of the Constitution. – Any natural born citizen who has the legal capacity to enter into a contract under Philippine laws may be a transferee of a private land up to a maximum area of five thousand (5,000) square meters in the case of urban land or three (3) hectares in the case of rural land to be used by him for business or other purposes. In the case of married couples, one of them may avail of the privilege herein granted: provided, that if both shall avail of the same, the total area acquired shall not exceed the maximum herein fixed.

"In case the transferee already owns urban or rural land for business or other purposes, he shall still be entitled to be a transferee of additional urban or rural land for business or other purposes which when added to those already owned by him shall not exceed the maximum areas herein authorized.

"A transferee under this Act may acquire not more than two (2) lots which should be situated in different municipalities or cities anywhere in the Philippines: provided, that the total land area thereof shall not exceed five thousand (5,000) hectares in the case of rural land for use by him for business or other purposes. A transferee who has already acquired urban land shall be disqualified from acquiring rural land area and vice versa."

Section 10. Strategic Industries. – Within eighteen (18) months after the effectivity of this Act, the NEDA Board shall formulate and publish a list of industries strategic to the development of the economy. The list shall specify, as a matter of policy and not as a legal requirement, the desired equity participation by Government and/or private Filipino investors in each strategic industry. Said list of strategic industries, as well as the corresponding desired equity participation of government and/or private Filipino investors, may be amended by NEDA to reflect changes in economic needs and policy directions of Government. The amended list of strategic industries shall be published concurrently with publication of the Foreign Investment Negative List.

The term “strategic industries” shall mean industries that are characterized by all of the following:

a) Crucial to the accelerated industrialization of the country,

b) Require massive capital investments to achieve economies of scale for efficient operations;

c) Require highly specialized or advanced technology which necessitates technology transfer and proven production techniques in operations;

d) Characterized by strong backward and forward linkages with most industries existing in the country, and

e) Generate substantial foreign exchange savings through import substitution and collateral foreign exchange earnings through export of part of the output that will result with the establishment, expansion or development of the industry.

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10 formerly requiring two (2) newspaper publications
11 omitted by amendments
12 As amended by Sec.3 of R.A. No. 8719
13 Insertion of new Section 10; amended by Sec.5 of R.A. No. 8719
Sec. 6. The National Economic and Development Authority, in consultation with the Board of Investments, the Department of Trade and Industry and Securities and Exchange Commission, shall prepare and issue the necessary primer and other information campaign materials regarding the Foreign Investments Act and the amendments introduced thereto, with copies of said materials furnished all the Philippine embassies, consulates and other diplomatic offices abroad and disseminated to Filipino nationals, former natural-born Filipino citizens, and foreign investors, within sixty days after the effectivity hereof.

Sec. 7. The NEDA is hereby directed to make the necessary amendments to the implementing rules and regulations of Republic Act No. 7042 in order to reflect the changes embodied in this Act.

Sec. 8. Sections 9 and 10 of Republic Act No. 7042 and all references thereto in said law are hereby repealed or modified accordingly. All other laws, rules and regulations and/or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 9. If any part or section of this Act is declared unconstitutional for any reason whatsoever, such declarant shall not in any way affect the other parts or sections of this Act.

Sec. 10. This Act shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation in the Philippines.

Section 14. Administrative Sanctions. - A person who violates any provision of this Act or of the terms and conditions of registration or of the rules and regulations issued pursuant thereto, or aids or abets in any manner any violation shall be subject to a fine not exceeding One hundred thousand pesos (P100,000).

If the offense is committed by a juridical entity, it shall be subject to a fine in an amount not exceeding ½% of 1% of total paid-in capital but not more than Five million pesos (P5,000,000). The president and/or officials responsible therefor shall also be subject to a fine not exceeding Two hundred thousand pesos (P200,000).

In addition to the foregoing, any person, firm or juridical entity involved shall be subject to forfeiture of all benefits granted under this Act.

SEC shall have the power to impose administrative sanctions as provided herein for any violation of this Act or its implementing rules and regulations.

Section 15. Transitory Provisions. - Prior to the effectivity of this Act, the provisions of Book II of Executive Order 226 and its implementing rules and regulations shall remain in force.

During the initial transitory period of thirty-six (36) months after issuance of the Rules and Regulations to implement this Act, the Transitory Foreign Investment Negative List shall consist of the following:

A. List A:
1. All areas of investment in which foreign ownership is limited by mandate of Constitution and specific laws.

B. List B:
1. Manufacture, repair, storage and/or distribution of firearms, armaments, lethal weapons, military ordinance, explosives, pyrotechnics and similar materials required by law to be licensed by and under the continuing regulation of the Department of National Defense; unless such manufacturing or repair activity is specifically authorized with a substantial export component, to a non-Philippine national by the Secretary of National Defense;

2. Manufacture and distribution of dangerous drugs; all forms of gambling; nightclubs, bars, beerhouses, dance halls, sauna and steam bathhouses, massage clinics and other like activities regulated by law because of risks they

Section 11. Compliance with Environmental Standards. - All industrial enterprises regardless of nationality of ownership shall comply with existing rules and regulations to protect and conserve the environment and meet applicable environmental standards.

Section 12. Consistent Government Action. - No agency, instrumentality or political subdivision of the Government shall take any action on conflict with or which will nullify the provisions of this Act, or any certificate or authority granted hereunder.

Section 13. Implementing Rules and Regulations. - NEDA, in consultation with BOI, SEC and other government agencies concerned, shall issue the rules and regulations to implement this Act within one hundred and twenty (120) days after its effectivity. A copy of such rules and regulations shall be furnished the Congress of the Republic of the Philippines.

(Remaining provisions of RA 8179)
may pose to public health and morals;

3. Small and medium-size domestic market enterprises with paid-in equity capital or less than the equivalent of US$500,000, unless they involve advanced technology as determined by the Department of Science and Technology, and

4. Export enterprises which utilize raw materials from depleting natural resources, and with paid-in equity capital of less than the equivalent of US$500,000.

C. List C:

1. Import and wholesale activities not integrated with production or manufacture of goods;

2. Services requiring a license or specific authorization, and subject to continuing regulations by national government agencies other than BOI and SEC which at the time of effectivity of this Act are restricted to Philippine nationals by existing administrative regulations and practice of the regulatory agencies concerned: Provided, That after effectivity of this Act, no other services shall be additionally subjected to such restrictions on nationality of ownership by the corresponding regulatory agencies, and such restrictions once removed shall not be reimposed; and

3. Enterprises owned in the majority by a foreign licensor and/or its affiliates for the assembly, processing or manufacture of goods for the domestic market which are being produced by a Philippine national as of the date of effectivity of this Act under a technology, know-how and/or brand-name license from such licensor during the term of the license agreement: Provided, That, the license is duly registered with the Central Bank and/or the Technology Transfer Board and is operatively in force as of the date of effectivity of this Act.

NEDA shall make the enumeration as appropriate of the areas of the investment covered in this Transitory Foreign Investment Negative List and publish the Negative List in full at the same time as, or prior to, the publication of the rules and regulations to implement this Act.

The areas of investment contained in List C above shall be reserved to Philippine nationals only during the transitory period. The inclusion of any of them in the regular Negative List will require determination by NEDA after due public hearings that such inclusion is warranted under the criteria set forth in Section 8 and 9 hereof.

Section 16. Repealing Clause. — Articles forty-four (44) to fifty-six (56) of Book II of Executive Order No. 226 are hereby repealed.

All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 17. Separability. — If any part or section of this Act is declared unconstitutional for any reason whatsoever, such declaration shall not in any way affect the other parts or sections of this Act.

Section 18. Effectivity. — This Act shall take effect fifteen (15) days after approval and publication in two (2) newspapers of general circulation in the Philippines.


Article 57. Penal Clause.

(1) Without prejudice to the provisions of Articles 42 and 50 hereof a violation of any provision of Books I and II of this Code, or of the terms and conditions of registration, or of the rules and regulations promulgated pursuant thereto, or the act of abetting or aiding in any manner any such violation, shall be punished by a fine not to exceed one hundred thousand pesos (P100,000.00) or imprisonment for not more than ten (10) years, at the discretion of the Court.

(2) No official or employee of the government, its subdivisions or instrumentalities shall appear as counsel for or act as agent or representative of, or in any manner intervene or intercede, directly or indirectly, in behalf of any party in any transaction with the Board regarding any application under Books I and II of this Code. The penalty for violation of this prohibition is the same as that provided for in the preceding paragraph. If the offender is an appointive official or employee, the maximum of the penalty herein prescribed shall be imposed, and the offender shall suffer the additional penalty of perpetual disqualification from public office, without prejudice to any administrative action against him.

(3) If the offense is committed by a juridical entity, its president and/or other officials responsible therefor shall be subject to the penalty prescribed above. If the offender or the president/official, in cases where the offense was committed by a juridical entity, is an alien, he shall be deported without further proceedings on the part of the Deportation Board in addition to the penalty herein prescribed and shall, if naturalized, be automatically denaturalized from the date his sentence

14 formerly requiring two (2) newspaper publications
becomes final.

(4) Payment of the tax due after apprehension shall not constitute a valid defense in any prosecution for violation of any provision of this Code.

BOOK III INCENTIVES TO MULTINATIONAL COMPANIES ESTABLISHES REGIONAL OR AREA HEADQUARTERS IN THE PHILIPPINES

[Entire Book III amended]

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Republic Act No. 8756
November 23, 1999

AN ACT PROVIDING FOR THE TERMS, CONDITIONS AND LICENSING REQUIREMENTS OF REGIONAL OR AREA HEADQUARTERS, REGIONAL OPERATING HEADQUARTERS, AND REGIONAL WAREHOUSES OF MULTINATIONAL COMPANIES, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987

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

Section 1. The title of Book III of Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, is hereby amended as follows:

"BOOK III"

"INCENTIVES TO MULTINATIONAL COMPANIES ESTABLISHING REGIONAL OR AREA HEADQUARTERS AND REGIONAL OPERATING HEADQUARTERS IN THE PHILIPPINES"

Section 2. Definition of Terms. - For purposes of this Act, the term:

(1) Multinational Company shall mean a foreign company or a group of foreign companies with business establishments in two or more countries;

(2) Regional or Area Headquarters (RHQ) shall mean an office whose purpose is to act as an administrative branch of a multinational company engaged in international trade which principally serves as a supervision, communications and coordination center for its subsidiaries, branches or affiliates in the Asia-Pacific Region and other foreign markets and which does not earn or derive income in the Philippines; and

(3) Regional Operating Headquarters (ROHQ) shall mean a foreign business entity which is allowed to derive income in the Philippines by performing qualifying services to its affiliates, subsidiaries or branches in the Philippines, in the Asia-Pacific Region and in other foreign markets.

Section 3. The Title and Article 58 of Chapter I of the same Code are hereby amended as follows:

"CHAPTER I

LICENSING OF REGIONAL OR AREA HEADQUARTERS"

Art. 58. Qualification of Regional or Area Headquarters. - Any foreign business entity formed, organized and existing under any laws other than those of the Philippines whose purpose, as expressed in its organizational documents or by resolution of its Board of Directors or its equivalent, is to supervise, superintend, inspect or coordinate its own affiliates, subsidiaries or branches in the Asia-Pacific Region and other foreign markets may establish a regional or area headquarters in the Philippines, by securing a license therefor from the Securities and Exchange Commission, upon the favorable recommendation of the Board of Investments.

The Securities and Exchange Commission shall, within thirty (30) days from the effectivity of this Code, issue the implementing rules and regulations. The following minimum requirements shall, however, be complied with by the said foreign entity:

(a) A certification from the Philippine Consulate/Embassy, or a duly authenticated certification from the Department of Trade and Industry or its equivalent in the foreign firm's home country that said foreign firm is an entity engaged in international trade with affiliates, subsidiaries or branch offices in the Asia-Pacific Region and other foreign markets.

(b) A duly authenticated certification from the principal officer of the foreign entity to the effect that the said foreign entity has been authorized by its Board of Directors or governing body to establish its regional or area headquarters in the Philippines, specifying that:

(1) The activities of the regional or area headquarters shall be limited to acting as a supervisory, communications and coordinating center for its subsidiaries, affiliates and branches in the region;
(2) The regional or area headquarters will not derive any income from sources within the Philippines and will not participate in any manner in the management of any subsidiary or branch office it might have in the Philippines nor shall it solicit or market goods and services whether on behalf of its mother company or its branches, affiliates, subsidiaries or any other company; and

(3) The regional or area headquarters shall notify the Board of Investments and the Securities and Exchange Commission of any decision to close down or suspend operations of its headquarters at least fifteen (15) days before the same is effected.

(c) An undertaking that the multinational company will remit into the country such amount as may be necessary to cover its operations in the Philippines but which amount will not be less than Fifty thousand United States dollars ($50,000) or its equivalent in other foreign currencies annually. Within thirty (30) days from receipt of a certificate of registration from the Securities and Exchange Commission, the multinational company will submit to the Securities and Exchange Commission a certificate of inward remittance from a local bank showing that it has remitted to the Philippines the amount of at least Fifty thousand United States dollars ($50,000) or its equivalent in other foreign currencies and converted the same to Philippine currency. Annually, within thirty (30) days from the anniversary date of the multinational company’s registration as a regional or area headquarters with the Securities and Exchange Commission, it will submit proof to the Securities and Exchange Commission of inward remittance amounting to at least Fifty thousand United States dollars ($50,000) or its equivalent in other foreign currencies during the past year.

(d) Any violation by the regional or area headquarters of a multinational company of any of the provisions of this Code, or its implementing rules and regulations, or any terms and conditions of its registration, or any provision of existing laws, shall constitute a sufficient cause for the cancellation of its license or registration.

Section 4. Book III of the same Code is hereby further amended by adding a new chapter designated as Chapter II to read as follows:

"CHAPTER II
"LICENSING OF REGIONAL OPERATING HEADQUARTERS

"Art. 59. Qualification of Regional Operating Headquarters (ROHQs). - Any foreign business entity formed, organized and existing under any laws other than those of the Philippines may establish a regional operating headquarters in the Philippines to service its own affiliates, subsidiaries or branches in the Philippines, in the Asia-Pacific Region and other foreign markets. ROHQs will be allowed to derive income by performing the qualifying services enumerated under paragraph (b) 1 hereunder. ROHQs of non-banking and non-financial institutions are required to secure a license from the Securities and Exchange Commission, upon the favorable recommendation of the Board of Investments. ROHQs of banking and financial institutions, on the other hand, are required to secure licenses from the Securities and Exchange Commission and the Bangko Sentral ng Pilipinas, upon the favorable recommendation of the Board of Investments.

"The Securities and Exchange Commission and the Bangko Sentral ng Pilipinas shall, within thirty (30) days from the effectivity of this Code, issue the implementing rules and regulations.

"The following minimum requirements shall be complied with by the said foreign entity:

"(a) A certification from the Philippine Consulate/Embassy, or a duly authenticated certification from the Department of Trade and Industry or its equivalent in the foreign firm’s home country that said foreign firm is an entity engaged in international trade with affiliates, subsidiaries or branch offices in the Asia-Pacific Region and other foreign markets.

"(b) A duly authenticated certification from the principal officer of the foreign entity to the effect that the said foreign entity has been authorized by its Board of Directors or governing body to establish its regional operating headquarters in the Philippines, specifying that:

"(1) The regional operating headquarters may engage in any of the following qualifying services:
- General administration and planning;
- Business planning and coordination;
- Sourcing/procurement of raw materials and components;
- Corporate finance advisory services;
- Marketing control and sales promotion;
- Training and personnel management;
- Logistics services;
- Research and development services, and product development;
- Technical support and maintenance;
- Data processing and communication; and
- Business development.

"ROHQs are prohibited from offering qualifying services to entities other than their affiliates,
branches or subsidiaries, as declared in their registration with the Securities and Exchange Commission nor shall they be allowed to directly and indirectly solicit or market goods and services whether on behalf of their mother company, branches, affiliates, subsidiaries or any other company.

“(2) The regional operating headquarters shall notify the Board of Investments, the Securities and Exchange Commission and the Bangko Sentral ng Pilipinas, as the case may be, of any decision to close down or suspend operations of its headquarters at least fifteen (15) days before the same is effected.

“(c) An undertaking that the multinational company will initially remit into the country such amount as may be necessary to cover its operations in the Philippines but which amount will not be less than Two hundred thousand United States dollars ($200,000) or its equivalent in other foreign currencies.

“Within thirty (30) days from receipt of certificate of registration, the multinational company will submit to the Securities and Exchange Commission a certificate of inward remittance from a local bank showing that it has remitted to the Philippines the amount of at least Two hundred thousand United States dollars ($200,000) or its equivalent in other foreign currencies and converted the same to Philippine currency.

“(d) Any violation by the regional operating headquarters of a multinational company of the provisions of this Code, or its implementing rules and regulations, or other terms and conditions of its registration, or any provision of existing laws, shall constitute a sufficient cause for the cancellation of its license or registration.”

Section 5. Chapter II of the same Code is hereby amended and designated as Chapter III. Articles 59, 60, 61 and 62 under the same Chapter are hereby amended as follows:

"CHAPTER III
"INCENTIVES TO EXPATRIATES

"Art. 60. Multiple Entry Visa. - Foreign personnel of regional or area headquarters and regional operating headquarters of multinational companies, their respective spouses and unmarried children under twenty-one (21) years of age, if accompanying them or if following to join them after their admission into the Philippines as non-immigrant shall be issued a multiple entry special visa within seventy-two hours upon submission of all required documents, and which shall be valid for a period of three (3) years to enter the Philippines: Provided, That a responsible officer of the applicant company submits a duly authenticated certificate to the effect that the person who seeks entry into the Philippines is an executive of the applicant company and will work exclusively for applicant’s regional or area headquarters or regional operating headquarters which is duly licensed to operate in the Philippines, and that he will receive a salary and will be paid by the headquarters in the Philippines an amount equivalent to at least Twelve thousand United States dollars ($12,000), or the equivalent in other foreign currencies per annum.

"The admission and stay shall be coterminal with the validity of the multiple entry special visa. The stay, however, is extendible for three years upon submission to the Bureau of Immigration of a sworn certification by a responsible officer of the regional or area headquarters or regional operating headquarters: that its license to operate remains valid and subsisting and that the regional or area headquarters or regional operating headquarters has withheld tax due on compensation and the same has been paid to the Bureau of Internal Revenue.

"Non-immigrants who have been admitted under the multiple entry special visa, as well as their respective spouses and dependents, shall be exempt from: the payment of all fees due under the immigration and alien registration laws; securing alien certificates of registration; and obtaining emigration clearance certificates, and all types of clearances required by any government department or agency, except that upon final departure from the Philippines the employer of the said nonimmigrants shall so advise in writing the Bureau of Immigration at least five (5) working days prior to the non-immigrant's departure, and the finally departing non-immigrant employee shall be required to submit to the said office a tax clearance from the Bureau of Internal Revenue.

"Art. 61. Withholding Tax of 15% on Compensation Income. - Aliens employed by the regional or area headquarters and regional operating headquarters of multinational companies shall be subject for each taxable year upon their gross income received as salaries, wages, annuities, compensations, remuneration and emoluments to a tax equal to fifteen per centum (15%) of such gross income. The same tax treatment is applicable to Filipinos employed and occupying the same positions as those aliens employed by multinational companies: Provided, That said Filipinos shall have the option to be taxed at either 15% of gross income or at the regular tax rate on
their taxable income in accordance with the National Internal Revenue Code, as amended by Republic Act No. 8424.

"Art. 62. Tax and Duty Free Importation. - An alien executive of the regional or area headquarters and regional operating headquarters of a multinational company shall enjoy tax and duty free importation of personal and household effects as provided for under Section 105(h) of the Tariff and Customs Code, as amended, and Section 109(l) of the National Internal Revenue Code, as amended: Provided, That the personal and household effects shall arrive in the Philippines within ninety (90) days before or after conversion of the alien executive's admission category to multiple entry visa issued under this Act.

"Art. 63. Travel Tax Exemption. - Personnel of regional or area headquarters and regional operating headquarters of multinational companies and the dependents of such foreign personnel if joining them during the period of their assignment in the Philippines, as certified by the Board of Investments, shall be exempted from the payment of travel tax imposed under Section 1 of Presidential Decree No. 1183, as amended."

Section 6. Chapter III of the same Code is hereby amended and designated as Chapter IV. Articles 63, 64, 65, 66 and 67 are hereby amended to read as follows:

"CHAPTER IV
INCENTIVES TO REGIONAL OR AREA HEADQUARTERS AND REGIONAL OPERATING HEADQUARTERS

"Art. 64. Corporate Income Tax Incentive to Regional or Area Headquarters and Regional Operating Headquarters. - Regional or area headquarters established in the Philippines by multinational companies and which headquarters do not earn or derive income from the Philippines and which act as supervisory, communications and coordinating centers for their affiliates, subsidiaries, or branches in the Asia-Pacific Region and other foreign markets shall not be subject to income tax. Regional operating headquarters shall be subject to a tax rate of ten percent (10%) of their taxable income as provided for under the National Internal Revenue Code, as amended by Republic Act No. 8424: Provided, That any income derived from Philippine sources by the ROHQ when remitted to the parent company shall be subject to the tax on branch profit remittances as provided for in Section 28(a)(5) of the National Internal Revenue Code.

"Art. 65. Value-Added Tax. - The regional or area headquarters established in the Philippines by multinational companies shall be exempted from the value-added tax. In addition, the sale or lease of goods and property and the rendition of services to regional or area headquarters shall be subject to zero percent (0%) VAT rate as provided for in the National Internal Revenue Code, as amended.

"Regional operating headquarters shall be subject to the ten percent (10%) value-added tax as provided for under the National Internal Revenue Code, as amended.

"Art. 66. Exemption From All Kinds of Local Taxes, Fees, or Charges. - The regional or area headquarters and regional operating headquarters of multinational companies shall be exempt from all kinds of local taxes, fees, or charges imposed by a local government unit except real property tax on land improvements and equipment.

"Art. 67. Tax and Duty Free Importation of Training Materials and Equipment; Importation of Motor Vehicles. - Regional or area headquarters and regional operating headquarters shall enjoy tax and duty free importation of equipment and materials for training and conferences which are needed and used solely for their functions as regional or area headquarters or regional operating headquarters and which are not locally available subject to the prior approval of the Board of Investments.

"The sale or disposition of equipment within two (2) years after importation, entered tax and duty free, shall require prior approval of the Board of Investments and prior payment of applicable taxes and duties waived in favor of RHQ/ROHQ.

"Regional or area headquarters and regional operating headquarters shall be entitled to the importation of new motor vehicles subject to the payment of the corresponding taxes and duties.

"BOOK IV
INCENTIVES TO MULTINATIONAL COMPANIES ESTABLISHING REGIONAL WAREHOUSES TO SUPPLY SPARE PARTS, COMPONENTS, SEMI-FINISHED PRODUCTS AND RAW MATERIALS TO THE ASIA-PACIFIC REGION AND OTHER FOREIGN MARKETS"

Section 7. Articles 68, 69, 70, 71 and 72 of the same Code are hereby amended to read as follows:

"Art. 68. Qualifications. - A multinational company organized and existing under any laws other than
those of the Philippines which is engaged in international trade and supplies spare parts, components, semi-finished products and raw materials to its distributors or markets in the Asia-Pacific area and other foreign areas and which has established or will simultaneously establish a regional or area headquarters and/or regional operating headquarters in the Philippines in accordance with the provisions of Book III of this Code and the rules and regulations implementing the same may also establish a regional warehouse or warehouses in ecozones in the Philippines, after securing a license therefor from the Philippine Economic Zone Authority (PEZA). With respect to regional warehouses located or will locate in ecozones with special charters, such license shall be secured from the concerned ecozone authorities. For existing regional warehouses, said license shall be secured from the Board of Investments unless they choose to relocate inside ecozones: Provided, That:

"(1) The activities of the regional warehouse shall be limited to serving as a supply depot for the storage, deposit, safekeeping of its spare parts, components, semi-finished products and raw materials including the packing, covering, putting up, marking, labelling and cutting or altering to customer’s specification, mounting and/or packaging into kits or marketable lots thereof, to fill up transactions and sales made by its head offices or parent companies and to serving as a storage or warehouse of goods purchased locally by the home office of the multinational for export abroad. The regional warehouse shall not directly engage in trade nor directly solicit business, promote any sale, nor enter into any contract for the sale or disposition of goods in the Philippines: Provided, That a regional warehouse may be allowed to withdraw imported goods from said warehouse/s for delivery to an authorized distributor in the Philippines: Provided, however, That the corresponding taxes, customs duties and charges under the Tariff and Customs Code have been paid by the headquarters of the said multinational upon arrival of such goods: Provided, further, That the delivery of said goods to the aforesaid distributor in the Philippines shall be treated as a sale made by the headquarters rather than that of its head office, and shall be reflected in a separate book of accounts, any representation as to who is the seller to the contrary notwithstanding: Provided, furthermore, That the aforementioned sale shall be governed by the provisions on value-added tax in accordance with the National Internal Revenue Code, as amended by Republic Act No. 8424: Provided, finally, That the income from the aforementioned sale to said distributor shall be treated as income derived by the said headquarters from sources within the Philippines and shall be subject to the corporate income tax of a resident foreign corporation under the National Internal Revenue Code, as amended, the provision of any law to the contrary notwithstanding.

"(2) The personnel of a regional warehouse will not participate in any manner in the management of any subsidiary, affiliate or branch office it might have in the Philippines other than the activities allowed under this Act.

"(3) The personnel of the regional or area headquarters or regional operating headquarters shall be responsible for the operation of the regional warehouse subject to the provisions of this Code.

"(4) The multinational company shall pay the Board of Investments, the PEZA or concerned ecozone authorities, as the case may be, and the appropriate Collector of Customs concerned the corresponding license fees and storage fees to be determined by said offices.

"(5) An application for the establishment of a regional warehouse located outside an ecozone shall be made in writing to the Board of Investments, to the PEZA, or to concerned ecozone authorities in the case of regional warehouses located in ecozones. The application shall describe the premises, the location and capacity of the regional warehouse and the purpose for which the building is to be used.

"The jurisdiction and responsibility of supervising the regional warehouses located outside ecozones shall be vested on the Bureau of Customs, and the Board of Investments, or the PEZA or concerned ecozone authorities for warehouses within ecozones.

"The Board of Investments, the PEZA or concerned ecozone authorities, in consultation with the Regional Director of Customs of the district where the warehouse will be situated shall cause an examination of the premises to be made and if found satisfactory, it may authorize its establishment without complying with the requirements of any other government body, subject to the following conditions:

"(1) That the articles to be stored in the warehouse are spare parts, components, semi-finished products and raw materials of the multinational company operator for distribution and supply to its Asia-Pacific and other foreign markets including packaging, coverings, brands, labels and
warehouse equipment as provided in Article 69(a) hereof;

"(2) That the entry or importation, storage or re-export of the goods destined for or to be stored in the regional warehouse will not involve any dollar outlay from Philippine sources;

"(3) That they are of such character as to be readily identifiable for re-export; and in case of local distribution they shall be subject to Article 68(1), Article 69 paragraph (b) and the guidelines implementing Book IV of this Code;

"(4) That it shall file an ordinary warehousing bond in an amount equal to one hundred percent (100%) of the ascertained customs duties on the articles imported without prejudice to its filing a general warehousing bond in lieu of the ordinary warehousing bond;

"(5) The percentage of annual allowable withdrawal from warehouses located outside ecozones for domestic use shall be subject to the approval of the Board of Investments, or of the PEZA or concerned ecozone authorities with respect to warehouses located within the ecozones of their jurisdiction: Provided, however, That in the case of existing warehouses, in no case shall their withdrawals exceed thirty percent (30%) of the value of goods they have brought in for any given year and the payment of the corresponding taxes and duties shall have been made upon the arrival of such goods imported: Provided, further, That the PEZA or concerned ecozone authorities may allow withdrawal exceeding thirty percent (30%) of the value of goods under such terms and conditions the PEZA or concerned ecozone authorities may impose.

"Art. 69. Tax Treatment of Imported Articles in the Regional Warehouse. -

"(a) Tax Incentives for Qualified Goods Destined for Reexport to the Asia-Pacific and Other Foreign Markets. - Except as otherwise provided in this Code, imported spare parts, components, semi-finished products, raw materials and other items including any packages, coverings, brands and labels and warehouse equipment as may be allowed by the Board of Investments, the PEZA or concerned ecozone authorities, as the case may be, for use exclusively on the goods stored, except those prohibited by law, brought into the regional warehouse from abroad to be kept, stored and/or deposited or used therein and re-exported directly therefrom under the supervision of the Collector of Customs concerned for distribution to its Asia-Pacific and other foreign markets in accordance with the guidelines implementing Book IV of this Code including to a bonded manufacturing warehouse in the Philippines and eventually re-exported shall not be subject to customs duty, internal revenue tax, export tax nor to local taxes, the provisions of law to the contrary notwithstanding.

"(b) Payment of Applicable Duties and Taxes on Qualified Goods Subject to Laws and Regulations Covering Imported Merchandise if Destined for the Local Market. - Any spare parts, components, semi-finished products, raw materials and other items sent, delivered, released or taken from the regional warehouse to the local market in accordance with the guidelines implementing Book IV of this Code shall be subject to the payment of income taxes, customs duties, taxes and other charges provided for under Section 68 hereof and for which purpose, the proper commercial invoice of the head offices or parent companies shall be submitted to the Collector of Customs concerned; and shall be subject to laws and regulations governing imported merchandise: Provided, That in case any of the foregoing items are sold, bartered, hired or used for purposes other than they were intended for without prior compliance with the guidelines implementing Book IV of this Code and without prior payment of the duty, tax or other charges which would have been due and payable at the time of entry if the articles had been entered without the benefit of this Order, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs revenue punishable under Section 3602, as amended, of the Tariff and Customs Code of the Philippines: Provided, further, That a sale pursuant to a judicial order shall not be subject to the preceding proviso without prejudice to the payment of duties, taxes and other charges.

"Art. 70. Exemption From the Maximum Storage Period Under the Tariff and Customs Code; Period of Storage in the Regional Warehouse. - The provision of the law in Section 1908 of the Tariff and Customs Code of the Philippines, as amended, to the contrary notwithstanding, articles duly entered for warehousing may remain in the regional warehouses for a period of two (2) years from the time of their transfer to the regional warehouse, which period may be extended with the approval of the Board of Investments for an additional period of one (1) year upon payment of the corresponding storage fee on the unexported articles, as provided for under Article 68(4) for each extension until they are re-exported in accordance with the guidelines implementing Book IV of this Code. Any articles withdrawn, released or removed contrary to the provisions of said
guidelines shall be forfeited pursuant to the provisions of Article 69, paragraph (b) hereof.

"Art. 71. Rules and Regulations on the Jurisdiction, Operation and Control Over Qualified Goods in the Regional Warehouse. - The Board of Investments, the PEZA, concerned ecozone authorities and the Bureau of Customs shall jointly issue special rules and regulations on the receiving, handling, custody, entry, examination, classifications, delivery, storage, warehousing, manipulation and packaging, release for reexportation or for importation and delivery to a Philippine distributor and for the safekeeping, recording, inventory and liquidation of said qualified goods, any existing law notwithstanding. Such rules and regulations shall be formulated in consultation with the applicants/operators of regional warehouses.

"Art. 72. Cancellation of License or Registration. - Any willful violation by the regional or area headquarters or regional operating headquarters of a multinational company which has established a regional warehouse or warehouses contrary to or in violation of the provisions of existing laws and the implementing guidelines of Book IV of this Code shall constitute a sufficient cause for the cancellation of its license or registration in addition to the penalties hereinabove provided in Article 69, paragraph (b) hereof.

"The Board, the PEZA or concerned ecozone authorities, as the case may be, shall have the authority to impose such fines in amounts that are just and reasonable in cases of late submission or non-compliance on the part of registered enterprises, with reporting and other requirements under this Code and its implementing rules and regulations."

Section 8. Article 73 of the same Code is hereby repealed.

Section 9. A new article is hereby inserted to read as follows:

"Art. 73. Implementing Rules and Regulations. - To implement the provisions of Books III and IV of this Code, the Department of Trade and Industry, in coordination with the Department of Foreign Affairs, the Board of Investments, the Philippine Economic Zone Authority, the ecozone authorities with special charters, the Securities and Exchange Commission, the Bureau of Internal Revenue, the Bureau of Customs, BangkoSentralngPilipinas, Philippine Tourism Authority, and the Bureau of Immigration shall jointly promulgate such rules and regulations which shall take effect thirty (30) days after their publication in at least two (2) national newspapers of general circulation in the Philippines."

Section 10. Separability Clause. - If any part or section of this Act is declared unconstitutional for any reason or whatsoever, such parts not so declared shall remain in full force and effect.

Section 11. Repealing Clause. - All laws, decrees, orders, rules and regulations or issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 12. Effectivity Clause. - This Act shall take effect after thirty (30) days following its full publication in at least two (2) newspapers of general circulation in the Philippines.

Approved, November 23, 1999.

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BOOK IV INCENTIVES TO MULTINATIONAL COMPANIES ESTABLISHING REGIONAL WAREHOUSES TO SUPPLY SPARE PARTS OR MANUFACTURED COMPONENTS AND RAW MATERIALS TO THE ASIA-PACIFIC REGION AND OTHER FOREIGN MARKETS

Article 68. Qualifications. A multinational company organized and existing under any laws other than those of the Philippines which is engaged in international trade and supplies spare parts or manufactured components and raw materials to its distributors or markets in the Asia-Pacific Area and other foreign areas and which has established or will simultaneously establish a regional or area headquarters in the Philippines in accordance with the provisions of Book III of this Code and the rules and regulations implementing the same may also establish regional warehouse or warehouses in the Philippines, after securing a license therefor from the Board of Investments.

The following minimum requirements shall be submitted or complied with by the said foreign entity in accordance with the rules and regulations to be issued by the Board of Investments as provided for in Article 7 (2) of this Code.

(a) A certification from the Foreign Trade Officer or in the absence of such an official, a Philippine Consul in the foreign firm's home country that said foreign firm is engaged in international trade and supplies or will supply spare parts or manufactured components and raw materials to its distributors or markets in the Asia-Pacific Region.

(b) A certification from a principal officer of the foreign entity to the effect that said foreign entity has been authorized by its Board of Directors or governing body
to establish its regional warehouse in the Philippines, specifying that:

1. The activities of the regional warehouse shall be limited to serving as a supply depot for the storage, deposit, safekeeping of its spare parts or manufactured components and raw materials including the packaging, covering, putting up, marking, labelling and cutting or altering to customer’s specification, mounting and/or packaging into kits or marketable lots thereof, to fill up transactions and sales made by its head offices or parent companies and to serving as a storage or warehouse of goods purchased locally by the home office of the multinational for export abroad; Provided, That said locally purchased goods for export may be stored in the regional warehouse only after they have been cleared for export in accordance with the laws and regulations, including those of the Central Bank and simplified procedures governing exports. The regional warehouse shall not directly engage in trade nor directly solicit business, promote any sale, nor enter into any contract for the sale or disposition of goods in the Philippines.

2. The regional warehouse will not derive any income from the sources within the Philippines and its personnel will not participate in any manner in the management of any subsidiary, affiliate or branch office it might have in the Philippines.

3. The personnel of the regional headquarters shall be responsible for the operation of the regional warehouse subject to the provisions of this Code.

(c) The multinational company shall pay the Board of Investments and the appropriate Regional Collector of Customs the corresponding license fees and storage fees to be determined by said offices.

(d) An application for the establishment of a regional warehouse shall be made in writing to the Board of Investments upon recommendation of the Bureau of Customs. The application shall describe the premises, the location and capacity of the regional warehouse and the purpose for which the building is to be used.

The jurisdiction and responsibility of supervising the regional warehouses shall be vested on the Bureau of Customs.

The Board of Investments, in consultation with the Regional Director of Customs of the district where the warehouse will be situated shall cause an examination of the premises to be made with reference particularly to the location, construction and means provided for the safekeeping of its articles and if found satisfactory, it may authorize its establishment without complying with the requirements of any other government body and aimed at providing speedy procedure for its establishment, subject to the following conditions:

1) That the articles to be stored in the warehouse are spare parts or manufactured components and/or raw materials of the multinational company operator for distribution and supply to its Asia-Pacific markets including packaging, coverings, brands, labels and warehouse equipment as provided in Art. 69 (a) hereof;

2) That the entry or importation, storage or re-export of the goods destined for or to be stored in the regional warehouse will not involve any dollar outlay from Philippine sources;

3) That they are of such character as to be readily identifiable for re-export; and in case of local distribution they shall be subject to Article 69 paragraph (b) and the guidelines implementing Book IV of this Code;

4) That they shall be allowed provisional entry expeditiously by means of a pro forma invoice of the parent company, identified, examined and appraised by the Regional Collector of Customs and they shall be directly delivered to and kept in the regional warehouses and released therefrom only in accordance with Article 69 paragraphs (a) and (b) and the guidelines implementing Book IV of this Code;

In the absence of a Regional Collector of Customs where the volume of the establishment of regional warehouses does not yet warrant the creation of said offices, the duties of the Regional Collector of Customs shall be performed by the Collector of Customs of the district where the regional warehouse will be located.

5) Each shipment of goods which will be stored in the regional warehouse shall be covered by an affidavit of the multinational company operator setting forth that said articles shall be exclusively used as supply for its Asia-Pacific markets and stating the C & F price thereof;

6) That it shall file an ordinary warehousing bond in an amount equal to ONE HUNDRED PER CENT (100%) of the ascertained customs duties on the articles imported without prejudice to its filing a general warehousing bond in lieu of the ordinary warehousing bond.

7) The percentage of annual allowable withdrawal for domestic use shall be subject to the approval of the Board of Investments; Provided, however, That in no case shall such withdrawals exceed thirty per cent (30%) of the value of goods it has brought in for any given year and the payment of the corresponding taxes and duties.

Article 69. Tax Treatment of Imported Articles in the
Regional Warehouse.

(a) Tax Incentives for Qualified Goods Destined for Re-exportation to the Asia-Pacific and other Foreign Markets. Except as otherwise provided in this Code, imported spare parts or manufactured components, raw materials and other items including any packages, coverings, brands and labels and warehouse equipment as may be allowed by the Board of Investments for the use exclusively on the goods stored, except those prohibited by law, brought into the regional warehouse from abroad to be kept, stored and/or deposited or used therein and re-exported directly therefrom under the supervision of the Regional Collector of Customs for distribution to its Asia-Pacific and other foreign markets in accordance with the guidelines implementing Book IV of this Code including to a bonded manufacturing warehouse in the Philippines and eventually re-exported shall not be subject to customs duty, internal revenue tax, export tax nor to local taxes, the provisions of law to the contrary notwithstanding.

(b) Payment of Applicable Duties and Taxes on Qualified Goods subject to Laws and Regulations Covering Imported Merchandise if destined for the Local Market. Any spare parts, manufactured components, raw materials and other items sent, delivered, released or taken from the regional warehouse to the local market in accordance with the guidelines implementing Book IV of this Code shall be subject to the payment of customs duties, taxes and other charges and for which purpose, the proper commercial invoice of the head offices or parent companies shall be submitted to the Regional Collector of Customs; and shall be subject to laws and regulations governing imported merchandise. Provided, that in case any of the foregoing items are sold, bartered, hired or used for purposes other than they were intended for without prior compliance with the guidelines implementing Book IV of this Code and without prior payment of the duty, tax or other charge which would have been due and payable at the time of entry if the articles had been entered without the benefit of this decree, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs revenue punishable under Section 3602, as amended, of the Tariff and Customs Code of the Philippines; Provided, further, that a sale pursuant to a judicial order shall not be subject to the preceding proviso without prejudice to the payment of duties, taxes and other charges.

Article 70. Exemption from the Maximum Storage Period under the Tariff and Customs Code; Period of Storage in the Regional Warehouse. The provision of the law in Section 1908 of the Tariff and Customs Code of the Philippines, as amended, to the contrary notwithstanding, articles duly entered for warehousing may remain in the regional warehouses for a period of two (2) years from the time of their transfer to the regional warehouse, which period may be extended with the approval of the Board of Investments for an additional period of one (1) year upon payment of the corresponding storage fee on the unexported articles, as provided for under Article 68 paragraph (c) for each extension until they are re-exported in accordance with the guideline implementing Book IV of this Code. Any article, withdrawn, release or removed contrary to the provisions of said guidelines shall be forfeited pursuant to the provisions of Article 69, paragraph (b) hereof.

Article 71. Rules and Regulations on the Jurisdiction, Operation and Control over Qualified Goods Stored in the Regional Warehouse. The Board of Investments and the Bureau of Customs shall jointly issue special rules and regulations on the receiving, handling, custody, entry, examinations, classifications, delivery, storage, warehousing, manipulation and packaging, release for re-exportation and for the safekeeping, recording, inventory and liquidation of said qualified goods, any existing law notwithstanding. Such rules and regulations shall be formulated in consultation with the applicants/operators of regional warehouses in order to be responsive to the objective of providing a procedure for the speedy inflow and outflow of the qualified goods which are destined for the Asia-Pacific and other foreign markets and keeping a proper balance between promoting the Philippines as a center for multinational regional warehouses and safeguarding the revenue laws of the country.

The Commissioner of customs is directed is directed to expedite the immediate re-exportation or transshipment of the foregoing goods, destined for regional warehousing to their Asia-Pacific and other foreign markets, including the emergency withdrawal for re-exportation by air and ship and the partial liquidation of bonds adopting simplified export procedures therefor.

Article 72. Penalties. Any willful violation by the regional or area headquarters of a multinational company which has established regional warehouse or warehouses of the provisions of existing laws and the implementing guidelines of Book IV of this Code shall constitute a sufficient cause for the cancellation of its license or registration in addition to the penalties hereinafore provided in Article 69, paragraph (b) hereof.

Article 73. The regional or area headquarters of multinational companies establishing regional warehouses shall be exempt from the provisions of Book II of this Code.

BOOK V SPECIAL INVESTORS RESIDENT VISA

Article 74. Qualifications. Any alien who possesses
the following qualifications may be issued a Special Investors Resident Visa.

1. He had not been convicted of a crime involving moral turpitude;
2. He is not afflicted with any loathsome, dangerous or contagious disease;
3. He has not been institutionalized for any mental disorder or disability;
4. He is willing and able to invest the amount of at least US$75,000.00 in the Philippines;

Provided, That the foregoing invested amount shall be lowered to US$50,000 for aliens availing of Executive Order No. 63 and Executive Order No. 1037 subject to the conditions imposed by said legislations: Provided, further, That for purposes of compliance with this particular condition, the alien-applicant should prove that he has remitted such amount in acceptable foreign currency to the Philippines.

**Article 75.** Reportorial Requirements. As a holder of the Special Investors Resident Visa, an alien shall be entitled to reside in the Philippines while his investment subsists. For this purpose, he should submit an annual report, in the form fully prescribed for the purpose, to prove that he has maintained his investment in the country. Should said alien withdraw his said investment from the Philippines, then the Special Investors Resident Visa issued to him will automatically expire.

**BOOK VI INCENTIVES OF EXPORT PROCESSING ZONE ENTERPRISES**

**Article 76.** Employment of Foreign Nationals. The provisions of law to the contrary notwithstanding, Export Processing Zone Authority, hereinafter referred to as the "Authority" may authorize an alien or an association, partnership, corporation or any other form of business organization formed, organized, chartered or existing under any law other than those of the Philippines, or which is not a Philippine national, or the working capital of which is fully owned or controlled by aliens to do business or engage in an industry inside the export processing zone.

Subject to the provisions of Section 29 of Commonwealth Act No. 613, as amended, an enterprise, a zone registered enterprise may employ foreign nationals in supervisory, technical or advisory positions for a period not exceeding five (5) years from its registration, extendible for limited periods at the discretion of the Authority: Provided, however, That when the majority of the capital stock of a zone registered enterprise is owned by foreign national, the positions of president, treasurer, and general manager or their equivalents may be retained by foreign nationals beyond the period set forth herein.

Foreign nationals employed within the purview of this Book, their spouses, and unmarried children under twenty-one years of age who are not excluded by Sec. 29 of C.A. No. 613, as amended, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals. They shall be issued a multiple entry visa, valid for a period of three years, to enter and leave the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports. The validity of the multiple entry special visa shall be extendible yearly. Foreign Nationals who have been issued multiple entry special visas under this provision, as well as their respective spouses and dependents, shall be exempt from obtaining alien certificates and all types of clearances required by any government department or agency. For this purpose, the Commission on Immigration and Deportation and the authority shall jointly issue the necessary implementing rules and regulations.

A registered enterprise shall train Filipinos as understudies of foreign nationals in administrative, supervisory and technical skills and shall submit annual reports of such training to the Board.

**Article 77.** Tax Treatment of Merchandise in the Zone.

1. Except as otherwise provided in this Code, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manufactured, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the provisions of law to the contrary notwithstanding.

2. Merchandise purchased by a registered zone enterprise from the customs territory and subsequently brought into the zone, shall be considered as export sales and the exported thereof shall be entitled to the benefits allowed by law for such transaction.

3. Domestic merchandise sent from the zone to the customs territory shall, whether or not combined with or made part of other articles likewise of local origin or manufactured in the Philippines while in the export processing zone, be subject to internal revenue laws of the Philippines as domestic goods sold, transferred or disposed of for local consumption.
(4) Merchandise sent from the export processing zone to the customs territory shall, whether or not combined with or made part of other articles while in the zone, be subject to rules and regulations governing imported merchandise. The duties and taxes shall be assessed on the value of imported materials (except when the final product is exempt) and the internal revenue taxes on the values added.

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

(6) Subject to such regulations respecting identity and safeguarding of the revenue as the Authority may deem necessary when the identity of an article entered into the export processing zone under the immediately preceding paragraph has been lost, such article when removed from the zone and taken to the customs territory shall be treated as foreign merchandise entering the country for the first time, under the provisions of the Tariff and Customs Code.

(7) Articles produced or manufactured in the zone and exported therefrom shall, on subsequent importation into the customs territory, be subject to the import laws applicable to like articles manufactured in a foreign country;

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

Article 78. Additional Incentives. A zone registered enterprise shall also enjoy all the incentive benefits provided in Article 39 hereof under the same terms and conditions stated therein. In addition zone registered enterprises shall also be entitled to the following:

(a) Exemption from Local Taxes and Licenses. Notwithstanding the provisions of law to the contrary, zone registered enterprise shall, to the extent of their construction, operation or production inside the zone be exempt from the payment of any and all local government imposts, fees, licenses or taxes except real estate taxes which shall be collected by the Province/City/Municipality responsible for the collection thereof under the provisions of the Real Property Tax Code: Provided, That machineries owned by zone registered enterprises which are actually installed and operated in the Zone for manufacturing, processing or for industrial purposes shall not be subject to the payment of real estate taxes for the first three (3) years of operation of such machineries: Provided, further, That fifty percent (50%) of the proceeds of the real estate taxes collected from all real properties located in the Zone and such other areas owned or administered by the Authority shall be remitted to the Authority by the province/city/municipality responsible for the collection of such taxes under the provisions of the Real Property Tax Code. All real estate taxes accruing to the Authority as herein provided shall be expanded for such community facilities, utilities and/or services as the Authority may determine.

(b) Production equipment or machineries, not attached to real estate, used directly or indirectly, in the production, assembly or manufacture of the registered product of the zone registered enterprise shall be exempt from real property taxes.

FINAL PROVISIONS

Article 79. Interpretation. All doubts concerning the benefits and incentives granted enterprises and investors by this Code shall be resolved in favor of investors and registered enterprises.

Article 80. Vested Rights. Existing registered enterprises which are enjoying the incentives under the laws repealed by Books One and Six of this Code shall continue to enjoy such incentives for the period therein stated: Provided, however, That firms which made investments in new or expansion projects approved or registered by the Board of the Authority on or after December 1, 1986 but before the effectivity of this Code may opt to be governed by the provisions of this Code.

Article 81. Confidentiality of Applications. All applications and their supporting documents filed under this Code shall be confidential and shall not be disclosed to any person, except with the consent of the applicant or on orders of a court of competent jurisdiction.

Article 82. Judicial Relief. All orders or decisions of the Board in cases involving the provisions of this Code shall immediately be executory. No appeal from the order or decision of the Board by the party adversely affected shall stay such order or decision: Provided, That all appeals shall be filed directly with the Supreme Court within thirty (30) days from receipt of the order or decision.

Article 83. Effectivity of Implementing Rules and Regulations. The Board shall promulgate rules and regulations to implement the intent and provisions of this Code and shall have the authority to impose such fines in amounts that are just and reasonable in cases of late submission or non-compliance on the part of registered enterprises, with reporting and other requirements under this Code and its implementing rules and regulations. Such rules and regulations shall
take effect fifteen (15) days following its publication in newspaper of general circulation in the Philippines.

**Article 84.** Separability Clause. The provisions of this Code are hereby declared to be separable and, in the event any such provisions is declared unconstitutional, the other provisions which are not affected thereby shall remain in force and effect.

**Article 85.** Repealing Clause. The following provisions or laws are hereby repealed:

1) Batas Pambansa 44
2) Batas Pambansa 391 (1983)
3) Presidential Decree 218
4) Presidential Decree 1419
5) Presidential Decree 1623, as amended
6) Presidential Decree No. 1789 (1981)
7) Presidential Decree 2032
8) Executive Order 815
9) Executive Order 1945 (1985)

All other laws, decrees, executive orders, administrative orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Code are hereby repealed, amended or modified accordingly.

**Article 86.** Effectivity. This Code shall take effect immediately upon approval.

DONE in the City of Manila, this 16th day of July, in the year of Our Lord, nineteen hundred and eighty-seven.