

Republic of the Philippines

HOUSE OF REPRESENTATIVES
Quezon City Metro Manila
Fourteenth Congress
First Regular Session

HOUSE BILL NO. ____

INTRODUCED BY Honorable RONALD V. SINGSON

This Bill seeks to establish the Special Economic Zone and Freeport in the Municipalities of San Juan and Cabugao, all in the Province of Ilocos Sur.

If there is anything clear in the world market of investments and to the community of investors, it is this: a country must look beyond the traditional way of doing things. It must innovate to create opportunities where and by which it can give investors the maximum value for their investments.

This bill seeks to achieve this by establishing the Salomague Freeport-which shall cover the entire Salomague Cove and the area embraced by the barangays of Dardarat, Solotsolot, Surngit and Refaro in the Municipality of San Juan as well as Dardarat, Sagayaden and Salomague in the Municipality of Cabugao, all in the province of Ilocos Sur. The concept and objective is to develop the Freeport area into a self-sustaining industrial, commercial and investment center that will put in place a wide reaching employment and investment generation mechanism, all to strengthen the trading and foreign exchange position of the country. On the whole, it is looking at effectively complementing an announced aggressive export-oriented thrust of the country, thus enhancing the country's global competitiveness.

As envisioned, the Salomague Freeport shall be operated as a separate customs territory that will basically provide incentives to ensure the free flow and movement of goods and commodities within the Freeport area and their exportation therefrom. Likewise it shall provide tax-based incentives for business activities and concerns locating and operating within the Freeport premises, not to mention other non-tax benefits like exchange policies and the grant of permanent resident status to investors.

This bill does away with an authority-type of office to run the Freeport but directly tasks a governing body composed of the elected chief executives of the localities involved and the private sector to do the job. It is felt that with the flexibility already defined in the bill, creating the Freeport already as a body corporate, to institutionalize another office or authority for the purpose of running the Freeport would be necessary.

The competitive markets around us are moving fast, already leaving the country behind. The performance of South Korea, Hong Kong, Taiwan and Singapore had always been a source of envy despite the limited resources they have compared to the abundance our country enjoys. And now Thailand, Malaysia and Indonesia are surging ahead, outpacing even other western countries. Particularly because the proposed Freeport offers an environment that can match the capabilities and resources of a comparable area anywhere in the country, this Bill may help the country, at least, to keep pace with, not necessarily, to get ahead of the pack.

There are physical, geographic and natural attributes of the Salomague area that can make the creation of Freeport ideal therein. Salomague cove is a natural harbor and haven for international ships during inclement weather. There is a channel that hugs the semicircular shoreline that is appropriate for marine vessel traffic. Not to be forgotten is that, it is probably the only port closest to HongKong, Japan and Taiwan. It is large that it can sit dozens of vessels at any one time. It can also close to an international airport in Laoag City, Ilocos Norte and a local airport in Vigan, Ilocos Sur.

In light of the foregoing, approval of Bill is earnestly sought.

RONALD V. SINGSON

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AN ACT

ESTABLISHING THE SPECIAL ECONOMIC ZONE AND FREEPORT IN THE PROVINCE OF ILOCOS SUR, CREATING FOR THIS PURPOSE THE ILOCOS SUR SPECIAL ECONOMIC ZONE AND FREEPORT AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “Ilocos Sur Special Economic Zone and Freeport Act of 2007”.

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

SEC. 3. *Creation of the Ilocos Sur Special Economic Zone and Freeport.* – In pursuit of the foregoing declared policy and subject to the concurrence of the concerned local government units (LGUs) of Ilocos Sur affected by the zone, there is hereby established a special economic zone and freeport in the Province of Ilocos Sur to be known as the Ilocos Sur Special Economic Zone and Freeport, hereinafter referred to as the Ilocos Sur ECOZONE. The Ilocos Sur ECOZONE shall cover the entire Salomague Cove and the area embraced by the barangays of Dardarat, Solotsolot, Surngit and Refaro in the Municipality of San Juan as well as Dardarat, Pila, Sagayaden, Salomague, Sabang, Namruangan, Salapasap, Daclapan, Pug-os, Turod and Baclig in the Municipality of Cabugao. The specific metes and bounds of the Ilocos Sur Ecozone shall be more particularly defined in a presidential proclamation that shall be issued for this purpose.

SEC. 4. *Governing Principles.* – The Ilocos Sur ECOZONE shall be managed and operated by the Ilocos Sur Special Economic Zone and Freeport Authority, hereinafter referred to as the ISSEZFA, created under Section 10 of this Act, under the following principles:

(a) Within the framework and limitations of the Constitution and applicable provisions of the Local Government Code, the Ilocos Sur ECOZONE shall be developed into and operated as a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with suitable residential areas.

(b) The Ilocos Sur ECOZONE shall be provided with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment opportunities for the people of the Province of Ilocos Sur and its neighboring towns and cities.

(c) The Ilocos Sur ECOZONE may establish mutually beneficial economic relations with other entities or enterprises within the country or, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.

(d) Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the Ilocos Sur ECOZONE, either by themselves or in joint venture with Filipinos in any sector of industry, international trade and commerce within the Ilocos Sur ECOZONE.

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

(f) The areas comprising the Ilocos Sur ECOZONE may be expanded or reduced when necessary. For this purpose, the ISSEZFA, in consultation with the LGUs, shall have the power to acquire either by purchase, negotiation or condemnation proceedings, any private land within or adjacent to the Ilocos Sur ECOZONE for the following purposes: (1) consolidation of lands for Ilocos Sur Ecozone development; (2) acquisition of right-of-way to the Ilocos Sur ECOZONE; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Ilocos Sur ECOZONE.

(g) Goods manufactured by an Ilocos Sur ECOZONE enterprise shall be made available for immediate retail sale in the domestic market, subject to the payment of corresponding taxes on raw materials and other regulations that may be formulated by the ISSEZFA, together with the PEZA, the Bureau of Customs (BoC) and the DTI in accordance with the NIRC of 1997, as amended, and the Tariff and Customs Code of the Philippines, as amended. However, in order to protect domestic industries, a Negative List of industries shall be drawn up and regularly updated by the PEZA. Enterprises engaged in industries included in such Negative List shall not be allowed to sell their products locally, and

(h) The defense of the Ilocos Sur ECOZONE and the security of its perimeter fence shall be the responsibility of the national government (NG) in coordination with the Ilocos Sur ECOZONE and the LGUs. For this purpose, a special defense team shall be organized to define its power, duties and responsibilities.

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

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

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

(2) Category B – Registered domestic enterprises on the following shall be entitled to a six-year income tax holiday:

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

(ii) Producing/rendering new products/services or having strong backward or forward linkages.

(3) Category C – Registered export enterprises shall be entitled to a six-year income tax holiday: *Provided, finally,* That if the export enterprise complies with the following:

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

(ii) Use high level of technology; or

(iii) Located outside Metro Manila, it shall be entitled to an eight-year ITH.

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

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

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

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

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

(b) Net Operating Loss Carryover (NOLCO) – The net operating loss of the business or enterprise during the first three years from the start of commercial operations which have not been previously offset as a deduction from the gross income shall be carried over as a deduction from the gross income for the next five consecutive years

immediately following the year of such loss: *Provided, however,* That operating loss resulting from availment of incentives provided in this Code shall not be entitled to NOLCO.

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

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

(1) Two *per centum* (2%) to the National Government;

(2) Two *per centum* (2%) to the province of Ilocos Sur;

(3) One-half *per centum* (½%) to be shared by the municipalities affected by the declaration of the ISSEZFA in proportion to their income from business activities of the zone; and

(4) One-half *per centum* (½%) to the ISSEZFA

All persons and service establishments in the Ilocos Sur ECOZONE that are not covered by section 5 hereof shall be subject to national and local taxes under the NIRC of 1997, as amended, and the Local Government Code.

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

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

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

(2) These are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the ISSEZFA 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 a specific equipment and machinery being permanently used for non-registered activities; and

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

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

- (i) If made to another enterprise enjoying tax and duty exemption on imported capital equipment;
- (ii) If made to another enterprise not covered by part (i), upon payment of the taxes and duties on the net book value of the capital equipment to be sold;
- (iii) Exportation of the capital equipment, machinery, spare parts or source documents or those required for pollution abatement and control; and
- (iv) For reasons of proven technical obsolescence

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

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

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

The registered export enterprise availing of the incentive provided under the immediately preceding two paragraphs shall be subject to the following: (i) that said capital equipment, machinery and spare parts will be used exclusively by the registered enterprise in its registered activity; (ii) that the capital equipment or machinery where the raw materials, supplies, parts and semi-finished products were used would have qualified for tax and duty-free importation; and (iii) that the approval of the ISSEZFA is obtained by the registered enterprise. If the registered enterprise sells, transfers or disposes of these machineries, capital equipment and spare parts, the provision in the preceding paragraphs for such disposition shall apply.

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

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

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

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

(h) Incentives on Breeding Stocks and Genetic Materials – 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 reasonably needed in the registered activity and approved by the ISSEZFA.

The availment of the incentives by a registered enterprise shall be subject to the following: (i) that said breeding stocks and genetic materials would have been qualified for tax- and duty-free importation under the preceding paragraph; (ii) that the breeding stocks and genetic materials are reasonably needed in the registered activity; (iii) that approval of the ISSEZFA has been obtained by the registered enterprise; and (iv) that the purchase is made within ten (10) years from the date of registration of commercial operation of the registered enterprise.

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

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

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

(k) (1) Tax Treatment of Merchandise in the Ilocos Sur ECOZONE –

(i) Except as otherwise provided in this Act, 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, any provision of law to the contrary notwithstanding;

(ii) Merchandise purchased by a registered Ilocos Sur ECOZONE enterprise, from the customs territory and subsequently brought into the export processing zone, shall be considered as export sales and exportation thereof shall be entitled to the benefits allowed by law for such transaction;

(iii) Domestic merchandise sent from the Ilocos Sur ECOZONE 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;

(iv) Merchandise sent from the Ilocos Sur ECOZONE 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 based on the value of said imported materials (except when the final product is exempt);

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

(vi) Subject to such regulations respecting identity and safeguarding of revenue as the ISSEZFA 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 of the Philippines, as amended;

(vii) Articles produced or manufactured in the Ilocos Sur ECOZONE 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;

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

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

(3) Tax Treatment of Services in the Ilocos Sur ECOZONE– (i) Sale of service by an entity from the customs territory to a registered ecozone or free trade enterprise, or by a registered ecozone or freeport enterprise to another ecozone or freeport enterprise shall be treated as indirect export and hence, entitled to the benefits allowed by law for such transaction; and

(ii) Sale or service by a registered ecozone or freeport enterprise to the customs territory shall be subject to applicable internal revenue laws and regulations.

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

(m) 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 or technical positions for a period not exceeding ten (10) years from its registration: *Provided*, That when the majority of the capital stock of a registered enterprise is owned by foreign investors, the positions of the president, treasurer and general manager or their equivalents may be retained by foreign nationals beyond the period set forth herein and such officer is the owner or a stockholder owning at least ten percent (10%) of the outstanding capital stock of the registered enterprise and he remains the owner or maintains his stockholdings therein.

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. They shall be issued a multiple-entry visa, valid for a period of three years, and shall be allowed 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 visa shall be extendible yearly.

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

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

- (a) He is at least eighteen (18) years of age;
- (b) He has not been convicted of a crime involving moral turpitude;
- (c) He is not afflicted with any loathsome, dangerous or contagious disease; and
- (d) He has not been institutionalized for any mental disorder or disability:

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

As a holder of an investor's 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 duly prescribed for the purpose, to prove that he has maintained his investment in the country. Should said alien withdraw his investments from the Philippines, then the investor's visa issued to him shall automatically expire.

SEC. 7. *Administration, Implementation and Monitoring of Incentives.* The ISSEZFA shall be responsible for the administration and implementation of the incentives granted to its respective registered enterprises: *Provided*, That any incentive administration policy adopted by the BOI for incentives common to all registered enterprises shall be uniformly applied by the ISSEZFA.

The following are the duties and responsibilities of the ISSEZFA in the administration of incentives:

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

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

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

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

For proper monitoring, the BOI shall create a single database of all incentives provided by all incentives granting agencies, including the ISSEZFA and all information thereto. Double-entry accounting shall be done by the BOI in recording all incentives granted by the government for transparency purposes.

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

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

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

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

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

SEC. 11. *Principal Office of the ISSEZFA.* – The ISSEZFA shall maintain its principal office in the Municipality of Cabugao, Province of Ilocos Sur, but it may establish branches within the Philippines as may be necessary for the proper conduct of its business.

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

(a) Operate, administer, manage and develop the Ilocos Sur ECOZONE according to the principles and provisions set forth in this Act;

(b) Recommend to the President the issuance of a proclamation to fix and delimit the site of the Ilocos Sur ECOZONE;

(c) Register, regulate and supervise the enterprises in the Ilocos Sur ECOZONE in an efficient and decentralized manner, subject to existing laws;

(d) Coordinate with LGUs and exercise general supervision over the development plans, activities and operations of the Ilocos Sur ECOZONE;

(e) authorize or undertake, on its own or through others, and regulate the establishment, operation and maintenance of public utilities, services, and infrastructure in the Ilocos Sur Zone such as shipping, barging, stevedoring, cargo handling, hauling, warehousing, storage of cargo, port services or concessions, piers, wharves, bulkheads, bulk terminals, mooring areas, storage areas, roads, bridges, terminals, conveyors, water supply and storage, sewerage, drainage, airport operations in coordination with the Civil Aeronautics Board, and such other services or concessions or infrastructure necessary or incidental to the accomplishment of the objectives of this Act: Provided, however, That the private investors in the Zone shall be given priority in the awarding of contracts, franchises, licenses, or permits for the establishment, operation and maintenance of utilities, services and infrastructure in the Zone;

(f) Regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the Ilocos Sur ECOZONE such as, but not limited to, heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc. and to fix just, reasonable and competitive rates, fares, charges and prices thereof;

(g) Construct, acquire, own, lease, operate and maintain on its own or through contracts, franchise, licenses, bulk purchase from the private sector or permits under any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-Transfer Law, as amended), or joint venture, adequate facilities and infrastructure required or needed for the operation and development of the Ilocos Sur ECOZONE, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;

(h) Operate on its own, either directly or through a subsidiary entity or licenses to others, tourism-related activities, including games, amusements, recreational and sports facilities, such as horse racing, dog racing, gambling casinos, game of chance, golf courses and others, under priorities and standards set by ISSEZFA;

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

(j) Provide security for the Ilocos Sur ECOZONE in coordination with the national and local governments. Military forces sent by the NG for the purpose of defense shall not interfere in the internal affairs of the Ilocos Sur ECOZONE and expenditures for these military forces shall be borne by the NG. For this purpose, the ISSEZFA may establish and maintain its security forces and firefighting capability or hire others to provide the same;

(k) Protect, preserve, maintain and develop the virgin forests, beaches, coral and coral reefs, and maintain ecological balance within the Ilocos Sur ECOZONE;

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

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

(n) Issue certificates of origin for products manufactured or processed in the Ilocos Sur ECOZONE in accordance with prevailing rules of origin, and the pertinent regulations of the PEZA, the DTI and/or the DOF;

(o) Issue working visas renewable every three (3) years to foreign executives and foreign technicians with highly specialized skills which no Filipino possesses, as certified by the Department of Labor and Employment;

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

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

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

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

The foregoing exemptions may, however, be entirely or partially lifted by the President of the Philippines upon the recommendation of the Secretary of Finance, not earlier than five (5) years from the effectivity of this Act, if the President shall find the ISSEZFA to be self-sustaining and financially capable by then to pay such taxes, customs duties, fees and other charges after providing for debt service requirements of the ISSEZFA and of its projected capital and operating expenditures.

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

SEC. 14. *Banking Rules and Regulations.* – Existing banking laws and rules/regulations of the BSP shall apply to banks and financial institutions to be established in the Ilocos Sur ECOZONE, such as those governing foreign exchange and other current account transactions (trade and nontrade), local and foreign borrowings, foreign investments, establishment and operation of local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the BSP.

SEC. 15. *Remittance of Earnings.* – In the case of foreign investments, a registered enterprise in the ISSEZFA shall have 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.

SEC. 16. *Board of Directors of the ISSEZFA.* – The powers of the ISSEZA shall be vested in and exercised by a board of directors, hereinafter referred to as the Board, which shall be composed of the following:

- (a) The chairman who shall, at the same time, be the administrator of the ISSEZFA;
- (b) A vice chairman who shall come from among the members of the Board;

(c) Members consisting of:

- (1) The governor of the Province of Ilocos Sur;
- (2) The congressional representative of the district covering the site of the Ilocos Sur ECOZONE;
- (3) The mayors of the municipalities of Cabugao and San Juan;
- (4) One representative from the domestic investors;
- (5) One representative from the foreign investors; and
- (6) Two representatives from labor from among the workers in the Ilocos Sur ECOZONE.

The governor, the congressional representative and the mayors of the municipalities of Cabugao and San Juan shall serve as *ex officio* members of the Board, whose terms in the Board correspond to their term as elected officials.

The chairman and the members of the Board, except the *ex officio* members, shall be appointed by the President of the Philippines to serve for a term of six years unless sooner removed for cause or dies or resigns voluntarily. In case of death, resignation or removal for cause, the replacement shall serve only the unexpired portion of the term.

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

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

SEC. 17. *Powers and Duties of the Chairman-Administrator.* – The chairman-administrator shall have the following powers and duties:

- (a) Direct and manage the affairs of the ISSEZFA in accordance with the policies of the Board;
- (b) Establish the internal organization of the ISSEZFA under such conditions that the Board may prescribe;
- (c) Submit an annual budget and necessary supplemental budget to the Board for its approval;
- (d) Submit within thirty (30) days after the close of each fiscal year an annual report to the Board and such other reports as may be required;
- (e) Submit to the Board for its approval policies, systems, procedures, rules and regulations that are essential to the operation of the Ilocos Sur ECOZONE;
- (f) Create a mechanism in coordination with relevant agencies for the promotion of industrial peace, the protection of the environment and the advancement of the quality of life in the Ilocos Sur ECOZONE; and
- (g) Perform such other duties as may be assigned to him by the Board or which are necessary or incidental to his office.

SEC. 18. *Organization and Personnel.* – The Board of Directors of the ISSEZFA shall provide for an organization and staff of its officers and employees. Upon recommendation of the chairman-administrator, the Board shall appoint and fix the remuneration and other emoluments of its officers and employees in accordance with existing laws on compensation and position classification: *Provided*, That the Board shall have exclusive and final authority to promote, transfer, assign or reassign officers of the ISSEZFA, any provision of existing law to the contrary notwithstanding: *Provided, further*, That the chairman-administrator may carry out removal of such officers and employees.

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

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

SEC .19. *General Manager.* – The Board of Directors of the ISSEZFA shall appoint a full-time professional and competent administrator and chief executive officer for the ISSEZFA whose compensation shall be determined by its Board of Directors and shall be in accordance with the revised compensation and position classification system. The administrator as chief executive officer of ISSEZFA shall be responsible to the Board and the President of the Philippines for the efficient management and operation of the ISSEZFA.

SEC. 20. *Applicability Clause.* – The provisions of Sections 30 to 41 of Republic Act No. 7916, as amended, on leases of lands and buildings, land conversion, shipping and shipping register, protection of environment, termination of business, registration of business enterprises, one-stop shop center and on industrial harmony in the ecozones shall apply to the ISSEZFA.

SEC. 21. *Capitalization.* – The ISSEZFA shall have an authorized capital stock of Two Billion (2,000,000,000) no par shares with a minimum issue of Ten Pesos (P10.00) each, the majority shares of which shall be subscribed and paid for by the NG and the LGUs embracing the Ilocos Sur ECOZONE. The Board of Directors of the ISSEZFA may, with the written concurrence of the Secretary of Finance, sell shares, representing not more than forty *per centum* (40%) of the capital stock of the ISSEZFA to the general public under such policy as the Board and the Secretary of Finance may determine. The NG and the LGUs shall, in no case, own less than sixty *per centum* (60%) of the total issued and outstanding capital of the ISSEZFA.

The amount necessary to subscribe and pay for the shares of the NG to the capital stock of the ISSEZFA shall be included in the annual General Appropriations Act. For LGUs, the funds shall be taken from their internal revenue allotment and other local funds.

SEC. 22. *Supervision and Coordination of Development Plans.* – For purposes of policy direction and coordination, the Ilocos Sur ECOZONE shall be under the direct control and supervision of the Office of the President.

SEC. 23. *Relationship with the Regional Development Council.* – The ISSEZFA shall determine the development goals for the Ilocos Sur ECOZONE within the framework of national development plans, policies and goals. The administrator shall, upon approval by the Board, submit the Ilocos Sur ECOZONE plans, programs and projects to the Regional Development Council for inclusion and inputs to the overall regional development plan.

SEC. 24. *Relationship with LGUs.* – Except as herein provided, the LGUs comprising the Ilocos Sur ECOZONE shall retain their basic autonomy and identity. The municipalities of Cabugao and San Juan, Ilocos Sur shall operate and function in accordance with the Local Government Code of 1991. In case of any conflict among the ISSEZFA and the municipalities of Cabugao and San Juan, Ilocos Sur on matters affecting the Ilocos Sur ECOZONE other than defense and security matters, the decision of the ISSEZFA shall prevail.

SEC. 25. *Legal Counsel.* – The Ilocos Sur Special Economic Zone Authority and the corporations in which ISSEZFA owns a majority of the issued capital stock shall have its own internal legal counsel under the supervision of the government corporate counsel. When the exigencies of its businesses and operations demand it, the ISSEZFA may engage the services of an outside counsel either on a case to case or on a fixed retainer basis.

SEC. 26. *Interpretation/Construction.* – The powers, authorities and functions that are vested in the ISSEZFA are intended to decentralize governmental functions and authority and promote an efficient and effective working relationship among the Ilocos Sur ECOZONE, the NG and the LGUs.

SEC. 27. *Auditing.* – The Commission on Audit shall appoint a representative who shall be a full-time auditor of the ISSEZFA and assign such number of personnel as may be necessary to assist said representative in the performance of his/her duties. The salaries and emoluments of the assigned auditor and personnel shall be in accordance with pertinent laws, rules and regulations.

SEC. 28. *Separability Clause.* – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 29. *Repealing Clause.* – All laws, executive orders or issuances, or any part thereof which are inconsistent herewith are hereby repealed or amended accordingly.

SEC. 30. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after publication in at least two (2) national newspapers of general circulation.

Approved,