

PRESCRIBING INCENTIVES FOR INVESTMENTS IN AGRICULTURAL ENTERPRISE

PRESIDENTIAL DECREE No. 1159, June 03, 1977

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WHEREAS, it is our primordial objective to be self-reliant in our basic requirements for food and raw materials and in the implementation thereof also hasten our rural development and thus bring about a more equitable distribution of wealth for our people;

WHEREAS, it is necessary that we attain a mutually reinforcing balance in the development of the agricultural and industrial sectors of our economy;

WHEREAS, the accelerated development of the agricultural sector strengthens and stabilizes the economic, political, and social structure of the country by diffusing productive employment and income opportunities to the countryside while attaining self-sufficiency in basic food and raw materials, and increasing production of export crops and other products;

WHEREAS, agricultural endeavors are generally of a higher risk nature than industrial or commercial undertakings due to its exposure to natural calamities and the vagaries of weather, and thus require more and different incentives;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution do hereby order and decree the extension of additional incentives to cultural endeavors, to wit:

SECTION 1. Title. This Decree shall be known and cited as the “Agricultural Investments Incentives Act.”

SEC. 2. Definition of terms. As used in this Decree the following terms are defined as follows:

- (a) “Board of Investments” or “Board ” shall mean the Board of Investments created by Republic Act No. 5186, otherwise known as the Investment Incentives Act.
- (b) “Department of Agriculture” or “Department” shall mean the Department of Agriculture.
- (c) “Registered Agricultural Enterprise” shall mean any individual, corporation, partnership, cooperative or other entity organized and existing under the Philippine laws which is registered with the Board of Investments in accordance with this Decree.
- (d) “Pioneer Agricultural Enterprise” shall mean an enterprise registered with the Board and engaged in the pursuit of agricultural activities and/or service, including the industrial aspects of food processing whenever appropriate, predetermined jointly by the board and the Department to be feasible and highly essential to the attainment of the national goal taking into account the risk, magnitude of investment, relation to a declared specific national food and agriculture program for self-sufficiency and other social benefits of the project: Provided, that the final product in the case of processed food involves or will involve substantial use and processing of domestic raw materials from agricultural production.

(e) “Agricultural Investments Priorities Plan” shall mean the plan prepared jointly by the Board and the Department and approved by the President upon recommendation of the National Economic and Development Authority.

(f) “Preferred Areas of Investment” shall mean the economic activities which may be pioneer or non-pioneer in nature, declared as such in the Agricultural Investments Priorities Plan.

(g) “Philippine national” shall mean a citizen of the Philippines; or a partnership, a cooperative, 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 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 of the fund will accrue to the benefit of Philippine nationals: Provided, That where a corporation and its non-Filipino stockholders own stock in a registered enterprise, at least sixty per cent of the capital stock outstanding and entitled to vote to both corporations must be owned and held by the citizens of the Philippines and at least sixty per cent 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.

(h) “Foreign loan” shall mean any credit facility or financial assistance other than equity investment obtained by a registered enterprise from a source outside the Philippines and brought into the Philippines either in foreign exchange or in other assets, and registered with the Central Bank and the Board, which shall assess and appraise the assets other than foreign exchange representing the proceeds of the loan.

(i) “Foreign investments” shall mean equity investment, owned by a non-Philippine national in a registered enterprise, 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.

(j) “Measured capacity” shall mean the estimated additional volume of agricultural production, service or food product, which the Board and the Department shall have jointly determined 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 area.

(k) “Tax credit” shall mean any of the credits against taxes and/or duties extended to a registered enterprise by the Secretary of Finance pursuant to this Decree.

(l) “Capital stock” shall be construed to include the stock certificates issued by corporations, membership certificates issued by cooperatives, and such other legal evidences of ownership issued by other entities.

SEC. 3. Basic Rights and Guarantees. All investors and 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 Investment. 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.

(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 265.

(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 265.

(d) Freedom from Expropriation. There shall be no expropriation by the government of the property represented by investments or of the property of enterprises except for public use or in the interest of national welfare and 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 265.

(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 265.

SEC. 4. Incentives to Investors in Agricultural Registered Enterprise. An investor, with respect to his investment in a registered enterprise, shall be granted the following incentives benefits:

(a) Protection of Patents and Other Proprietary Rights. The right to be protected from infringement of patents, trademarks, copyrights, trade names and other proprietary rights, have been registered with the Board and the appropriate agencies of the Government of the Philippines.

(b) Capital Gains Tax Exemption. Exemption from income tax on that portion of the gains realized from the sale, disposition, or transfer of capital assets, as defined in Section 34 of the National Internal Revenue Code, that corresponds to the portion of the proceeds of the sale that is invested in new issues of capital stock of a registered enterprise within six months from the date the gains were realized; Provided, (1) that the said sale, disposition or transfer and the investment of the proceeds thereof have been registered with the Board and the Bureau of Internal Revenue; and (2) that the shares of stock representing the investment are not disposed of, transferred, assigned or conveyed for a period of five years from the date the investment was made. If such shares of stock are disposed of within the said period of five (5) years, all taxes due on the gains realized from the original transfer sale or disposition of the capital assets shall immediately become due and payable.

SEC. 5. Incentives to Philippine Nationals Investing In Pioneer Agricultural Enterprise. In addition to the incentives provided in the preceding sections, Philippine nationals investing in a pioneer agricultural enterprise shall be granted the following incentive benefits:

(a) Tax-Allowance for Investments. An investment allowance to the extent of his actual investment, paid in cash or property shall be allowed as a deduction from his taxable income but not to exceed twenty (20%) percent thereof; Provided, (1) That the investment is made in a subscription of shares in the original and/or increased capital stock of a pioneer enterprise within seven years from the date of registration; (2) That the investment does not come from the proceeds of the sale, disposition, or transfer of capital assets where the gain realized therefrom is exempt from income tax; (3) That the shares are held for a period of not less than three years; (4) That the investment is registered with the Board. If the shares are disposed of within the said three year period, the taxpayer shall lose the benefit of this deduction, his income tax liability shall be recomputed, and he shall pay whatever additional sum be due plus interest thereon, within thirty days from the date of disposition.

(b) Capital Gains Tax Exemption. Exemption from income tax on the portion of the gains realized from the sale, disposition or transfer of capital assets, as defined in Section 34 of the National Internal Revenue Code, that corresponds to the portion of the proceeds of the sale that is invested in new issues of capital stock of or in the purchase of stock owned by foreigners in pioneer enterprises, within six months from the date the gains were realized: Provided, (1) That such sale, disposition or transfer and the investment of the proceeds thereof are registered with the Board and the Bureau of Internal Revenue; and (2) that the share of stock representing the investment are not disposed of, transferred, assigned or conveyed for a period of three (3) years from the date the investment was made. If said share of stock are disposed of within the said period of three (3) years, all taxes due on the gains realized from the original transfer, sale or disposition of the capital assets shall immediately become due and payable.

SEC. 6. Incentives to a Registered Agricultural Enterprise. A registered enterprise, to the extent engaged in a preferred of investment, shall be granted the following incentive benefits:

(a) Deduction of Organizational and Pre-operating Expenses. All capitalized organizational and pre-operating expenses attributable to the establishment of a registered enterprise may be deducted from its taxable income over a period of not more than ten years beginning with the month the enterprise begins operations, provided the taxpayer indicates the desired amortization period at the time of the filing of income tax returns for the first taxable year. For the purpose of this provision, organizational and pre-operating expenses shall include expenses for pre-investment studies, start up costs, costs of initial recruitment and training, pilot projects and similar expenses.

(b) Accelerated Depreciation. At the option of the taxpayer and in accordance with the procedure established by the Bureau of Internal Revenue, fixed assets and capital equipment including breeding stock may be (1) depreciated to the extent of not more than twice as fast as normal rate of depreciation or depreciated at normal rate of depreciation if expected life is ten years or less; or (2) depreciated over any number of years between five years and expected life if the latter is more than ten (10) years; and the depreciation thereon allowed as a deduction from taxable income: Provided, that the taxpayer notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this section will be used.

(c) Net Operating Loss Carry-over. A net operating loss incurred in any of the first ten years of operations may be carried over as a deduction from taxable income for the six years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the six taxable years following the loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining five years. The net operating loss shall be computed in accordance with the provisions of the National Internal Revenue Code, any provisions of this Decree to the contrary notwithstanding, except that income not taxable either in whole or in part under this or other laws shall be included in gross income.

(d) Tax Exemption on Imported Capital Equipment. Within seven years from the date of registration of the enterprise, importations of machinery and equipment, and spare parts shipped with such machinery and equipment, shall not be subject to tariff duties and compensating tax; Provided, That said machinery, equipment and spare parts: (1) are not manufactured domestically in reasonable quantity and quality at reasonable prices; (2) are directly and actually needed and will be used exclusively by the registered enterprises in the manufacture of its products, unless prior approval of the Board is secured for the part-time utilization of said equipment in non-registered operations to maximize usage thereof, or the proportionate taxes and duties are paid on the specific equipment and machinery being permanently used for non-registered operations; (3) are covered by shipping documents in the name of the registered enterprise to whom the shipment will be delivered directly by customs

authorities and (4) the prior approval of the Board was obtained by the registered enterprise before the importation of such machinery, equipment and spare parts. For enterprises approved for registration by the Board after the effective date of this Decree, which are engaged in new preferred non-pioneer activities with total assets or projected total assets of five hundred thousand pesos (P500,000) or more for the first two (2) years of commercial operations, the Board, subject to the criteria to be formulated in consultation with the Secretary of Finance, and to the above enumerated conditions, shall in lieu of an exemption reduce partially the tariff duties and compensating tax on such machinery, equipment and spare parts, and defer the payment of such reduced taxes and duties for a period not exceeding ten (10) years, after posting the appropriate bond as may be required by the Secretary of Finance. For replacement or modernization of existing facilities of pioneer and non-pioneer registered enterprises or for expansion of projects with 20% or greater return on equity, but in no case exceeding 33-1/3% thereof, mere deferment in payment of taxes and duties as above provided shall be allowed without reduction thereof for return of taxes and duties as above provided shall be imposed without deferment. In granting approval of importations under this paragraph, the Board shall require international bidding to be conducted by the end-user in Manila under its supervision; however, the Board may, in its discretion, dispense with this requirement if (1) there is, to the knowledge of the Board, only one manufacturer of the machinery, equipment, and spare parts to be imported, or (2) the importation is caused by the expansion of the registered enterprises and such imports shall be acquired from the same manufacturer who supplied the machinery, equipment, and spare parts being used by the registered enterprise, or (3) the cost of importation is less than one million U.S. dollars (US\$1,000,000), or (4) the Board has other means of determining the reasonableness of the procurement cost. If the registered enterprise sells, transfers or disposes of these machinery, equipment and spare parts without the prior approval of the Board within five (5) years from the date of acquisition, the registered enterprise shall pay twice the amount of the tax exemption given it. However, the Board shall allow and approve the sale, transfer, or disposition of the said items within the said period of five (5) years if made: (1) to another registered enterprise; (2) for reasons of proven technical obsolescence or (3) for purposes of replacement to improve and/or expand the operations of the enterprise. In such cases, the transfer shall not be subject to taxes and duties on the said equipment other than the deferred taxes, if any; if it will undertake an economic project substantially carrying out the objective for which such equipment has been imported, as determined by the Board.

(e) Tax exemption on Breeding Stocks and Genetic Materials. In addition to the above incentive benefits, the registered agricultural enterprise shall be entitled to a tax exemption on breeding stocks and/or genetic materials imported within seven years from the date of registration of the enterprise: Provided, that such breeding stock and/or genetic materials are (1) not locally available strains/breeding stocks at reasonable prices; (2) shall be used exclusively by the registered agricultural enterprise in the improvement of the strains/breeding stocks of its livestock, poultry, fish and/or plants and must have been acquired with prior approval of the Board; Provided, further that breeding stocks and genetic materials shall not be disposed of, transferred or sold for whatever reason within the periods specified in the rules and regulations to implement the Decree, except for causes prejudicial to the viability and operation of the enterprise as determined and approved by the Board. Sale, transfer and disposition made within the specified period without prior approval shall render the registered enterprise liable to pay twice the amount of tax that should have been paid.

(f) Tax credit on Domestic Capital Equipment. A tax credit equivalent to one hundred per cent (100%) of the value of the compensating tax and customs duties that would have been paid on the machinery, equipment and spare parts had these items been imported, shall be given to the registered enterprise which purchases machinery, equipment and spare parts from a domestic manufacturer, and another tax credit equivalent to fifty per cent (50%) thereof shall be given to the said manufacturer: Provided, (1) That the said machinery, equipment and spare parts are directly and actually needed and will be used exclusively by the registered enterprise in the manufacture of its

products, unless prior approval of the Board is secured for the part-term utilization of said equipment in non-registered operation to maximize usage thereof; (2) that the prior approval of the Board was obtained by the local manufacturer concerned; and (3) that the sale is made within the period determined by the Board in consultation with the Department. If the registered enterprise sells, transfers or disposes of these machinery, equipment and spare parts without the prior approval of the Board within five (5) years from the date of acquisition, then it shall pay twice the amount of the tax credit given it. However, the Board shall allow and approve the sale, transfer, or disposition of the said items within the said period of five (5) years if made (1) to another registered enterprise; (2) for reasons of proven technical obsolescence; or (3) for purposes of replacement to improve and/or expand the operations of the enterprise.

(g) Tax Credit for Withholding Tax on Interest. A tax credit for taxes withheld on interest payments on foreign loans shall be given a registered enterprise when (1) no such credit is enjoyed by the lender-remittee in his country and (2) the registered enterprise has assumed the liability for payment of the tax due from the lender-remittee.

(h) Employment of Foreign Nationals. Subject to the provisions of Section 29 of Commonwealth Act 613, as amended, an enterprise may, within five years from registration, employ foreign nationals in supervisory, technical or advisory positions not in excess of five per centum of its total personnel in each such category: Provided, That in no case shall each employment exceed five years. The employment of foreign nationals after five years from registration, or within such five years but in excess of the proportion herein provided, shall be governed by Section 20 of Commonwealth Act 613, as amended.

Foreign nationals under employment contract within the purview of this Decree, their spouse and unmarried children under 21 years of age, who are not excluded by Section 29 of Commonwealth Act 613, 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 in administrative, supervisory and technical skills and shall submit annual reports on such training to the Board of Investments.

(i) Deduction for Expansion Reinvestment. When a registered enterprise reinvests its undistributed profit or surplus, whether from registered operation or not, by actual transfer thereof to the capital stock of the corporation, retention thereof in case of individual partnership or cooperatives or for procurement of machinery, equipment, spare parts, breeding stocks and genetic materials previously approved by the Board under subsections “d”, “e” and “f” hereof, or for the expansion of machinery and equipment used in production, or for the construction of the buildings, improvements or other facilities for the installation of the said machinery and equipment, or for development of additional land area for production purposes the amount so reinvested, to the extent of 25%, 37-1/2, 50% in case of non-pioneer projects, and to the extent of 50%, 75%, 100% in the case of pioneer projects, the appropriate percentage to be jointly determined by the Board and the Department for each priority sector taking into account the relative risk, technology transfer and fallout, export potential or contribution to self-sufficiency in food, etc., incremental labor, use of locally manufactured machinery and equipment and domestic raw materials, shall be allowed as a deduction from its taxable income in the year in which such reinvestment was made: Provided, (1) That prior approval of the Board of such reinvestment was obtained by the registered enterprise planning such reinvestment, and (2) that the registered enterprise does not reduce its capital stock represented by the reinvestment within seven (7) years from the date such reinvestment was made. In the event that the registered enterprise does not order the machinery and equipment within two (2) years from the date the reinvestment was made or reduces its capital stock represented by the reinvestment within a period of seven (7) years from the date of reinvestment, a recomputation of the income tax liability therefor shall be made for the period when the deduction was made, and the proper taxes shall be assessed and paid with interest.

(j) Anti-Dumping Protection. Upon recommendation of the Board, made after notice and hearing, the President shall issue a directive banning for a limited period the importation of goods or commodities which, as provided in Section 301 (a) (1) of the Tariff and Customs Code of the Philippines, unfairly or unnecessarily compete with those produced by registered enterprises: Provided, (1) That the Board certifies to the satisfactory quality of the goods or commodities produced or manufactured by the registered enterprises; and (2) that the enterprises agree not to increase the price of these goods, or commodities during this period, unless, for good cause, the Board allows such an increase.

(k) Deduction of Labor Training Expenses. An additional deduction from taxable income of one-half of the value of labor training expenses incurred for upgrading the productivity and efficiency of unskilled labor shall be granted to a registered enterprise: Provided, That such training program is duly approved by the appropriate government agency or in the absence thereof by the Board: and, Provided, further, That deduction shall not exceed ten per cent (10%) of direct labor wage.

(l) Deduction of Research and Development Program and Agricultural Management Training Expenses. An additional deduction from taxable income of twenty-five per cent (25%) of the research and development training expenses of Philippine nationals within a period of seven (7) years from the date of registration shall be granted to a registered agricultural enterprise: Provided, That such research and development programs and the fields of agricultural management training are duly approved by the Board in consultation with the Department: and Provided, further, That such deduction on both programs shall not exceed ten per cent (10%) of taxable income.

(m) Incentives for Necessary and Major Infrastructure and Public Facilities. Registered agricultural enterprises establishing their production, processing and manufacturing plants in an area that the Board designates as necessary for the proper dispersal of industry or in an areas which the Board finds deficient in irrigation, drainage and other similar waterworks infrastructure, may apply in payment of taxes due from it to the government an amount equivalent to one hundred (100%) per cent of necessary and major infrastructure works it may have undertaken with the prior approval of the Board in consultation with the Department and other government agencies concerned: Provided, That the title to all such infrastructure works shall, upon completion, be transferred to the Philippine Government after which appropriate charges shall be collected by the government for the use of these facilities: Provided, further, That should the registered enterprise undertake necessary and major maintenance work on such infrastructure works with the prior approval of the Board, a similar incentive shall be given to it in an amount equivalent to the cost of such necessary maintenance.

(n) Deduction of Freight and Transportation Expenses. An additional deduction from taxable income not exceeding thirty per cent (30%) of freight and transportation expenses incurred within a period of five (5) years from date of registration shall be granted to a registered agricultural enterprise; Provided, That such agricultural enterprise is established in a geographical area that the Board in consultation with the Department, designates as a preferred location for agricultural development and in a location that the Board finds deficient in transport facilities; and Provided, further, That such freight and transportation expenses are incurred in the course of transportation registered products from the agricultural enterprises' project area to the nearest economic marketing center as jointly determined by the Board and the Department.

SEC. 7. Incentives to a Pioneer Agricultural Enterprise. In addition to the incentives provided in the preceding section, pioneer agricultural enterprises shall be granted the following incentives:

(a) Tax Exemption. Exemption from all taxes under the National Internal Revenue Code, except income tax, from the date the area of investment is included in the Agricultural Investments Priorities Plan, to the following extent:

(1) One hundred per cent (100%) for the first three years;

- (2) Seventy-five per cent (75%) for the fourth through the fifth years;
- (3) Fifty per cent (50%) for the sixth and seventh years;
- (4) Twenty-five per cent (25%) for the eighth and ninth years; and
- (5) Ten per cent (10%) for the tenth year.

(b) Employment of Foreign Nationals. Subject to the provisions of Section 29 of Commonwealth Act 613, as amended, a registered enterprise may, with five (5) years from the date it has began operating, employ and bring into the Philippines foreign nationals under the following conditions:

- (1) That such foreign nationals shall be registered with the Board;
- (2) That the employment of all foreign nationals shall cease and they shall be repatriated after the above-mentioned period; Provided, That when the majority of the capital stock of the pioneer enterprise is owned by foreign investors, the positions of president, treasurer and general manager, or their equivalents, may be retained by foreign nationals. In exceptional cases, the Board may allow employment of foreign nationals in other positions that cannot be filled by Philippine nationals, but in such cases the limitations of Section six paragraph (h) of this Decree shall apply.

Foreign nationals under employment contract within the purview of this Decree, their spouse and unmarried children under 21 years of age, who are not excluded by Section 29 of Commonwealth Act 613, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals.

(c) Post-Operative Tariff Protection. Upon recommendation of the Board, the President, with or without the recommendation of the Tariff Commission or the National Economic and Development Authority, shall issue a certification that a pioneer agricultural enterprise shall be entitled to post-operative tariff protection to an extent not exceeding fifty per cent of the dutiable value of imported items similar to those being manufactured or produced by a pioneer agricultural enterprise, unless a higher rate or amount is provided for in the Tariff Code or pertinent laws. Said tariff shall take effect automatically upon certification by the Board that the pioneer agricultural enterprise is operating on a commercial scale: Provided, That said Tariff, once operative, may be modified in accordance with Section 401 of the Tariff and Customs Code.

SEC. 8. Special Export Incentives for Registered Agricultural Enterprises. Registered agricultural enterprises shall be entitled to the following special incentives for exports their registered products and commodities:

(a) Special Tax Credit. A tax credit equivalent to the sales, compensating and specific taxes and duties on the supplies, raw materials and semi-manufactured products used in the manufacture, processing or production of its export products and forming part thereof, whether exported directly by the registered agricultural enterprise or sold to another export producer which uses such sold product as a direct input in export products manufactured or processed by it and subsequently exported, or to an export trader:

Provided, That the tax credit shall accrue to the registered agricultural enterprise only after the other export producer or export trader has in fact exported the products of the export producer or those in the manufacture or processing of which such inputs were used.

(b) Reduced Income Tax. Registered agricultural enterprises shall be entitled for the first five years from its registration, to deduct from its taxable income an amount equivalent to the sum of the direct labor cost and local raw materials utilized in the manufacture of its export products. For projects with long gestation, this period may be extended for another period of five years by the Board upon recommendation of the Department or the appropriate government agencies. Provided, however, That such deduction shall in no case exceed twenty-five per

cent (25%) of its total export revenue; Provided, further, That in case of traditional exports, the local raw material component shall not be included in computing the above deduction.

Before registered agricultural enterprises may avail themselves of the foregoing export incentives benefits, they shall apply first with the Board, which shall approve the application upon proof: (1) that the enterprise proposes to engage in good faith in creating a market for its products abroad; (2) that the product to be exported is one included in the government priorities plan as suitable for export, or if not so included, that its export will not adversely affect the needs of the domestic market for the finished product to be exported or for the domestic raw materials used in its manufacture; (3) that the enterprise has or will set up an adequate accounting system to segregate revenues, purchases and expenses of its export market operations from those of its domestic market operations; and (4) that the exported products and commodities meet the standards of quality established by the Bureau of Standards, or by the Board and the Department jointly.

The Board may suspend or cancel wholly or partially the above deduction under this Section whenever any action is threatened or taken by an international association or foreign nation which would nullify the purposes of said incentive and would impair or threaten to impair the export trade of the Philippines or its relations with other nations.

(c) The provisions of Presidential Decree No. 930 on simplified export procedures shall apply to registered agricultural enterprises under this Decree.

SEC. 9. Preference in Grant of Government Loans. Government financial institutions such as the Development Bank of the Philippines, Philippine National Bank, Government Service Insurance System, Social Security System, Land Bank, and such other government institutions as are now engaged or may hereafter engage in financing or investment operations shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to application for financial assistance submitted by pioneer and other registered agricultural enterprises, whether such financial assistance be in the form of equity participation in preferred, common or preferred convertible shares of stock, or in loans and guarantees, and shall facilitate the processing thereof and the release of the funds therefor. However, no financial assistance shall be extended under this Section to any investor of enterprise that is not a Philippine national.

The above-mentioned financial institutions, to the extent allowed by their respective charters or applicable laws, shall contribute to the capital of a registered agricultural enterprise whenever the said contribution would enable the formation of a pioneer or other registered agricultural enterprise with at least sixty per cent (60%) control by Philippine nationals: Provided, That the shares representing the contribution of the said financial institution shall be offered for public sale to Philippine nationals through all the members of a registered Philippine stock exchange within a reasonable period after such acquisition.

To facilitate the implementation of the provision of this Section, all the said financial institutions shall coordinate their financial assistance programs with each other, exchange relevant information about applicants and applications and submit a monthly report to the Board showing the amount of funds available for financial assistance to pioneer or other agricultural registered enterprises. The Board shall recommend to the Board of Directors of each such financial institution what order of priority shall be given the applications of pioneer and other registered agricultural enterprises, or of applicants that propose to seek registration as such.

SEC. 10. Private Financial Assistance. Notwithstanding the provisions of Section one of Presidential Decree No. 717 registered agricultural enterprises may be included as beneficiaries of the ten per cent (10%) of a banking institution's loanable funds set aside for agrarian reform credit: Provided, That such registered agricultural enterprises secure the prior endorsement of the Department of Agrarian Reform stating that land reform

beneficiaries shall benefit from the Agricultural enterprises projects.

SEC. 11. Loans for Investment. The Government Service Insurance System and the Social Security System shall extend to their respective members five-year loans at a rate of interest not to exceed six per cent per annum for the purchase of shares of stock in any registered agricultural enterprise: Provided, That (1) the shares so purchased shall be deposited in escrow with the lending institution for the full five-year term of the loan; partial release of the shares shall, however, be allowed to the extent of the payment of amortization made therefor; (2) such loans shall be amortized in sixty equal monthly installments which shall be withheld by the employer from the monthly salary of the employee concerned and remitted to the lending institution by the employer; but any and all dividends earned by shares of stock while they are held in escrow shall be delivered to the employee; and (3) the maximum loan available to each employee in any calendar year shall not exceed fifty per cent (50%) of the employee's annual gross income; Provided, further, That the total investment of the government financial institution concerned, consisting of its direct investment in the registered enterprise and the loans it has extended to its members in a registered enterprise, shall not be more than forty-nine per cent (49%) of the total capitalization of the registered enterprise in which the investments have been made.

SEC. 12. Applicability to Existing Enterprises. An enterprise engaged in an activity listed in the Agricultural Investment Priorities Plan at the time of its declaration shall be entitled to registration of an expansion or enlargement thereof requiring new or additional machinery and equipment or breeding stocks and genetic materials within the unfilled measured capacity of the area. An investor in such an enterprise shall also be entitled to benefits and incentives to the extent of his additional investment therein; Provided, That the application is filed while the area is still in the Agricultural Investments Priorities Plan.

Existing registered enterprises under Republic Act No. 5186 and Republic Act No. 6135; Republic Act 3470 as amended, Presidential Decree 388 as amended, and Presidential Decree No. 175 which are otherwise qualified to register under this Decree may transfer its registration hereunder subject to the approval of the Board; Provided, however, That a registered agricultural enterprise under this act which is entitled to benefits under other laws shall not concurrently avail of the incentive benefits accruing to its registered activity under this Act and under other laws.

SEC. 13. Limitation on Incentives. When a registered agricultural enterprise engages in activities or endeavors that have not been declared as preferred areas of investments under the Agricultural Investments Incentives Act, the benefits and incentives accruing under this Decree shall be limited to the portion of activities of such enterprise that is duly registered. The incentive deductions from taxable income under this Act may only be deducted from the income of the registered activity and the tax credits and special tax credits granted under this Act may only be used by the registered enterprise to pay taxes, duties, charges and fees due to the national government in connection with its registered operations.

All doubts concerning the benefits or incentives granted to enterprises and investors shall be resolved in favor of the investors and registered agricultural enterprises.

SEC. 14. Board of Investments. The Board of Investment shall implement the provisions of this Decree in accordance with Sec. 16 of Republic Act 5186 not inconsistent with the provisions of this Decree. More particularly, the Board shall:

(a) Jointly with the Department of Agriculture, draw up an annual Agricultural Investments Priority Plan. Said plan shall contain a listing of specific agricultural activities which can qualify for incentives under this Decree and shall be supported by 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. The Agricultural Investments Priorities Plan shall be formulated and made effective in like manner as the priorities plan of the Board of Investments. Whenever appropriate, reference to the Investments Priorities Plan in the provisions of the aforesaid Republic Act 5186 applicable herein shall also be construed to include the Agricultural Investments Priorities Plan.

(b) Jointly with the Department of Agriculture, determine the measured capacity desirable in each preferred area of investments. Measured capacity shall not be less than the amount by which the measurable market demand exceeds the existing agricultural productive capacity and services, including the industrial aspect of food production, in the said preferred area, nor shall measured capacity be so much in excess of measurable demand as to foster or encourage overcrowding in such area. The Board and the Department shall jointly review the declared measured capacity in each preferred area of investment upon the attainment by registered enterprises of fifteen per cent (15%) of said capacity.

(c) Process and approve, imposing such terms and conditions as it may deem necessary to promote the objectives of this Decree, including refund of incentives availed or to be availed of by an enterprise in amounts to be determined by the Board, applications for registration under this Decree, and issue the proper certificate of registration upon payment of the necessary fees, which shall not exceed two hundred pesos.

(d) Generally, exercise all the powers necessary or incidental to attain the purpose of this Act.

SEC. 15. Tax Credits. Credit against taxes and/or duties extended to a registered enterprise pursuant to this Decree shall be evidenced by a tax credit certificate issued by the Secretary of Finance. Unless otherwise provided herein, the tax credit certificate may be used by the registered enterprise to pay taxes, duties, charges and fees due to the National Government in connection with its registered operations. A tax credit certificate shall be non-transferable; it may enjoy the benefits and incentives provided for in this Decree, Provided, the use thereof will not result in a refund.

SEC. 16. Compliance with General Order No. 47 and Presidential Decree No. 472. Registered companies covered by General Order 47 and Presidential Decree 472 undertaking any of the areas of investments in the Agricultural Investments Priorities Plan and such registration shall be deemed to be in compliance with the aforementioned General Order and Presidential Decree.

SEC. 17. Effect of the Investment Incentives Act. The provisions of Republic Act 5186, known as the Investment Incentives Act, in so far as applicable and when not inconsistent with the provisions of this Decree shall apply to enterprises registered under this Decree.

SEC. 18. Exemption from Investment Limitation Provision of the Corporation Law. Notwithstanding the provisions of Sec. 13, subsection 5 of Republic Act No. 1459, otherwise known as the Corporation Law, registered agricultural enterprises, individuals and non-agricultural corporations may invest more than fifteen per cent (15%) of the capital stock in a registered agricultural enterprise.

SEC. 19. Qualification of Applicants. To be entitled to registration, an applicant must satisfy the Board that:

(a) It is engaged or proposing to engage in agricultural production, in food processing or the industrial aspects of food production if substantially integrated with agricultural production, and in related services or facilities necessary to support agricultural production including specialized transport, handling and storage of products and by-products arising out of such production declared as a preferred area of investment under the Agricultural Investments Priorities Plan. In the case of a corporation, at least sixty per cent (60%) of the capital stock outstanding and entitled to vote is owned and held by Philippine nationals, and at least sixty per cent (60%) of the members of the Board of Directors are citizens of the Philippines and in the case of the other entities, the

ownership and management thereof shall be by Philippine nationals. In case the Corporation does not possess the required degree of ownership by Philippine nationals, the following circumstances must be satisfactorily established.

(1) That it proposes to engage in a pioneer project that is in accordance with this Act which, considering the nature and extent of capital requirements, processes, technical skills, national importance 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.

(2) That it obligates itself to attain the status of a Philippine national, as defined in paragraph (a) of this section within thirty (30) years from the date of registration by having its shares of stock listed with a Philippine stock exchange within fifteen (15) years from the date of registration and actually offering for sale the said shares to Philippine nationals immediately after the said period: Provided, however, That in case of a registered enterprise exporting at least seventy per cent (70%) of its total production, it shall attain the status of a Philippine national within forty years (40) from date of registration by listing its shares of stock within twenty-five (25) years from date of registration and actually selling its shares after the said period: Provided, further, That the Board may extend this period for another ten (10) years, subject to such conditions as it may impose in the national interest, and upon proof by the registered enterprise that it has exerted its best efforts to sell the required number of shares to Philippine nationals, as required by this Section but have not sold the same, and for such other cause as the Board may deem sufficient to justify the extension of the period.

(3) That the pioneer area it will engage in is one that is not within the activities reserved by the Constitution or other laws of the Philippines to Filipino citizens or corporations owned or controlled by Filipino citizens.

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

(c) If the enterprise is engaged or proposes to engage in undertakings or activities other than preferred or pioneer projects, in addition to projects mentioned in subsection (a) hereof, it has installed or undertake to install an accounting system adequate to identify the investments, revenues, costs, and profits or losses of each preferred or pioneer 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 or pioneer project if the Board should so require to facilitate proper implementation of this Decree.

Notwithstanding the provisions of this Section, if the measured capacity of any preferred area is not filled within three years from the date of its declaration as such, the Board shall allow enterprises not possessing the required percentage of Philippine ownership and control, but otherwise qualified, to be registered in such areas, under the conditions prescribed above for pioneer areas.

SEC. 20. Special Assistance to Individual Applicants. To facilitate the implementation of the provisions of this Decree, and to expedite action on any application, particularly to individual applicants, or such related matters in pursuit of the registered activity, the Department and such other government agencies concerned are hereby directed to extend and provide the necessary assistance, and for this purpose the Board shall train and deputize personnel assigned therefor.

SEC. 21. Appropriations. There is hereby appropriated out of any funds in the National Treasury not otherwise appropriated the sum of One Million Pesos each for personnel and other expenses of the Board and the Department to carry out the purposes of this Decree for the first year of operation. Thereafter, the necessary appropriations shall be included in the annual General Appropriations Act allocable to the Board and the

Department.

SEC. 22. Repealing Clause. All laws, executive orders, administrative orders, rules and regulations, or parts thereof inconsistent with the provisions of this Decree are hereby repealed or modified accordingly.

SEC. 23. Separability Clause. The provisions of this Decree are hereby declared to be separable, and in the event one or more of such provisions are declared unconstitutional, the validity of other provisions shall not be affected.

SEC. 24. Effectivity. This Decree shall take effect upon its approval.

Approved: June 3, 1977

(Sgd.) FERDINAND E. MARCOS

President of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA

Presidential Assistant

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