

CREATING AND ESTABLISHING THE PHIVIDEC INDUSTRIAL AUTHORITY AND MAKING IT A SUBSIDIARY AGENCY OF THE PHILIPPINE VETERANS INVESTMENT DEVELOPMENT CORPORATION DEFINING ITS POWERS, ...

PRESIDENTIAL DECREE NO. 538, August 13, 1974

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WHEREAS, it is the policy of the Government to encourage, promote and sustain the economic and social growth of the country;

WHEREAS, the provision of well-planned areas with the appropriate infrastructure facilities will encourage and facilitate the establishment of industries which in turn contribute to economic and social growth;

WHEREAS, maximum benefit from such industrial areas can be derived by creating an Authority with the responsibility to plan, coordinate and when necessary, actually undertake the construction of such areas as well as manage their operations in a professional and efficient manner;

WHEREAS, it is also the policy of the State to harness the full potentials and capabilities of veterans and AFP retirees so that they could participate fully in the enhancement of the economic development of the country;

WHEREAS, the PHIVIDEC was created for the purpose of pooling the economic resource potentials of these veterans and retirees;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution of the Philippines, in order to effect the desired changes and reforms in the social, economic and political structure of our society do hereby create the PHIVIDEC Industrial Authority and make as part of the law of the land the following;

SECTION 1. Declaration of Policy. It is hereby declared and reiterated to be the policy of the Government to encourage, promote and sustain the economic and social growth of the country and that the establishment of professionalized management of well-planned industrial areas shall further this objective.

SEC. 2. Creation of the PHIVIDEC Industrial Authority. — To carry out the above policy, a body corporate to be known as the PHIVIDEC Industrial Authority is hereby created. The Authority as hereinafter referred to shall be a subsidiary of the PHILIPPINE VETERANS INVESTMENT DEVELOPMENT CORPORATION created under PD 243, as amended by PD 853. The functions of the Authority are hereby declared governmental and proprietary.

SEC. 3. Creation of the PHIVIDEC Industrial Areas. — To further carry out the above policy, there are hereby created the PHIVIDEC Industrial Areas, hereafter referred to as the Areas, which shall hereafter be proclaimed, designated and specified by Presidential Proclamations.

The public land and foreshore and offshore areas portion of the Areas so proclaimed shall be surveyed by the Bureau of Lands and conveyed in absolute ownership to the Authority, except as hereinafter provided, for the

nominal sum of one peso for each parcel of land. Thereafter, the proper Register of Deeds shall register the same and issue the corresponding original certificate of title to the Authority.

The first Area which the Authority shall develop shall be that located in the municipalities of Tagoloan and Villanueva in the Province of Misamis Oriental, bounded on the West by Macajalar Bay, on the North by the Taganga Creek, on the East by the Kiamo and Kirahon plateaus and the South by the Tagoloan River containing an area of 3,000 hectares more or less: Provided, however, that the foreshore area from Tagoloan River, Municipality of Tagoloan, up to the Taganga Creek, Municipality of Villanueva, and the offshore area 400 meters toward the sea from the inshore limit between the Tagoloan River and the Taganga Creek, shall be ceded, transferred and conveyed in absolute ownership to the National Steel Corp. for the nominal sum of one peso. The meters and bounds of this Area are specified in Annex "A" which is hereby made an integral part hereof.

The Authority shall respect existing private rights until such time that it takes possession of the properties acquired either by voluntary or forced sale for the construction of infrastructural facilities and other facilities needed by the Area; and provided, further, that any new improvements to be introduced by landowners or claimants during this period shall be first approved by the Authority in writing.

SEC. 4. Purposes and Specific Powers. — The purposes and specific powers of the Authority are as follows:

- To operate, administer and manage the PHIVIDEDEC Industrial Areas and other areas which shall hereafter be proclaimed, designated and specified in subsequent Presidential Proclamation; to construct, acquire, own, lease, operate and maintain infrastructure facilities, factory buildings, warehouses, dams, reservoirs, water distribution, electric light and power systems, telecommunications and transportation networks, or such other facilities and services necessary or useful in the conduct of industry and commerce or in the attainment of the purposes and objectives of this Decree;
- To take water from any public stream, river, creek, lake, spring, waterfall or underground aquifers as may be necessary for the attainment of the purposes of this Decree; to alter, straighten, obstruct or increase the flow of water in streams or in water channels intersecting or connecting therewith or contiguous to its works or any part thereof; and to undertake land reclamation as well as own, hold, purchase or lease foreshore areas within or adjacent or approximate to the Areas;
- To acquire and hold agricultural lands in excess of the areas permitted to private corporations or associations by the Constitution;
- To determine and regulate the enterprises to be established within the Areas in order to ensure the implementation of its plans for the sound development and operation of the Areas in furtherance of the herein declared national policy;
- To construct, operate and maintain or otherwise to grant the use of or to rent, lease or let, for a consideration and under such terms, arrangements and conditions it may deem reasonable and proper, and any and all port facilities, including stevedoring and port terminal services, or any concession properly incident thereto or in connection with the receipt, delivery, shipment and transfer in transit, weighing, marking, tagging, fumigating, refrigerating, icing, storing and handling of goods, wares and merchandise; Provided, however, That where the piers and/or harbors are owned and or operated by private persons, the fees and charges to be levied shall not exceed that being collected by the Government for similar services;
- To fix, assess and collect charges and fees, including rentals, for the lease, use, omit or occupancy of lands, buildings, structures, warehouses, all the facilities and services mentioned herein and other properties owned and administered by the Estate; and to fix and collect the fees and charges for the issuance of permits, licenses and the

rendering of services not enumerated herein, the provisions of law to the contrary notwithstanding;

- To sell, lease, or otherwise dispose of, lands and other properties owned or administered by the Authority for such use by the Area enterprises, for such housing or commercial purposes within the Areas and for such maximum industrial development of the Areas;
- To levy, assess and collect a real property tax on real properties within the Areas. The appraisal values and tax rates shall be in accordance with the rules and regulations promulgated by the Secretary of Finance for chartered cities. The Authority shall retain three-fourths of the real property tax collected and remaining one-fourth shall be turned over to the local government or governments, as the case may be, which, previous to the establishment of the Areas were collecting a real property tax from real properties within the area: Provided, That such share of the real property tax of the local government or governments shall not be less than what they were receiving prior to the establishment of the Areas: Provided, finally, That realty taxes accruing within the Areas at the time the Authority has not taken over actual possession of a portion or portions of the properties therein shall continue to be collected by the respective local governments.
- To grant such franchise for and to operate and maintain within the Areas electric light, heat or power systems, transportation, communication within, to and from the Areas, warehousing, ice plant or cold storage;
- To prescribe and enforce within the Areas rules and regulations for pollution control;
- For the due and effective exercise of the powers conferred by law and to the extent requisite therefor, to exercise exclusive jurisdiction and sole police authority over the Areas;
- To promulgate such rules and regulations as may be reasonable, necessary and desirable for the attainment of the objectives of this Decree; such rules and regulations shall be binding on the persons, proprietorships, partnerships and corporations residing or located in the Areas;
- To recommend the establishment of other Industrial Areas as it may deem advisable, and to recommend the issuance of a proclamation to fix and delimit the site of the Areas;
- When essential to the proper administration of its corporate affairs or when necessary for the proper transaction of its business or for carrying out the purposes of this Decree, to contract in indebtedness and issue bonds;
- To create and operate and/or contract to operate such agencies, functional units, office and departments of the Authority as it may deem necessary or useful for the furtherance of any of the purposes of this Decree;
- To adopt, alter and use a corporate seal which shall be judicially noticed, make contracts, lease, own or otherwise dispose of personal and real property; sue and be sued, and otherwise do and perform any and all acts and things that may be necessary or proper to carry out the purposes of this Decree;
- To perform all other functions enumerated in Section 2 of Presidential Decree No. 243, as amended by Presidential Decree No. 353.

SEC. 5. Capitalization. — The capital of the Authority shall consist of (1) all such properties as may be contributed to the Authority by the Government to form part of capital, (2) all capitalized surplus, and (3) cash contribution by the government in the amount of Two Hundred Million Pesos (P200,000,000.00), which is hereby appropriated out of any funds in the National Treasury not otherwise appropriated, be they collections from all taxes accruing to the general fund or proceeds from loans, the issue of bonds, treasury bills or notes or derived from any other sources of income, by or of the National Government, which amount shall be programmed and released by the Budget Commission in accordance with the schedule of development and expenditures to be prepared and submitted by the Authority.

SEC. 6. Exercise of Corporate Powers. — The affairs and business of the Authority shall be directed and its properties managed, controlled and preserved, unless otherwise provided in this Decree, or in the exercise of the powers vested in the Authority, by the Board of Directors of the Philippine Veterans Investment Development Corporation, who may appoint an Estate Administrator assisted by a staff, or a Board of Management, if it is so desired, who shall be chosen from veterans of good standing with formal business training and/or experience in law, or commerce, or finance, or management on recommendation of the President of said corporation. Insofar as the Authority is concerned, the Board of Directors of the Philippine Veterans Investment Corporation is hereby empowered to exercise governmental and proprietary functions in the administration and operation of the Authority in all the areas so proclaimed, any provision of law to the contrary notwithstanding.

SEC. 7. Power to Issue Bonds or Incur Indebtedness. — The Authority shall have the authority to contract loans, credits and other indebtedness, or to issue bonds, notes, debentures, securities and other instruments of indebtedness for the development and/or operation of the Areas.

The bonds and other instruments of indebtedness which the Authority is authorized to issue under this Section and any income derived therefrom shall be exempt from the payment of all taxes imposed by the Republic of the Philippines, its agencies, instrumentalities or political subdivisions, which fact may be expressed on the face thereof, and shall be eligible as collateral in any transaction with the national or any local government, its agencies and instrumentalities, including government-owned or controlled corporations and government banking and financial institutions, in which collateral is required. Any or all loans or instruments of indebtedness which the Authority is authorized to contract or issue under this Section shall be unconditionally guaranteed both as to principal and interest by the Government of the Republic of the Philippines whenever the President of the Philippines, by himself or through his duly authorized representative, may deem such guarantee by the Government of the Republic of the Philippines to be advisable and necessary, in which case, the President of the Philippines or his duly authorized representative is hereby authorized to execute and deliver said guarantee of the Government of the Republic of the Philippines.

The Central Bank of the Philippines or any of its authorized agent banks shall extend to the Authority priority in the allocation of foreign exchange and in the availment of the assistance and resources of the Central Bank in a manner that shall facilitate the contracting or issuance by the Authority of the loans or instruments of indebtedness which the Authority is authorized to contract or issue under this Section or the repayment thereof. In any case, where the Authority is required to surrender or sell to the Central Bank foreign currencies qualified to form part of its international reserves, the Authority is hereby given the right to repurchase any or all of said foreign currencies out of any and all loans and instruments of indebtedness payable in foreign currency contracted or issued by it pursuant to this section at the same rate or rates at which said foreign currencies were respectively sold to the latter, subject to the payment of foreign exchange premium or fees as the Central Bank may deem reasonable.

In the negotiation, contracting and issuance of any loan, credit and evidence of indebtedness under this Section, the President of the Philippines may, if deemed by him upon recommendation of the Authority to be necessary or justified and when made a condition by the foreign creditor to the issuance of such loans, credits, or instruments of indebtedness, agree to waive the application of any law granting preference or imposing restrictions on international competitive bidding, such as, but not limited to, Commonwealth Act Numbered Five Hundred Forty-one: Provided, however, That in every case where competitive bidding is agreed upon in the purchase of machineries, equipment, materials and supplies financed out of proceeds of such loans, credits and instruments of indebtedness, preference may be granted in favor of such machineries, equipment, materials and supplies produced, processed or manufactured in the Philippines at such rate and in such manner as may be agreed upon

from time to time with the entity or institution providing financing for the project.

SEC. 8. Tax Treatment of Merchandise in the Areas. — Raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought in the Areas and utilized in the production, storing, packing and shipment of goods meant for foreign markets, shall not be subject to customs duties and internal revenue taxes, and laws and regulations relating thereto, nor to local tax ordinances, the provisions of law to the contrary notwithstanding.

Determination of those commodities, or the portion thereof, to be accorded these privileges shall be vested in the Authority subject to the approval of the Secretary of Finance. For this purpose, the Secretary of Finance is hereby empowered to rule on the provision of tax exemption of merchandise imported into the Areas by enterprises operating therein.

SEC. 9. Tax Exemption of Enterprises Operating in the Areas. — Aside from the tax privileges accorded those of the enterprises operating in the Areas who are likewise registered with the Board of Investments, all industries or firms operating in the Areas shall be exempt from the payment of local taxes to the barrio, municipality, city or province, as the case may be, where their respective Areas are located. However, as stipulated in Section 4 (h), a real property tax shall be collected by the Authority from each of the enterprises operating within the Areas, one-fourth of which shall be turned over to the local government concerned.

SEC. 10. Profit Character of the Authority; Exemption from Taxes. — The Authority shall be operated for profit and fifty (50) percent of such profit shall be turned over to the Philippine Veterans Investment Development Corporation and the remaining balance shall be plowed back for operation, maintenance and administration of the Industrial Areas and the Authority, to pay its indebtedness and obligations, in furtherance and effective implementation of the policy enunciated in Section 1 of this Decree. In consonance therewith, the Authority is hereby declared exempt from all internal revenue taxes as well as tariff and custom duties on imports of capital goods required for its operations, as well as all wharfage dues and such other custom fees, charges and dues, of whatever nature and kind, in the conduct and exercise of its powers, functions and operations.

The foregoing exemptions may however be entirely or partially lifted by the President of the Philippines upon recommendation of the Secretary of Finance if the President shall find the Authority 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 Authority and its projected capital and operating expenditures.

SEC. 11. Road Networks in the Areas. — The road networks within the Areas are hereby declared to be exclusive property of the Authority. However, as part of the governmental function of the Authority, they shall get priority in the allocation of monies coming from the highway special fund to be used in the construction, repair or maintenance of such roads, therein, the provisions of law, executive orders, rules and regulations to the contrary notwithstanding.

SEC. 12. Eminent Domain. — For the acquisition of rights of way, or of any property for the establishment or expansion of the PHIVIDEDEC Industrial Areas, or for housing projects for the employees working in such Areas, or properties for the establishment and construction of residential and commercial areas as may be necessary for the proper attainment of the objectives of this Decree or for the protection of watershed areas, or properties for the construction of dams, reservoirs, wharves, piers, docks, quays, warehouses and other terminal facilities, structures and approaches thereto, or for the acquisition of any properties for use by the Authority in the necessary course of its affairs, business and the exercise of its powers herein, the Authority shall have the right and power to acquire the same by purchase, by negotiation or by expropriation proceedings. For the maximum industrial development of the Areas, the properties so acquired or expropriated may thereafter be resold or leased by the

authority to area enterprises under such terms condition it may impose. Should the authority elect to exercise the right of eminent domain, expropriation proceedings shall be maintained by and in the name of the Authority and it may proceed in the manner provided for by law.

SEC. 13. Miscellaneous. — Without prejudice to the provisions of this Decree, nothing herein provided shall divest or deprive courts of justice, civil or military, of their jurisdiction, in the proper cases, over civil or criminal suits or actions arising from acts or omissions within the Areas.

All heads of Departments, Agencies, Offices and instrumentalities of the National Government as well as political subdivisions are hereby enjoined to extend full cooperation and assistance to the Authority in the exercise of its powers and duties and for the maximum accomplishment of the policy declared herein.

SEC. 14. Repealing Clause. — The provisions of all laws, decrees, instructions, executive orders, proclamations, administrative orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Decree are either repealed or modified accordingly.

SEC. 15. Separability Clause. — The provisions of this Decree are hereby declared to be separable; and in the event any one or more of such provisions are held unconstitutional, the validity of other provisions shall not be affected.

SEC. 16. Effectivity. — This Decree shall take effect upon its approval.

Done in the City of Manila, this 13th day of August in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.)

FERDINAND E. MARCOS

President of the Philippines

By the President:

(Sgd.)

ALEJANDRO MELCHOR

Executive Secretary

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