

AN ACT TO STRENGTHEN THE IRON AND STEEL INDUSTRY AND PROMOTE PHILIPPINE INDUSTRIALIZATION AND FOR OTHER PURPOSES

REPUBLIC ACT NO. 7103, August 08, 1991

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

SECTION 1. Title. - This Act shall be known and cited as the "Iron and Steel Industry Act."

SEC. 2. Declaration of policy. - It is hereby declared a policy of the State to promote industrialization through the immediate establishment of an integrated iron and steel industry that makes full and efficient use of the country's human and natural resources taking into consideration its critical impact on employment, indigenous resources utilization, foreign exchange and balance of payments position. The State shall provide impetus to the growth, promotion, and development of the iron and steel industry as the springboard and basis for launching Philippine industrialization.

SEC. 3. Statement of Objectives. - It is the purpose of this Act to:

- provide a framework for a rational integrated iron and steel program consistent with the requirements of the government environmental protection program;
- establish policy direction governing the rationalization of government corporations in the iron and steel industry taking into consideration the requirements of the iron and steel industry; the possible effects to the private users of iron and steel products manufactured by government corporations; and, the strategic nature and vital role of these corporations in the industry;
- provide measures to strengthen its demand and supply structures primarily through the establishment of an integrated iron and steel plant which is technologically and economically efficient, internationally competitive and contributing to industrialization and accelerated development of the country;
- provide stiffer penalties for smuggling of iron and steel products; and
- provide a set of quality and industry standards for iron and steel products.

SEC. 4. Definition of Terms. - Unless otherwise provided for in this Act:

- "Iron and steel industry" refers to the preparation, smelting, crushing, soaking, blooming, slabbing, melting, firing, rolling, casting, shaping, plating, galvanizing and all other processes involved in transforming raw materials (i.e. iron ore, coke, limestones, fluorspar, dolomite and silica) into semi-finished products (i.e. ingots, slabs, blooms and billets) and/or semi-finished products into finished products (products in their final physical state like hot-rolled coils and strips, plates and sheets).
- "Backward integration" refers to the process by which the development or increased production of a product or products in a certain stage in the industry results into the development or increased production of products in preceding stages.

- "Forward integration" refers to the process by which the development or increased production of a product or products in a certain stage in the industry results into the development or increased production of products in succeeding stages.
- "Upstream industries" refer to industries which produce and/or process raw materials for the manufacture of semi-finished products.
- "Downstream industries" refer to industries which process semi-finished products for the manufacture of finished products, or industries that use the finished products.
- "Less Developed Areas" refer to those geographic areas included in the list prepared by the Board of Investments after consultation with the National Economic and Development Authority and other appropriate government agencies, taking into consideration the following criteria: low per capita domestic product; low level of investments; high rate of unemployment and/or underemployment; and level of infrastructure development including its accessibility to developed urban centers.

SEC. 5. Certified Enterprises. - The Board of Investments (hereinafter referred to as the "BOI") in consultation with other government agencies shall certify as eligible for incentives under this Act enterprises that meet the following conditions:

- Nationality - The enterprise shall be undertaken by a citizen of the Philippines or a corporation, partnership, or other association organized under the laws of the Philippines at least thirty five percent (35%) of the capital of which is owned and controlled by citizens of the Philippines. As a matter of principle, and whenever possible, Filipino investors will be given preference in investing up to one hundred percent (100%) in the equity capital of an enterprise.
- Manufacturing Activity - The enterprise shall engage in:
 - Production of primary steel products in the form of refined iron ore, ingots, slabs, blooms, and billets; or intermediate steel products such as plates, hot-rolled or cold-rolled coils, or sheets, or their equivalents; or
 - Manufacture or processing of products or provision of infrastructure such as roads, auxiliary facilities such as ports and harbors; and, industrial services, primarily for the direct use of enterprises engaged in the activities referred to in 1) above; or
 - Refinement or treatment of by-products or waste-products predominantly of the enterprises in 1) above;
- Technical and Economic Capability - The enterprise shall be capable of operating and establishing on a technologically up-to-date, economically efficient and internationally competitive basis and of contributing to national development, taking into account the markets proposed to be addressed by the enterprise;
- Separate Accounts - If the enterprise is engaged or proposes to engage in undertakings other than the manufacturing activity described in subsection b) above, it has installed or undertakes to install an accounting system adequate to record and identify the investments, revenues, costs, and profits and losses of such manufacturing activity separate from the other projects undertaken by such enterprise; and
- Environmental Protection - The enterprise shall comply with laws and regulations on environmental protection so as not to adversely affect the residents and ecological balance of the location (s) of the manufacturing activity.

SEC. 6. Incentives. - All enterprises certified by the BOI in accordance with the foregoing section of this Act shall be entitled to the following incentives:

- Power, Infrastructure and Auxiliary Facilities - Each enterprise so certified shall be entitled to generate its own

electricity, either directly or through co-generation, build-operate-and-transfer, and other contracts. Said enterprise may also provide infrastructures under BOT arrangement. Such infrastructures shall be allowed for negotiated contract;

- Financing - subject to guidelines set by the donors and Government of the Philippines, the National Economic and Development Authority shall include in its list for Official Development Assistance (ODA) financing, projects undertaken by certified enterprises, whether for capital and technical assistance, training, procurement of machinery, equipment, commodities, and services, and for rehabilitation and expansion of existing facilities.

For purposes of this Act and to facilitate financing from Official Development Assistance, the establishment and operation of the iron and steel plant composed of iron-making, steel-making and continuous casting shall be classified as infrastructure activity.

In financing manufacturing activity as herein defined, private sector participation shall be encouraged, certified enterprises shall tap other means of financing such as the build-operate-transfer scheme, and privatization in the case of government corporations.

- Tax and Duty Exemption on Imported Equipment - All importations by certified enterprises of equipment, machinery and accompanying spare parts shall be exempt from all customs duties payable upon the importation thereof, subject to the following conditions:

- Equipment and machinery of comparable quality are not manufactured domestically and available for delivery on a timely basis at equivalent cost;

- Equipment and machinery to be imported will be used by the certified enterprises exclusively in the manufacturing, rolling or processing of primary iron and steel products, or for the power-generation requirements of its facility: Provided, That the equipment and machinery imported for the construction of blast furnaces must be those that will cause less pollution; and

- The approval of the BOI is obtained for the importation of the desired equipment machinery, and spare parts: Provided, That if the certified enterprise shall within five (5) years from the date of acquisition, sell, transfer or dispose of the machinery, equipment, and spare parts imported hereunder without prior approval of the BOI, said certified enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of tax exemption given it.

- Tax Credit on Domestic Capital Equipment - A certified enterprise purchases machinery, equipment, and spare parts from a domestic manufacturer shall be entitled to a tax credit equivalent to the national internal revenue taxes and customs duties that would have been waived had the machinery, equipment and spare parts been imported from abroad pursuant to the foregoing subsection c) , provided that the prior approval of the BOI is obtained for the purchase of such equipment, machinery and spare parts.

- Other Loans - The certified enterprise shall be authorized to contract; subject to the prior approval of the Central Bank of the Philippines, such loans, credits and indebtedness, from time to time and in any convertible foreign currency or capital goods, from foreign private financial institutions or fund sources as may be necessary to undertake the manufacturing activity described in Section 5 b) above. The Central Bank of the Philippines shall give priority to the applications made by certified enterprises to foreign currency loans, debt-asset and debt-equity conversion and such other transactions as may receive the approval of the Central Bank of the Philippines. The Government shall likewise encourage private financial institutions, whether domestic or foreign, to extend loans for equity investments of Philippine nationals in a certified enterprise. The interest income from loans with maturity of five (5) years or more extended by financial institutions shall be exempt from all national internal

revenue taxes.

- Rational Tariff Incentive and Protection Scheme - The National Economic and Development Authority shall recommend to the appropriate authority a rational tariff incentive and protection scheme that shall enhance viability of the iron and steel industry. Specifically, tariff rates on imported raw materials not indigenously sourced or are not available in sufficient amounts or at the required grade or quality such as iron ore, coking coal, scrap and manganese ore shall be reviewed taking into consideration the requirements of the iron and steel industry.

SEC. 7. Other Incentives. - The foregoing incentives shall be in addition to such other incentives as may be available to the certified enterprise under the Omnibus Investments Code, laws creating export processing zones, and other laws. The enterprises certified under this Act shall be eligible for all other incentives that may be given in the future to similar enterprises.

SEC. 8. Time Frame. - All fiscal incentives in this Act shall apply for a duration consistent with the provisions of the Omnibus Investments Code: Provided, That in less developed areas, the duration shall be for fifteen (15) years. All other incentives embodied in this Act shall apply for a period of fifteen (15) years from the effectivity of this Act.

SEC. 9. Divestment. - All enterprises in the iron and steel industry with foreign equity shall be encouraged to undertake measures that will gradually increase Filipino participation in their businesses by taking in Filipino partners, electing Filipinos to the board of directors, implementing transfer of technology to the Filipinos, generating more employment for the economy and enhancing skills of Filipino workers.

SEC. 10. Penalties for Smuggling. - Upon the operation of the smelting plants, the following penalties shall be imposed upon any person who shall smuggle, fraudulently import or bring goods into the Philippines that constitute the intermediate or final product of the manufacturing activity described in Section 5 b) of this Act, such as pig iron and steel, whether in the form of ingots, slabs, blooms, billets, bars, rods, wires, coils, strips, plates, sheets or otherwise, and whether in raw form or galvanized, painted, treated, recast, rolled, finished or processed by any other means or who shall receive, conceal, buy or in a manner facilitate the transportation, concealment, or sale after importation of such products:

- A fine of not less than One hundred thousand pesos (P100,000.00) and imprisonment of not less than one (1) year and one (1) day or more than six (6) years, if appraised landed value, determined in accordance with the Tariff and Customs Code, including duties and taxes, of the article unlawfully imported is not more than Fifty thousand pesos (P50,000.00);

- A fine of not less than Two hundred thousand pesos (P200,000.00) and imprisonment of not less than six (6) years, and one (1) day or more than twelve (12) years, if the appraised landed value, determined as aforesaid, including duties and taxes, of the article unlawfully imported is more than Fifty thousand pesos (P50,000.00) but does not exceed One hundred and fifty thousand pesos (P150,000.00); or

- A fine of not less than Three hundred thousand pesos (P300,000.00) and imprisonment of not less than twelve (12) years and one (1) day or more than twenty-four (24) years, if the appraised landed value, determined as aforesaid, including duties and taxes, of the article unlawfully imported exceeds One hundred and fifty thousand pesos (P150,000.00).

If the offense is committed by a juridical entity, its president and/or other officials responsible therefore shall be subject to the penalty prescribed above. If the offender, or the president/official in cases where the offense was committed by the juridical entity, is an alien, he shall be deported without further proceedings in addition to the

penalty herein prescribed and shall, if naturalized, be automatically denaturalized from the date his sentence becomes final.

SEC. 11. Preferred Use. - Subject to the availability of the locally manufactured products of comparable quality, price and terms of delivery, the use of iron and steel products manufactured in the Philippines shall be specified for use in all infrastructure, industrial and other construction projects: (a) undertaken by the Government, including all agencies and subdivisions thereof, and all government-owned and controlled corporations; or (b) financed in whole or part by loans denominated in foreign currency or secured by guarantees issued by non-Philippine nationals; and (c) benefiting from loans, grants, or other form of official development assistance extended by foreign governments or multilateral agencies.

SEC. 12. Promotion of steel Industry Linkages. - The Investment Coordinating Committee of the NEDA Board shall formulate a plan for the development and establishment of upstream and downstream industries identified with the iron and steel industry within one (1) year from the effectivity of this Act. It shall also encourage and promote other uses of intermediate iron and steel products, especially those that will engage in the production of basic household tools, precision tools, engines, ship buildings and those produced by domestic enterprises enjoying benefits under this Act.

In addition, enterprises utilizing the products produced by integrated iron and steel mills in the Philippines, shall likewise enjoy the benefits granted to said iron and steel mills, provided that the BOI approval is previously obtained.

SEC. 13. Technology and Manpower Development. - The Departments of Trade and Industry, and Science and Technology shall initiate technology dissemination programs and studies in order to advance the levels of technology used in domestic enterprises. The training systems and specific expertise and skills shall be made available in agencies like the Metals Industry Research and Development Center (MIRDC), the National Manpower and Youth Council (NMYC) and other appropriate agencies to support and service the iron and steel industry.

SEC. 14. Community Programs. - The certified enterprise shall undertake community programs in the locality where it operates. These programs shall include the establishment of a center that would promote steel industry related enterprises nationwide and grants to schools that would develop their teaching capability and upgrade technical courses relevant to the steel industry.

SEC. 15. Implementing Guidelines. - Within sixty (60) days from the approval of this Act, the BOI shall issue implementing guidelines for purposes of the incentives provided above.

SEC. 16. Separability Clause. - Should any provision under this Act be deemed invalid, the remainder of this Act, not otherwise affected thereby, shall remain in full force and effect.

SEC. 17. Repealing Clause. - All laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 18. Effectivity Clause. - This Act shall take effect upon its publication in two (2) newspapers of general circulation or in the Official Gazette.

Approved,

JOVITO R. SALONGA RAMON V. MITRA

President of the Senate Speaker of the House of Representatives

This bill which is a consolidation of Senate Bill No. 1163 and House Bill No. 32693, was finally passed by the Senate and the House of Representatives on June 5, 1991.

EDWIN P. ACOBA CAMILO L. SABIO

Secretary of the Senate Secretary General
House of Representatives

Approved: August 8, 1991

CORAZON C. AQUINO President of the Philippines

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