

DECLARING NATIONAL POLICIES ON AGRICULTURAL DEVELOPMENT AND PROMULGATING THE AGRICULTURAL INCENTIVES ACT OF 1986

PRESIDENTIAL DECREE NO. 2032, February 04, 1986

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WHEREAS, there is indispensable need to provide the essential impetus for agricultural development and incentives;

WHEREAS, the primacy of agricultural development and incentives necessitates urgent and immediate concern by way of implementation;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby order and decree the following:

Chapter I.

DECLARATION OF POLICY

SECTION 1. Declaration of Agricultural Development and Investment Objectives and Policies.—

- Objectives: It is the basic objective of the State to promote agricultural development on a sustainable basis utilizing indigenous materials whenever feasible, and in particular to achieve the following objectives:

1. To preserve, improve and put to their most productive use the land, water, forest, genetic materials and other agricultural resources of the country.
2. To manage and develop the land so that the land is put to its optimal uses, and the security of land tenure is guaranteed. In particular, it is the policy of the State to strengthen the capability for land classification; to complete the cadastral surveys and land titling as quickly as feasible; to regulate the diversion of agricultural land to industrial and urban uses; to facilitate agrarian reform and stabilize land tenure; and to improve and expand the resettlement program in order to accommodate the growing number of landless farmers.
3. To ensure the availability of food supplies at reasonable prices and attain self-sufficiency in basic food items.
4. To accelerate the development of the meat and dairy industry, and for this purpose, grazing and credit policies shall be consistent with the evolving requirements of the industry.
5. To enhance the judicious and optimum utilization of our marine and fishery resources by both the commercial fishing boat operators and the municipal/small fishermen, as well as expand and improve fishpond operations and aquaculture activities.
6. To increase agriculture's contribution to the balance of payments through export promotion and import substitution.
7. To provide adequate research and extension facilities aimed at increasing productivity and efficiency, including incentives for the private sector to invest therein.

8. To encourage and assist small and medium-sized agricultural farms and industries as well as large industrial ventures intended to achieve economies of scale in all agricultural farms and agro-industrial ventures.

9. To accelerate the development of less developed regions of the country.

10. To improve and stabilize farmers' income and farmers' welfare through higher productivity, better processing, storage, marketing, transport and communications facilities, and a more efficient system of rural community development aimed at meeting family needs.

- Policies: To carry out the objectives of this Decree the following principles are hereby adopted:

1. Market intervention and pricing policy shall be aimed primarily at increasing production by providing reasonable and stable prices to farmers, so that the private sector becomes the primary implementor and beneficiary of agricultural development.

2. An adequate level of farm inputs, preferably indigenous materials, shall be provided at reasonable prices.

3. Agricultural credit at reasonable costs shall be mobilized and delivered at the levels necessary to support the development program, both through the rehabilitation of existing institutions and through the creation of new institutions and systems.

4. A program of organizational and institutional improvements for more efficient sector management shall be instituted, aimed at improving and 'rationalizing coordination among the ministries, agencies and other government entities involved in agriculture.

Chapter II.

DEFINITION OF TERMS

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

- "Ministry" shall mean the Ministry of Agriculture and Food.

- "BOARD" shall mean the Board of Investments.

- "Agriculture" shall cover the subsectors of crops, tree farming, poultry and livestock, and fisheries.

- "Committee" shall mean the Inter-Agency Committee.

- "Indigenous Materials" shall mean raw materials grown and/or produced in the Philippines.

- "GENETIC MATERIALS" shall mean livestock breeds, : crop varieties, and fishery species.

- "FARMERS GROUP" shall mean formal organizations registered with the government.

- "CROP ZONIFICATION" shall mean geographical delineation of suitable area for the production of specific crops based on the following criteria: soil and climate conditions; infrastructure and support services; and local and external demands within specific periods of time.

- "RATE OF PREFERENCE" shall mean the level or extent of incentive accorded to a particular agricultural activity.

- "STATUS OR PREFERENCE" shall mean the priority category, i.e. First, Second or Third of a particular agricultural activity.

- "AGRICULTURAL PRODUCTION" shall mean raising, growing and rearing of crops, livestock and fisheries

for food, feed and as raw materials.

- "IDLE LANDS" shall mean lands suitable for agricultural production but are uncultivated or not devoted to such use.

- "TAX CREDIT" shall mean any of the credits against taxes and /or duties paid or would have been paid' or based on a percentage of gross sales extended to a registered agricultural enterprise by this Decree to evidence which a tax credit certificate shall be issued by the Board.

The tax credit certificate shall be negotiable with the following creditors of the registered agricultural enterprises:

- Fertilizer and chemical producers registered with the Fertilizer and Pesticide Authority;
- Seed producers registered with the National Food and Agriculture Council; and
- Board registered enterprises.

The tax credit certificate issued in favor of a registered agricultural enterprise under this Decree may be used or applied against any or all tax liabilities to the National Government.

- "Registered Agricultural Producer and/or Enterprise" shall mean any person or entity which has the qualifications prescribed in Sec. 20 hereof and which registers with the Board.

- "Measured Capacity" shall mean the estimated additional volume of production or service which the Board determines to be desirable in each preferred area of investment in order to supply the needs of the economy at reasonable prices.

- "Contract Growing" shall mean a system by which individuals, corporations, partnerships or other entities registered under this Decree contract to grow their raw material requirements with small farmers and provide financial, technical as well as other forms of assistance.

Chapter III.

ADMINISTRATION

SEC. 3. Administration. —Administration of this Decree shall be vested in the Ministry of Agriculture and Food.

The fiscal incentives shall be administered by the Board of Investments.

The preparation of the Agricultural Investment Priorities Plan shall be the primary responsibility of the Inter-Agency Committee which shall be composed of the following: the representative of the Ministry of Agriculture and Food, as Chairman, and the representatives of the National Economic and Development Authority (NEDA), the National Food Authority (NFA), the Philippine Council for Agriculture and Resources Research and Development (PCARRD), the Ministry of Finance, the Central Bank of the Philippines, the Ministry of Agrarian Reform (MAR), the Ministry of Natural Resources (HNR), and two (2) representatives from the Farmers' group which shall be chosen by the Ministry as members, with the representative of the Ministry of Trade and Industry, as Vice-Chairman.

Chapter IV.

AGRICULTURAL INVESTMENT PRIORITIES PLAN

SEC. 4. Agricultural Investment Priorities Plan.—Not later than the end of March of every year, the Inter-Agency Committee shall prepare an Agricultural Investment Priorities Plan which shall list the preferred areas of agricultural ventures deserving of assistance and incentives taking into account their contributions to the economy and their measured capacity. Such Plan shall be prepared in correlation with established long range agricultural

and other development plans.

The Committee shall indicate in the Plan the priority of each agricultural activity to determine the degree of assistance and incentives to be given under this Decree.

SEC. 5. Criteria in Agricultural Investment Priority Determination.—No agricultural activity shall be included in the Agricultural Investment Priorities Plan unless it is shown to be economically, technically, financially or socially viable after a thorough analysis by the Committee. The Plan shall specify each type of agricultural crop or activity as First Priority, Second Priority or Third Priority, taking into account any or all of the following criteria:

- domestic requirement;
- worldwide demand for the product;
- prevailing and projected world market prices;
- technical suitability of the crop or activity to Philippine agricultural conditions;
- innovativeness of the agricultural crop/activity or the technology employed in the production;
- linkages with desirable business activities;
- degree of risk involved ;
- import substitution;
- employment generation; and
- other criteria as may be determined by the Committee, such as the crop zonification plan of the government for a particular area.

SEC. 6. Amendments.—Except for the indicated rate of preference and the duration of the status of preference, the Committee may, after due notice and hearing, amend the whole or any part of the Plan.

SEC. 7. Publication.—Upon approval of the Plan or upon approval- of an amendment thereof, the Plan or the amendment specifying and declaring the preferred area of investment shall be published in at least two (2) newspapers of national circulation and broadcast nationwide through selected radio and television programs. All such activities shall be open for application until the publication of an amendment or deletion thereof.

Chapter V.

PRICING AND MARKETING INCENTIVES

Sub-Chapter

A.—Pricing Incentives

SEC. 8. Pricing Policy.—The primacy of market forces in the determination of input and output prices for agricultural products shall prevail; Provided, However, That in order to ensure price and supply stability, the Ministry may recommend to the President appropriate intervention measures if so warranted by conditions as may exist from time to time.

Sub-Chapter

B.—Marketing Incentives

SEC. 9. Establishment of Price and/or Market Information System. —The Ministry shall establish an effective nationwide price information system, with small farmers and farmers' cooperatives as primary clientele, in order

that producers may avail of updated information on existing market prices of agricultural commodities during a specified time period.

In like manner, the Ministry of Agriculture and Food, in coordination with the Ministry of Trade and Industry shall also set up a nationwide information system to ensure an even flow of agricultural produce and also identify non-traditional markets, both domestic and foreign, for the benefit of small farmers and farmers' cooperatives.

SEC. 10. Establishment of Trading Post and/or Centers in Major Agricultural Producing Areas. —Government shall encourage the establishment of trading posts and/or centers and processing plants by cooperatives in major agricultural production areas to minimize losses due to spoilage and avoid or prevent rush sales that usually lead to unprofitable farm prices.

Chapter VI.

CREDIT AND INSURANCE INCENTIVES

SEC. 11. Preferential Credit Facilities. —The Central Bank in the performance of its rediscounting function is required to use the Agricultural Investment Priorities Plan as basis for their credit allocation policies. The Central Bank shall ensure that credit allocations for agriculture and agriculture related activities shall be strictly complied with and no alternative investments in compliance with said requirement shall be allowed as provided for in P.D. 717.

SEC. 12. Preferential Interest Rates. —In setting interest rates, the Central Bank is required to use the Agricultural Investment Priorities Plan as the basis for any preferential interest rate structure.

SEC. 13. Priority in Project Financing.—Government financing institutions shall give priority in project financing to agricultural producers in accordance with the AIPP.

SEC. 14. Agricultural Insurance.—To minimize the risk of producers, the Government shall study the possibility of expanding crop insurance coverage to other types of agricultural commodities in addition to rice and corn which, if found feasible, shall be implemented on a voluntary basis. Meanwhile, the Government shall assist the Philippine Crop Insurance Corporation (PGIC), whenever necessary, in the effective implementation of its insurance program for rice and corn.

Chapter VII.

TECHNOLOGY INCENTIVES

SEC. 15. Continued Research and Technology Development. —With the current need to improve agricultural productivity, the Ministry shall intensively pursue research activities, and endeavor to develop new technologies which would economize the use of basic resources (land, labor and capital). The Ministry shall encourage the private sector to engage in similar activities by way of giving preferential accreditation in government programs.

SEC. 16. Extension of Preferential Technical Assistance in the Development of Agricultural Commodities Identified in the Agricultural Investment Priorities Plan. —The Ministry of Agriculture and Food shall ensure the inclusion of the preferred commodities in the areas to be covered by technical cooperation and external assistance programs for agriculture.

Chapter VIII.

INFRASTRUCTURE DEVELOPMENT INCENTIVES

SEC. 17. Infrastructure Program for Agriculture. —The Ministry of Agriculture and Food, in coordination with the Ministry of Public Works and Highways (MPWH) and the National Irrigation Administration (NIA) shall formulate an annual infrastructure program for agriculture which shall identify the priority infrastructure activities

for each region. Such annual infrastructure program shall be supportive of the priority activities included in the annual Agricultural Investment Priorities Plan.

SEC. 18. Acceleration of Land Titling and Land Classification Services.—The Ministry of Agriculture and Food and the Ministry of Natural Resources shall direct their respective agencies to give priority to agricultural lands in conducting land classification, land surveys and land titling. Investors may employ the services of private firms in conducting land classification and land surveys for agricultural purposes. Actual and reasonable expenses incurred therefor shall be deductible from the investors' gross taxable income for the same year.

SEC. 19. Acceleration and Intensification of Land Development.—The Ministry shall provide technical assistance to land owners who shall engage in the development of their idle lands for agricultural purposes.

Chapter IX

FISCAL INCENTIVES

Sub-Chapter

A.—QUALIFICATIONS FOR REGISTRATION

SEC. 20. Qualifications for Availment of Fiscal Incentives.—To qualify for registration as an agricultural producer and/or enterprise entitled to avail of fiscal incentives, the applicant must (a) be engaged or proposes to engage in agricultural production, processing and marketing if substantially integrated with agricultural production, and/or other related services or facilities necessary to support agricultural production including transport, handling and storage of products and by-products arising out of such production, declared specifically as a preferred area of investment; and (b) be a citizen of the Philippines, in case the applicant is a natural person or in case of a partnership, corporation or any association, it is organized under Philippine laws and that at least sixty percent (60%) of its capital is owned and controlled by citizens of the Philippines, and that at least sixty percent (60%) of the members of the Board of Directors are citizens of the Philippines; Provided, That subject to the provisions of the Constitution on the nationality requirement where exploitation of natural resources is involved, and other applicable nationalization laws, the above nationality requirement shall not apply to agricultural ventures classified as First and Second Priority in the plan.

Agricultural producers who engage in intermediate and final processing of agricultural products not otherwise covered by the Investment Priorities Plan of the Board under existing laws may register such manufacturing activities under this Decree if such activities are likewise covered by the Agricultural Investment Priorities Plan.

Small scale farmers engaged in contract growing of agricultural products used as inputs for registered activities may register as agricultural producers if such commodity is listed in the Plan, subject to the guidelines that will be promulgated by the Board in consultation with the Bureau of Internal Revenue, Provided, That is no double availment (of comparable incentives for the same product).

Filipino citizens and corporations or associations may enter into service contract for financial, technical, management or other forms of assistance with any foreign person or entity for the development of Philippine agriculture, agricultural resources and food production.

Sub-Chapter

B.—FISCAL INCENTIVES TO INVESTORS

SEC. 21. Tax Deductions for Investors in Agricultural Enterprises.—During the first seven (7) years from date of registration, an investor in a new or expanding registered enterprise engaged in agricultural production and/or services shall be allowed to deduct from his net taxable income an amount equal to his actual investment paid in,

but not exceeding thirty percent (30%) of net taxable income for those engaged in agricultural activities in the Agricultural Investment Priorities Plan listed as First Priority; twenty-five percent (25%) of net taxable income for those listed as Second Priority; and twenty percent (20%) for those listed as Third Priority: Provided, That if the investments within three (3) years from date of acquisition, the investor shall lose the benefit of this deduction and shall pay the readjusted income tax within thirty (30) days from date of transfer or redemption.

The tax deductions herein granted may be availed of by both fixed and variable income earners notwithstanding any provision of law to the contrary.

SEC. 22. Tax Deductions for Reinvestment. —An existing firm which will engage in either new or expansion of an agricultural project shall be entitled to the tax deductions provided in the preceding section under the same limitations provided therein.

Sub-Chapter

C.—FISCAL INCENTIVES TO REGISTERED AGRICULTURAL ENTERPRISES

SEC. 23. Tax Credit on Gross Sales. —For a period of five (5) years from date of commercial operation, a registered agricultural enterprise shall be entitled to a tax credit equivalent to five percent (5%) of gross sales for agricultural activities listed in the Agricultural Investment Priorities Plan as First Priority; three and one half percent (3.5%) of gross sales for those listed as Second Priority and two percent (2%) for those listed as third Priority. In case of farmers' cooperatives, and corporations engaged in contracts growing with small farmers the tax credit may be increased by an additional one percent (1%). With respect to existing enterprises they may avail of this incentive for a period of five years from date of registration under this law but only to the extent of their incremental out put.

SEC. 24. Net Operating Loss Carry Over. —A net operating loss, inclusive of financial charges, of the registered agricultural activity incurred in any of the first ten (10) years of operations may be carried over as a deduction from taxable income of the enterprise for the six (6) years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the six (6) 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 (5) years.

SEC. 25. Tax Exemption on Imported Capital Equipment. —Within five (5) years from date of registration of the enterprise, importations of machinery and equipment and accompanying spare parts shall be exempt to the extent of one hundred percent (100%) of the tariff duties and compensating taxes payable thereon: Provided, That said machinery, equipment and spare parts are (1) not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices; (2) reasonably needed in the registered activity; and (3) approved by the Board.

SEC. 26. Tax Credit on Domestic Capital Equipment. — A tax credit equivalent to the value of the compensating taxes and customs duties that would have been waived on the machinery, equipment and spare parts had these items been imported shall be given to the registered agricultural enterprise which purchases machinery, equipment and spare parts from a domestic manufacturer subject to the conditions mentioned in sec. 25 hereof.

SEC. 27. Tax Exemption on Breeding Stocks and Genetic Materials.—The importation of breeding stocks and genetic materials within five (5) years from date of registration or commercial operation of the enterprise shall be exempt from all taxes and duties; Provided, That such breeding stocks and genetic materials are (1) not locally available and/or not obtainable locally in comparable quality and at reasonable prices; (2) reasonably needed in the registered activity; and (3) approved by the Board.

SEC. 28. Exemption from Contractors. Tax. —Small and medium scale farmers engaged in contract growing duly

registered with the Board shall be exempt from the payment of contractors' tax on gross receipts of their agricultural products delivered to manufacturing enterprises.

SEC. 29. Tax Credit for Taxes and Duties on Raw Materials.—Every registered agricultural producer shall enjoy a tax credit equivalent to the sales, compensating and specific taxes and duties paid on the supplies, raw materials and semi-manufactured products used in the production of its exported agricultural products and forming part thereof, exported directly by the registered agricultural producer or sold to an export trader who subsequently exports said product: Provided, however, That where the cost of certain supplies and raw materials constitutes at least forty percent (40%) of the cost of production of the registered exported agricultural product, tax credit on sales, specific taxes and duties paid thereon may also be granted even if they do not form part of the registered exported agricultural product: and Provided, further, That the taxes on supplies, raw materials and semi-manufactured products domestically purchased are indicated as a separate item in the sales invoices.

Chapter—X.

OTHER INCENTIVES

SEC. 30. Employment of Foreign Nationals. —Subject to the provisions of Section 22 of Commonwealth Act No. 613, as amended, an agricultural producer may employ foreign nationals in supervisory, technical or advisory positions for a period not exceeding five (5) years from its registration, extendible for limited periods at the discretion of the Ministry or Board.

SEC. 31. Procedures for Agricultural Enterprises.—The Board shall establish a simplified system of registration for agricultural enterprises in order to facilitate access by such enterprises to incentives herein provided.

CHAPTER XI.

GENERAL PROVISIONS

SEC. 32. Rules and Regulations.—The Ministry shall promulgate rules and regulations to implement the intent and provisions of this Decree. However, the Board shall promulgate its rules and regulations on the registration and availment of Board of incentives of agricultural producers or enterprises registered with it. Such rules and regulations shall take effect fifteen (15) days following its publication in the Official Gazette and/or a newspaper of general circulation.

SEC. 33. Benefits of Multiple Area Enterprises. —When a registered enterprise is engaged in activities or endeavors that have not been declared preferred areas of investment, the benefits and incentives accruing under this Decree to registered enterprises and investors therein shall be limited to the portion of the incentives of such registered enterprises as is a preferred area of investment.

SEC. 34. Extension of the Period of Availment of Incentives. —The Board may extend the period of availment of fiscal incentives by any registered enterprises by a period to be determined by the Board, subject to any of the following criteria:

- The registered enterprise has suffered heavy financial losses and is in a distressed condition;
- The registered enterprise has suffered operational damage due to force majeure that has impaired its viability;
- The registered enterprise has not fully enjoyed the incentives granted to it for reasons beyond its control;
- The project of the registered enterprise has a gestation period which goes beyond the availment of needed incentives; and
- The operations of the registered enterprise have been subjected to unforeseen changes in government policies,

particularly, protectionism policies of importing countries, and such other supervening factors which would affect the competitiveness of the registered firm.

SEC. 35. Cancellation of Registration. —After due notice and hearing, the Board may cancel the registration or suspend the enjoyment of incentives benefits of any registered agricultural producer and/or enterprise and/or require refund of incentives enjoyed by such producer or enterprise including interests and penalties, for (a) failure to maintain the qualifications required by this Decree for registration or (b) for violation of any provisions of this Decree, of the rules and regulations issued under this Decree, or of the terms and conditions of registration.

SEC. 36. Appropriations. —Appropriations necessary to carry out the purposes of this Decree shall come from the existing funds of the Ministry and/or Board.

SEC. 37. Separability Clause.—The provisions of this Decree are hereby declared to be separable and in the event any of such provisions or parts thereof is declared unconstitutional, the other provisions or parts thereof shall remain in full force and effect.

SEC. 38. Repealing Clause.—The provisions of Article 47 of the Omnibus Investments Code and Section 13 of Batas Pambansa Blg. 391 are hereby repealed. All laws, decrees, executive orders, administrative orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Decree are hereby repealed, amended or modified accordingly.

SEC. 39. Transitory Provisions.—Enterprises registered under Presidential Decree Nos. 1159 and 1789 shall continue to enjoy the incentives under the laws of their registration for the period specified therein without any extensions, Provided, That said enterprise, if qualified hereunder, may waive such incentives and opt to be governed by the provisions of this Decree.

SEC. 40. Effectivity Clause.—This Decree shall take effect immediately upon approval.

Done in the City of Manila on this 4th day of February, in the year of Our Lord, nineteen hundred and eighty-six.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant

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