

AN ACT DECLARING THE 1983 INVESTMENT INCENTIVES POLICY BY MODIFYING THE SYSTEM ON THE GRANT OF INVESTMENT INCENTIVES, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NUMBERED SEVEN...

BATAS PAMBANSA BLG. 391, April 28, 1983

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Be it enacted by the Batasang Pambansa in session assembled:

SECTION 1. This Act shall be known and referred to as the Investment Incentive Policy Act of 1983.

SEC. 2. Declaration of Investment Policy.—It is the policy of the State to encourage private domestic and foreign investments in industry, agriculture, mining and other sectors of the economy which shall: provide significant employment opportunities relative to the amount of the capital being invested; increase productivity of the land, minerals, forestry, aquatic and other resources of the country, and improve utilization of the products thereof; improve technical skills of the people employed in the enterprise; provide a foundation for the future development of the economy; meet the tests of international competitiveness; accelerate development of less developed regions of the country; and result in increased volume and value of exports for the economy.

It is the policy of the State to extend to projects which will significantly contribute to the attainment of these objectives, fiscal incentives without which said projects may not be established in the locales, number and/or pace required for optimum national economic development. Fiscal incentive systems shall be devised to compensate for market imperfections, reward performance of making contributions to economic development, cost-efficient and be simple to administer.

The fiscal incentives shall be extended to stimulate establishment and assist initial operations of the enterprise, and shall terminate after a period of not more than 10 years from registration or start-up of operation unless a specific period is otherwise stated.

The foregoing declaration shall apply to all investment incentive schemes and in particular will supersede Article 2 of Presidential Decree No. 1789.

SEC. 3. A new Article 18 is hereby inserted in Chapter I, Title I, Book One of the Omnibus Investments Code, hereafter referred to as the Code, which shall read as follows:

"ART. 18. (a) 'Registered Domestic Producer' shall mean a registered enterprise engaged in the production, manufacturing or processing of goods or commodities primarily for the domestic market and inclusive of production services.

"(b) 'Registered Agricultural Producer' shall mean a registered enterprise engaged in agricultural production and/or services directly related to, and necessary for, such production."

SEC. 4. Article 19 of the Code is hereby amended to read as follows:

"ART. 19. (a) 'Registered New or Expanding Export Producer' shall mean a registered enterprise proposing (1) to engage in or expand the production, manufacture or processing of export products as defined in Article 23 of the Code; and (2) to directly export at least fifty percent (50%) of its products or sell them to an export trader which subsequently exports said products.

"(b) 'Registered Existing Export Producer' shall mean a registered enterprise already engaged, at the time of registration, in the production, manufacture or processing of export products as defined in Article 23 of the Code and directly exporting its products or selling them to an export trader which subsequently exports said products.

"(c) 'Registered Indirect Export Producer' shall mean an enterprise which sells its products to another producer as raw materials for, or components to, an export product which is finally exported.

"(d) 'Registered Export Trader' shall mean an enterprise engaged or proposing to engage in the sale abroad of export products bought by it from one or more export producers, and duly registered as such by the Board."

SEC. 5. Article 22 of the Code is hereby amended to read as follows:

"ART. 22. '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 net value earned or of net local content of exports extended to a registered enterprise by this Code to evidence which a tax credit certificate shall be issued by the Minister of Finance or his representative, except in cases of tax credits on net value earned and net local content which shall be issued by the Chairman of the Board or his representative. The tax credit certificates are transferable under such conditions as may be determined by the Board after consultation "with the Ministry of Finance. However, the tax credit based on net value earned or of net local content can be transferred only to domestic raw material or component suppliers of the registered enterprise which in turn can transfer such certificates to its suppliers, whether registered enterprises or not. The tax credit certificate shall be used to pay taxes, duties, charges and fees due to the national government: Provided, That the tax credits issued under this Code shall not form part of the gross income of the grantee/transferee for income tax purposes under Section 29 of the National Internal Revenue Code and are therefore not taxable: Provided, further, That such tax credits shall be valid only for a period of ten (10) years from date of issuance."

SEC. 6. Article 28 of the Code is hereby repealed and, in lieu thereof, a new Article 28 is therein inserted to read as follows:

"ART. 28. 'Investment Priorities Plan' shall mean the over-all plan prepared by the Board and approved by the President which includes and contains:

"(a) The specific activities and generic categories of economic activity wherein investments are to be encouraged and the corresponding products and commodities to be grown, processed or manufactured pursuant thereto for the domestic or export market;

"(b) Specific public utilities which can qualify for incentives under this Code and which shall be supported by studies of existing and prospective regional demands for the services of such public utilities 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 the existing facilities to produce such services;

"(c) Specific activities where the potential for utilization of indigenous non-petroleum based fuels or sources of energy can be best promoted; and

"(d) Such other information, analyses, data, guidelines or criteria as the Board may deem appropriate.

"The specific and generic activities to be included in the Investment Priorities Plan with their status as pioneer or non-pioneer shall be determined by the Board in accordance with the criteria set forth in this Code."

SEC. 7. Article 30 of the Code is hereby repealed and, in lieu thereof, a new Article 30 is therein inserted, to read as follows:

"ART. 30. Criteria in Investment Priority Determination.—No economic activity shall be included in the Investment Priorities Plan unless it is shown to be economically, technically and financially sound after thorough investigation and analysis by the Board.

"The determination of preferred areas of investment to be listed in the Investment Priorities Plan shall be based on long-run comparative advantage, taking into account the value of social objectives and employing economic criteria along with market, technical, and financial analyses.

"The Board shall take into account the following:

"(a) Primarily, the economic soundness of the specific activity as shown by the real economic internal rate of return of the project;

"(b) The extent of contribution of an activity to a specific development goal;

"(c) Other indicators of comparative advantage;

"(d) Measured capacity as denned in Article 21 discounting inefficient existing capacities; and

"(e) The market and technical aspects and considerations of the activity proposed to be included.

"In any of the declared preferred areas of investment, the Board may designate as pioneer areas the specific products and commodities that meet the requirements of Article 16 of this Code and review yearly whether such activity as determined by the Board shall continue as pioneer, otherwise it shall be considered as non-pioneer and accordingly listed as such in the Investment Priorities Plan or removed from the Investment Priorities Plan."

SEC. 8. Article 39 of the Code is hereby amended to read as follows:

"ART. 39. Several Applicants for a Preferred Area.— Where several applicants are qualified for registration with the Board but the total of their proposed combined production capacities exceeds the available measured capacity of the preferred area of investments in which they are proposing to engage or of the identical or substantially identical products or commodities they propose to produce, the Board shall approve and register only those that can be accommodated within the available measured capacity and are better suited to achieve the objectives of the Code, primarily basing its choice on the economic rates of return of the competing projects. When the economic rates of return of the projects are equal or the differences therein are insubstantial, the Board shall base its choice on the following criteria:

"(a) The extent of ownership and control by Philippine citizens of the enterprises, giving priority to the enterprise which has more Filipino participation;

"(b) The cost factors and the economies of scale and competitiveness in the world market involved in their processes;

"(c) The amount of foreign exchange earned, used, or saved in their operations;

"(d) The extent to which they employ labor, materials and other resources obtained from indigenous sources;

"(e) The amount of their equity, and the degree to which the ownership of such equity is spread out and diversified;

"(f) The extent to which they shall insure the maintenance of compensation within the industry; and

"(g) Such other criteria as the Board may determine.¹

SEC. 9. Chapter I of Title IV of the Code entitled "Registered Producer Enterprises" including Article 45 is hereby amended to read as follows:

"Chapter I.—REGISTERED DOMESTIC PRODUCER

"ART. 45. Incentives to Registered Domestic Producers.—All registered domestic producers may be granted the following incentives to the extent that it will engage in new or expanded production capacity in preferred area of investment:

"(a) Tax and Duty Exemption on Imported Capital Equipment.—Within five (5) years from the date of registration, importations of machinery and equipment and accompanying spare parts shall be exempt to the extent of fifty percent (50%) in case of non-pioneer domestic producer, or one hundred percent (100%) in case of pioneer producer, of the tariff duties and compensating tax payable thereon: Provided, That the amount of such tax and duty exemptions shall be deducted from the amount of the tax credits available to the registered domestic producer under paragraphs (c) and (f) hereof in relation to paragraph (d) of Article 48: Provided, however, That in the event the tax credits on net value earned and on net local content computed on a yearly basis for five (5) years from the date of commercial operation are not sufficient to pay yearly 20 % of the taxes and duties on the equipment and spare parts, the domestic producer shall be required to pay the difference for that particular year. This payment may be deferred to the succeeding year only, subject to the payment of interest. The importation of machinery and equipment and accompanying spare parts shall comply with the following conditions:

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

"(2) They are reasonably needed and will be used exclusively by the registered domestic producer in the manufacture of its products, unless prior approval of the Board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof or the proportionate taxes and duties are paid on the specific equipment and machinery being permanently used for non-registered activities; and

"(3) The approval of the Board was obtained by the registered enterprise for the importation of such machinery, equipment and spare parts.

"In granting the approval of the importations under this paragraph, the Board may require international canvassing but if the total cost of the capital equipment or industrial plant exceeds US\$5,000,000, the Board shall apply or adopt the provisions of Presidential Decree Numbered 1764 on international competitive bidding.

"If the registered domestic producer sells, transfers or disposes of these machinery, equipment and spare parts whose taxes and duties have not been fully repaid with tax credits earned, without prior approval of the Board within five (5) years from date of acquisition, the registered domestic producer and the vendee, transferee, or assignee shall be solidarily liable to 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:

"(aa) to another registered enterprise or registered domestic producer enjoying similar incentives;

"(bb) for reasons of proven technical obsolescence; or

"(cc) for purposes of replacement to improve and/or expand the operations of the registered domestic producer.

"In such cases, the transferee shall not be subject to the taxes and duties waived on the said equipment, if any. In case of disposition after the five-year period, the transferee shall not be subject to taxes and duties if it will undertake an economic project substantially carrying out the purposes for which such equipment has been imported, as determined by the Board.

"(b) 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 domestic producer which purchases machinery, equipment and spare parts from a domestic manufacturer: Provided, That the amount of the tax credit granted pursuant thereto shall be deducted from the amount of the tax credits available to the registered domestic producer under paragraphs (c) and (f) hereof in relation to paragraph (d) of Article 48: Provided, however, That in the event the tax credits on net value earned and on net local content computed on a yearly basis for five (5) years from the date of commercial operation are not sufficient to pay yearly 20% of the taxes and duties on the equipment and spare parts, the domestic producer shall be required to pay the difference for that particular year as provided in the immediately preceding article: and Provided, finally, (1) That the said equipment, machinery and spare parts are reasonably needed and will be used exclusively by the registered domestic producer in the manufacture of its products, unless prior approval of the Board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof; (2) that the equipment would have qualified for tax and duty-free importation under paragraph (a) hereof; (3) that the approval of the Board was obtained by the registered domestic producer; and (4) that the purchase is made within five (5) years from the date of registration of the registered domestic producer. If the registered domestic producer sells, transfers or disposes of these machinery, equipment and spare parts, the provisions in the preceding paragraph for such disposition shall apply.

"(c) Tax credit on net value earned.—For the first five (5) years of commercial operation, all registered domestic producers shall be entitled to a tax credit equivalent to five percent (5%) of net value earned. Those engaged in pioneer projects shall be entitled to this incentive to the extent of ten percent (10%) of net value earned over the same period or coterminous with the remaining period of availment of the registrant who first starts commercial operation in case there are several registered pioneer enterprises in the same activity, regardless of their respective dates of registration. For purposes of calculation of the tax credit, "net value earned" shall mean value of sales less cost of raw materials and components, supplies and utilities and depreciation of capital equipment. For raw materials and components which are produced by the registered enterprise, allocated costs may be determined by the Board.

"(d) Net Operating Loss Carry-Over.—A net operating loss inclusive of financial charges of the registered activity incurred in any of the first ten (10) years of operation may be carried over as a deduction from taxable income from registered activities 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.

"(e) Tax Credit for Withholding Tax on Interest.— A tax credit for taxes withheld on interest payments on foreign loans entered into within the first 5 years of registration or commercial operation shall be given a registered pioneer enterprise when (1) no such credit is available to the original lender-remittee in his country; and (2) the registered pioneer enterprise has assumed the liability for payment of the tax due from the lender-remittee.

"(f) Special Incentives for Exports.—To the extent that a domestic producer is engaged directly or indirectly in the export of a portion of its production, it shall be entitled to the incentives granted under paragraphs (d) and (i) of Article 48, in case of direct exporters and Article 48-B(l), in case of indirect exporters. The repayment of the taxes and duties waived on imported machinery and equipment as required in the first provisos of paragraphs (a) and (b) hereof shall be proportionately reduced based on the percentages of exports to domestic sales.

"(g) Employment of Foreign Nationals.—Subject to the provisions of Section 29 of Commonwealth Act Numbered 613, as amended, a registered domestic 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 Board: Provided, however, That when the majority of the capital stock of a pioneer registered domestic producer is owned by foreign investors, the positions of president, treasurer and general manager or their equivalents may be retained by foreign nationals beyond the period set forth herein.

"Foreign nationals under employment contract within the purview of this incentive, their spouses and unmarried children under twenty-one (21) years of age, who are not excluded by Section 29 of Commonwealth Act Numbered 613, as amended, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals.

"A registered domestic producer shall train Filipinos as understudies of foreign nationals in administrative, supervisory and technical skills and shall submit annual reports on such training to the Board.

"(h) 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 unfairly compete with those produced by registered domestic producers: Provided, (1) That the Board certifies to the satisfactory quality of the goods or commodities produced or manufactured by the registered domestic producers; and (2) that the producers agree not to increase the price of these goods or commodities during this period unless, for good cause, the Board allows such an increase.

"(i) Protection from Government Competition.—No agency or instrumentality of the government shall import or allow the importation, tax and duty-free, of products or items that are being produced or manufactured by registered domestic producers, except when the President determines that the national interest so requires or when international commitments require international competitive bidding.

"(j) Protection of Patents and other Proprietary Rights.—Patents, trademarks, copyrights, trade names and other proprietary rights registered with appropriate agencies of the Government of the Philippines are protected from infringement.

"(k) Post-operative Tariff Protection.—Upon recommendation of the Board, after consultation with the Tariff Commission or the National Economic and Development Authority, the President may issue a certification that a pioneer industry shall be entitled to post-operative tariff protection for a specified period of time to be stated therein and to such an extent that the total duty does not exceed fifty percent (50%) of the dutiable value of imported items similar to those manufactured or produced by a pioneer enterprise. Said tariff shall take effect automatically upon certification by the Board that the pioneer enterprise is operating on a commercial scale."

SEC. 10. Chapter II of Title IV of the Code, entitled "Additional Incentives to Pioneer Enterprises" including Article 46 in its entirety, is hereby repealed and, in lieu thereof, a new Chapter II is therein inserted which shall read as follows:

"Chapter II.—OTHER INCENTIVES

"ART. 46. The following incentives may be granted to certain registered enterprises and investors:

"(a) Incentives for Energy-Saving Projects.—Any project for the installation of equipment accredited as an energy-saving device by the Board and accordingly included in the Investment Priorities Plan shall be considered as replacement investment and shall be granted the incentives provided in paragraphs (a) and (b) of Article 45 without repayment of the taxes and duties waived on the importation of machinery and equipment and accompanying spare parts or of the tax credit in case of purchase of domestic machinery, equipment or spare parts.

"(b) Incentives for Industry Rationalization Programs.—Whenever a rationalization program for an industry is carried out pursuant to the Investment Priorities Plan or involves a new or expanded production capacity of a project under the program, the industry or project may be granted all the incentives provided in Article 45 of this Code. However, if the rationalization program involves replacement investment, it shall be entitled only to the incentives mentioned in paragraphs (a) and (b) of the said Article without repayment.

"(c) Special Incentive for Investment in National Development Fund.—If an investment is made in national development fund certificates issued under Executive Order Numbered 842, in lieu of direct investment in registered pioneer enterprises as provided in subparagraph (a), Article 44 of this Code, an investment

allowance shall be allowed from taxable income but not to exceed ten percent (10%) thereof: Provided, That if the certificates are transferred or redeemed by the fund upon the request of the investors within three years, the taxpayer shall lose the benefit of this deduction and his income tax liability shall be recomputed and he shall pay whatever additional sum be due plus interest thereon within thirty (30) days from the date of the redemption."

SEC. 11. Article 48 of the Code is hereby repealed and, in lieu thereof, a new Article 48 is hereby inserted in Chapter IV of Title IV of the Code to read as follows:

"ART. 48. Incentives for Registered New or Expanding Export Producers.—All registered export producers, whether pioneer or non-pioneer, shall be granted the following incentives to the extent engaged in new capacity or expansion of capacity in a preferred area of investment:

"(a) Tax and Duty Exemption on Imported Capital Equipment.—Full tax and duty exemption on imported capital equipment under the same conditions set forth in subparagraph (a), Article 45 except that the amount of such exemption shall not be deducted from the tax credits available to the registered export producer under paragraphs (c) and (d) hereof: Provided, That at least fifty percent (50%) or such higher percentage as may be required by the Board is exported or sold to a registered export trader that subsequently exports said products. For the first five (5) years of commercial operation, in any year in which this export commitment is not complied with, twenty percent (20%) of the value of exemption shall be deducted from the value of the tax credits due in that year under paragraphs (e) and (d) hereof: Provided, however, That if the tax credit is not sufficient, the penalty hereinabove provided for failure to comply with the export commitment shall be paid in cash or deferred for the succeeding year only subject to the payment of interest.

"(b) 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 registered export producers under the same conditions set forth in sub-paragraph (b), Article 45 except that the amount of such tax credit shall not be deducted from the tax credits that may be available to registered export producers under paragraphs (c) and (d) hereof, subject to the same proviso in paragraph (a).

"(c) Tax Credit on Net Value Earned.—For the same period and at the same rates provided for in subparagraph (c), Article 45, a tax credit on net value earned shall be granted to registered export producers.

"(d) Tax credit on Net Local Content of Exports.— For the first five (5) years of commercial operation or registration, all registered new or expanding export producers shall be entitled to a tax credit equivalent to ten percent (10%) of net local content without prejudice to the further enjoyment of the incentive for another period of five (5) years immediately following, the tax credit to be computed on the basis of the increment in real terms over the average net local content for the immediately preceding three years of enjoyment of this incentive. For purposes of calculation of the tax credit, "net local content" shall mean value of export sales less depreciation of capital equipment and the value of imported raw materials and supplies and indigenous commodities which the Board may exclude if they are not anyway available under clearly more favorable terms in the international market.

"(e) Net Operating Loss Carry-Over.—A net operating loss carry-over under the same conditions and for the same period and procedure provided in subparagraph (d), Article 45 shall be granted to registered export producers.

"(f) Tax Credit on Withholding Tax on Interest.— Under the same conditions in subparagraph (e), Article 45, a tax credit for withholding tax on interest payments on foreign loans shall be granted to registered export producers.

"(g) Employment of Foreign Nationals.—Under the same conditions and requirements and for the same' period as well as categories of positions in subparagraph (g), Article 45, registered export producers may-employ foreign nationals.

"(h) Exemption from Export Tax, Duty, Impost and fee.—The provisions of law to the contrary notwithstanding, exports by a registered export producer of its non-traditional registered export products shall be exempted from any export tax, duty, impost and fee, including wharfage fee.

"(i) Tax Credit for Taxes and Duties on Raw Materials.—Every registered export 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 manufacture, processing or production of its export products and forming part thereof, exported directly by the registered export producer or sold to an export trader who subsequently exports said product: Provided, however, That where the cost of certain supplies or raw materials constitutes at least forty percent (40%) of the cost of production of the registered export 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 export product: and Provided, further, That the taxes on the supplies, raw materials and semi-manufactured products domestically purchased are indicated as a separate item in the sales invoice.

"Nothing herein shall be construed as to preclude the Board from setting a fixed percentage of export sales as the approximate tax credit for taxes and duties of raw materials based on an average or standard usage for such materials in the industry.

"(j) Other Incentives.—In addition to the foregoing incentives, registered export producers shall be extended the following:

" (I) Anti-dumping protection as provided in subparagraph (h), Article 45;

"(II) Protection from government competition as provided in subparagraph (i), Article 45; and

"(III) Protection of patents and other proprietary-rights as provided in subparagraph (j), Article 45."

SEC. 12. New Articles 48-A and 48-B under Chapter IV of Title IV of the Code are therein inserted which shall read as follows:

"ART. 48-A. Incentives to Registered Existing Export Producers.—Registered existing export producers shall be granted the following incentives:

"a) Tax Credit on Net Local Content.—For five (5) years from date of registration, a tax credit equivalent to ten percent (10%) of net local content of exports as defined in subparagraph (d) of Article 48 shall be granted to an existing registered export producer without prejudice to the availment of this incentive for an additional period of five (5) years: Provided, That the net local content shall be based on the increment in real terms over the average export sales during the three-year period immediately preceding the date of registration. For the additional five (5) years the tax credit shall be based on the increment in real terms over the average net local content earned during the immediately preceding three years of enjoyment of this incentive.

"(b) Exemption from Export Tax, Duty, Impost and Fee.—Registered existing export producers shall be entitled to exemption from export tax, duty, impost and fee as provided for in subparagraph (h) of Article 48.

"(c) Tax Credit for Taxes and Duties on Raw Materials.—The special tax credit for sales, compensating and specific taxes and duties on supplies, raw materials and semi-manufactured products used in the manufacture, processing and production of export products shall be issued to a registered existing export producer under the same condition or requirement provided in subparagraph (i) of Article 48.

"ART. 48-B. Incentives to Registered Indirect Export Producers.—Registered indirect export producers shall be granted the following incentives: (1) special tax credits for taxes and duties on supplies, raw materials and semi-manufactured products used in indirect export as provided in paragraph (c) of the immediately preceding Article; and (2) a tax credit of 5% of net value earned as defined in subparagraph (c), Article 45 but limited to that associated to the production of indirect exports: Provided, That the net value earned shall be based on the increment in real terms over the average export sales during the three-year period immediately preceding the availment of incentives: Provided, further, That a producer who sells to another producer who uses such product as input of his own product which is subsequently sold as an input of another export producer is entitled to the incentives hereunder."

SEC. 13. Pending the rationalization program for agricultural producers, registered agricultural producers shall continue to enjoy the same incentives granted to them as provided for under Article 47 and pertinent articles of the Code prior to the amendments herein.

SEC. 14. Subparagraph. (d) of Article 49 of the Code is hereby amended to read as follows:

"(d) For the first (5) years from registration or commercial operation, to deduct from its taxable income from the domestic and export sales as well as income from other registered operations, in addition to the normal deduction allowed by the National Internal Revenue Code, an amount equivalent to twenty percent (20%) of its

total export sales: Provided, That the Board upon application of the registered export trader may grant to registered export producer exporting products through the registered export trader not more than one-half of this deduction: Provided, further, That the deduction of the registered export producer shall be applicable to its registered operations only;"

"ART. 48-B. Incentives to Registered Indirect Export by repealed and, in lieu thereof, a new Article 62 is therein inserted which shall read as follows:

"ART. 62. No Entitlement Under Other Investment Laws.—An enterprise registered under this Code, as amended, shall not be entitled to fiscal incentives granted under other incentive laws."

SEC. 16. Article 77 under the Final Provisions of the Code is hereby repealed and, in lieu thereof, a new Article 77 is therein inserted which shall read as follows:

"ART. 77. Confidentiality of Applications.—All applications filed under Book One and Book Two of this Code shall be confidential and shall not be disclosed to any person, except with the consent of the applicant or on orders of a court of competent jurisdiction."

SEC. 17. The Board shall promulgate rules and regulations to implement the intent and provisions of this Act, and shall have the authority to impose such fines in amounts that are just and reasonable in cases of late submission or non-compliance on the part of registered enterprises with reporting and other requirements under the Code and its implementing rules and regulations. Such rules and regulations shall take effect fifteen days following its publication in a newspaper of general circulation in the Philippines.

SEC. 18. All applications with the Board involving new or expansion projects, pending as of January 1983 and approved and registered under Book One of the Code between January 1983 and the date of effectivity of this law, can transfer under this law as a new or expanding enterprise. The Board shall formulate the necessary implementing rules and regulations covering such transitory matters for purposes of attaining the objectives of this Act.

SEC. 19. The provisions of this Act are hereby declared to be separable and, in the event any of such provisions is declared unconstitutional, the other provisions which are not affected thereby shall remain in full force and effect.

SEC. 20. The following provisions are hereby repealed:

- Section 53, P.D. 463 (Mineral Resources Development Decree);
- Section 1, P.D. 666 (Shipbuilding and Ship Repair Industry) ;
- Section 6, P.D. 1101 (Radioactive Minerals);
- LOI 508 extending P.D. 791 and P.D. 924 (Sugar); and
- The following articles of Presidential Decree 1789: 2, 18, 19, 22, 28, 30, 39, 49(d), 62, and 77. Articles 45, 46 and 48 are hereby amended only with respect to domestic and export producers.

All other laws, decrees, executive orders, administrative orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

All other incentive systems which are not in any way affected by the provisions of this Act may be restructured by

the President so as to render them cost-efficient and to make them conform with the other policy guidelines in the declaration of policy provided in Section 2 of this Act.

SEC. 21. The provisions of the preceding section notwithstanding, existing enterprises which are enjoying the incentives under the laws repealed by this Act shall continue to enjoy such incentives for the period therein stated: Provided, however, That they may waive such incentives and opt to be governed by the provisions of this Act, in which event, their period of availment of the incentives herein provided shall be reckoned from the original date of their entitlement to the incentives under the said laws.

SEC. 22. This Act shall take effect immediately upon approval.

Approved, April 28, 1983.

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