

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 257

INTRODUCED BY REPRESENTATIVES
FERNANDO L. HICAP, NERI JAVIER COLMENARES,
LUZVIMINDA C. ILAGAN, EMMI DE JESUS, ANTONIO TINIO
AND JAMES MARK TERRY RIDON

EXPLANATORY NOTE

Republic Act No. 10083 otherwise known as the "Aurora Pacific Economic Zone and Freeport Act of 2010" lapsed into law in April 22, 2010. The law is an amendment to Republic Act No. 9490 otherwise known as the "Aurora Special Economic Zone Act of 2001".

Aurora Pacific Economic Zone and Freeport (Aurora Ecozone) shall cover two (2) parcels of land, namely, parcel 1 and parcel 2. Parcel 1 contains an area of four hundred ninety-six (496) hectares situated in Barangays Dibet and Esteves while parcel 2 contains an area of twelve thousand four hundred twenty-seven (12, 427) hectares situated in Barangays San Ildefonso, Cozo and Culat. All of the aforesaid barangays were situated in Casiguran, Aurora. Essentially, as an amendment to Republic Act No. 9490, Republic Act No.10083 merely expands the coverage of the former.

Casiguran is a municipality in the northern part of Aurora province in Central Luzon. It has a total land area of 71,543 hectares, with a population of 22,403 people (as of 2007). Casiguran is politically subdivided into 24 barangays. Majority of the population are farmers, fisher folks and indigenous people. The economic activities are mostly sourced from agricultural farms and fishery. Agricultural produce include rice, corn and root crops, coconut, cash crop, spices and vegetables.

Furthermore, being bounded on the southeast by the Pacific Ocean and With Casiguran bay within the municipality, Casiguran's marine environment is very productive, both in terms of its present biological yield and in terms of its ability to provide livelihood and economic opportunities.

Casiguran is also rich in forest resources, which is a major source of building materials and wood products. About 49,507 hectares or 80% of its total land area is classified as forest land. Indigenous people who are majority of them are Agtas, Dumagats and Igorots occupy forest areas in Barangays San Ildefonso, Calabgan and Culat in Casiguran.

In 2008, the people of Casiguran learned that Republic Act No. 9490 creating the Aurora Special Economic Zone (ASEZA) on 500 hectares of public agricultural lands covering Barangays Esteves, Dibet and Dibacong of the Municipality of Casiguran, Aurora was passed into law. While the ASEZA law provides that it covers 500 hectares of public agricultural lands, the survey on the community shows that private lands and farm lots awarded to farmer-beneficiaries under the Comprehensive Agrarian Reform Program (CARP) of the government are among those included in ASEZA's coverage. More importantly, no consultation was made on the affected sectors and communities prior to the passage of Republic Act No. 9490. In fact, to show their vehement opposition to the passage of the ASEZA law that covers private lands and farmlands, resident farmers, fisherfolks and the indigenous people in the affected barangays signed petitions for their opposition to ASEZA.

Likewise, concerned local government units (LGUs) were never informed, consulted and considered before the approval of the said law. As a result, in a Resolution dated September 29, 2008, the Sangguniang Barangay of Dibet resolved to seek the help of the Municipal Mayor of Casiguran, Reynaldo Bitong, to protect the farming industry in their barangay. Similarly, in a Resolution dated December 3, 2008, the Sangguniang Barangay of Esteves resolved to ask the concerned agencies of the government to give attention to the appeal of the farmers, residents and fisher folks to implement the distribution of the lands they are tilling before ASEZA could dispossess them of their lands.

Additionally, among those in danger of being displaced are the residents of Bianoan who are working on farm lots located in Barangays Esteves and Dibet. Confusion and fear spread among the farmer-beneficiaries because of inadequate if not total absence of information regarding the nature, scope and authority of ASEZA. As a consequence, the Sangguniang Barangay of Bianoan also passed a Resolution dated November 6, 2008 in opposition to the establishment of ASEZA.

Pursuant to the above concerns, queries and appeal of the residents of the affected barangays, the Municipal Council of Casiguran, Aurora passed two resolutions, to wit: 1) Resolution No. 001-2009 dated January 26, 2009, asking Aurora Lone District Rep. Juan Edgardo Angara to clarify some technical issues relevant to the enactment and implementation of RA 9490 on behalf of the people of Brgy. Esteves, Dibet, Bianoan; and 2) Resolution No. 002-2009 dated January 26, 2009, requesting Amb. Joseph Delano Bernardo, then Chairman and Administrator of ASEZA to clarify the status of legitimate landowners, Certificate of Land Ownership Award (CLOA) holders and tenants embraced in the 500 hectares covered in the implementation of Republic Act No. 9490.

Despite strong opposition from the farmers, fisher folks and indigenous people and the demand by the local government units affected to be enlightened on the nature, scope and authority of ASEZA, no clarification was given by the proponent of the law, Rep. Juan Edgardo "Sonny" Angara. Worse, on April 2009, he filed another bill seeking to amend Republic Act No. 9490 by enlarging the areas to be covered, among other proposed amendments. A counter-part amendatory bill was also filed by Senator Edgardo Angara. The amendatory bill to Republic Act No. 9490 lapsed into law and was numbered as Republic Act No. 10083.

Upon learning of the passage of Republic Act No. 10083, the Municipal Council of Casiguran, Aurora passed Resolution No. 053-2010 dated October 18, 2010 entitled "RESOLUTION ADDRESSED TO HIS EXCELLENCY PRESIDENT BENIGNO SIMEON C. AQUINO III STATING THAT NO PUBLIC CONSULTATION, APPROVAL OR CONCURRENCE OF THE SANGGUNIANG BAYAN CONCERNED PRIOR TO THE PASSAGE/CREATION OF REP. ACT NO. 10083 OTHERWISE KNOWN AS THE AURORA PACIFIC ECONOMIC ZONE & FREEPORT ACT OF 2010.

Furthermore, the Sangguniang Barangay of San Ildefonso also issued a Resolution entitled Kapasyahan Blg. 23, Serye 2010 dated November 22, 2010 "ISANG KAPASIYAHAN HINIHLING NG PAMUNUAN NG BARANGAY SAN ILDEFONSO, CASIGURAN, AURORA NA IPAWALANG BISA SA PAMAMAGITAN NG PANGULO NG REPUBLIKA NG PILIPINAS "HIS EXCELLENCY BENIGNO SIMEON C. AQUINO III" ANG REPUBLIC ACT 10083 O APECO (AURORA PACIFIC ECONOMIC AND FREEPORT ACT OF 2010). The residents of Barangay Cozo also signed a *Petisyon Laban sa Aurora Pacific Economic Zone and Freeport* dated December 2010 to register their intense objection to the enactment of Republic Act No. 10083.

Among the areas covered by Republic Act No. 10083 (Parcel 1) is a parcel of land located in Barangay Esteves with an area of one hundred ten (110) hectares, more or less. The said parcel of land was proclaimed as a reservation intended for the Calabgan Agricultural School by then Governor General Frank Murphy by virtue of Proclamation No. 723 dated August 21, 1934. At present, there are about fifty-five (55) farmers and their families who are tilling more or less ninety (90) hectares of riceland within the reservation area. They are the same families who have cleared the forest areas and transformed them into irrigated riceland. Upon learning of the passage of Republic Act No. 9490 and thereafter Republic Act No. 10083, the affected farmers and residents of the reservation area signed a petition addressed to then President Gloria Macapagal Arroyo and other concerned government officials to immediately distribute the lands they have been tilling since the early 60s pursuant to CARP. The Petition described the history of the farmers' cultivation and possession of the lands.

The farmers are not the only sectors to be affected by the implementation of Republic Act No. 10083. Under Section 3 of the law, the lands in Aurora that adjoin the fishing grounds of fisherfolk, such as shorelines, bays and inland rivers, which can be found in Brgy. Esteves, Brgy. San Ildefonso, Brgy. Cozo and Brgy. Dibet are subject for conversion into the Freeport. Although, the provisions of Republic Act No. 10083 make no explicit mention of fishermen, areas wherein the Aurora Ecozone shall be established to cover the residences of subsistence fishermen and their fishing grounds.

Indigenous groups are also inhabiting the area. According to the National Commission on Indigenous Peoples (NCIP), at present, there are around eight hundred seventy-three (873) Indigenous Peoples composed of Agta/Dumagats in the Municipalities of Dinalungan, Casiguran and Dilasag who have filed applications for Certificates of Ancestral Domain Titles (CADT). The applications for CADT cover around 91,000 hectares while Republic Act No. 10083 will cover around 11,900 hectares of the Indigenous People's claim for ancestral domain.

The January 19, 2011 hearing conducted by the Committee on Agrarian Reform of the House of Representatives revealed that the Aurora Pacific

Economic Zone and Freeport Authority (Aurora Ecozone) did not resort to any proceeding for the cancellation of the Certificates of Land Ownership Award (CLOAs) to the land that are to be affected by the implementation of Republic Act No. 10083. Neither was there any reclassification of the lands that shall be affected by the implementation of the law prior to its approval. Moreover, Section 4 of Republic Act No. 10083 allows the Aurora Ecozone to take up land and expand itself without further legislative action.

The statements issued by Aurora based rural groups opposing the ambitious economic zone project like the Resist APECO, Defend Aurora Movement, Panlalawigang Alyansa ng Magbubukid ng Aurora (PAMANA), Alyansa ng mga Magbubukid sa Gitnang Luzon (AMGL) and Justice and Peace Action Group (JPAG) of Aurora Province, and support networks like the fisherfolk alliance Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (PAMALAKAYA) and Kilusang Magbubukid ng Pilipinas (KMP) summed up the years of APECO as a perpetual nightmare and wholesale denial of peasant rights to land and grand slam violation of rural peoples' sovereign and patrimonial rights over natural resources.

According to organized groups in Aurora and other concerned non-government organizations supportive of the local fight against APECO, the laws which established the freeport zone legitimize the aggressive landgrabbing and plunder of natural resources. They blame the few elite, the ruling political dynasty in the province and their business prospects abroad for the widespread land grabbing, land speculation and the left-and right cancellation of land titles and ancestral domain rights awarded to agrarian reform beneficiaries and indigenous communities under previous land reform programs.

Despite the opposition to APECO and the pending petition filed by the people of Casiguran and support networks before the Supreme Court questioning the constitutionality of laws that led to the creation of the special economic zone, the National Economic and Development Authority (NEDA) gave the APECO board the go-signal to entertain and clinch economic agreements with foreign investors.

Furthermore, APECO President and CEO Malcolm I. Sarmiento, Jr. announced to the public that the Taiwanese agribusiness group Nan Tsan Aurora Ltd., Inc. submitted a Letter of Intent to the APECO board about the agri-corporation's plan to invest billions of pesos worth of investments and engage in agriculture, mariculture, aquaculture, and fish and agri-processing inside the economic zone.

The Letter of Intent narrates Nan Tsan plans to engage initially in fish processing as its priority undertaking, for which it will lease a seaside area of 1,000 square meters where it will build and install the required facilities and equipment. This undertaking will kick off starting the second quarter of 2013. The Nan Tsan corporation will be infusing at least US\$1.25 million or about P50.86 million for the fish processing and papaya projects alone and it wants ten (10) hectares of land within the ecozone for the planting and cultivation of papaya.

The Taiwanese agri-corporation group will infuse at not less than US\$1.25 million or about P50.86 million for the fish processing and papaya

projects alone. According to PAMALAKAYA, the Taiwanese firm eyes 10 hectares of land within the ecozone for the planting and cultivation of papaya. Other plans include building modern facilities for the handling, storage and packaging of the harvested fruit.

In July 2012, the APECO board confirmed that the South Korean government will help build a P2.4-billion international container seaport in Aurora, in a project intended to transform APECO into a logistics hub for exports of agro-fishery, timber and industrial products in Central and Northern Luzon provinces. The project which is expected to be completed in four years is a joint economic venture, the fund for such purpose, would be sourced from the Official Development Assistance (ODA) of the Korean government, with counterpart funding from the Philippine government.

The surge in foreign investments in APECO is inspired by the recent decision of the UN recognizing the rightful claim of the Philippine government on BenHam Rise located between Isabela and Aurora provinces. The news about the presence of rich oil and gas deposits in the 13-million-hectare undersea region inspired big business groups for promise of huge return in investments, aside from the fact Benham Rise which is near Casiguran Bay is a major tuna highway connected to and part of the Pacific Ocean.

To appease the outraged farmers and rural folks, Malacanang held a dialogue with the protesting communities and promised a thorough review of the APECO project. In vain attempt to score a win-win solution between the affected residents and APECO, the Aquino administration may agree to distribute under the current land reform program the 105 hectares of agricultural lands currently occupied by the Aurora fisheries school inside the 12, 923 hectare land covered by APECO, which in whole is being demanded by peasant, indigenous and fishing communities for free land distribution.

The affected farmers and rural folks in Casiguran, Aurora argued the unbridled entry of foreign investors in APECO will correspond to landgrabbing crimes across Casiguran. It will definitely push them away from their cultivated areas and communities. The government's red carpet welcome to big business groups abroad will definitely mark an era of landlessness, global landgrabbing, resource plunder and destruction, massive displacement and long-running hunger and poverty in Casiguran.

Republic Act No. 10083 has violated numerous Constitutional provisions and other laws. Firstly, it violated the 1987 Constitutional provisions on agrarian reform (Section 21, Article II; and Sections 1, 2, and 4, Article XIII). The law is also violative of Republic Act No. 6657, as amended otherwise known as the *"Comprehensive Agrarian Reform Law of 1988"*.

Secondly, it violated fishermen's rights enshrined in the 1987 Philippine Constitution (Section 7, Article XIII and Section 2, Article XII) and related law (Republic Act No. 8550 otherwise known as the *"Philippine Fisheries Code of 1998"*).

Thirdly, the law contravenes the rights of Indigenous Peoples to their ancestral lands provided in the 1987 Philippine Constitution (Section 22, Article II and Section 5, Article XII) and related law (Republic Act No. 8371 otherwise known as *"Indigenous People's Rights Act of 1997"*).

Fourthly, it is implicit in paragraph (h), Section 12 of Republic Act No. 10083 that the Aurora Ecozone can borrow funds from foreign sources and incur indebtedness without need of the concurrence of the Bangko Sentral ng Pilipinas (BSP). This provision is contrary to Section 21, Article XII of the 1987 Philippine Constitution. Additionally, paragraph (n), Section 12 of Republic Act No. 10083 authorizes foreign investors under the guise of private enterprises to operate public utilities. This is in flagrant contravention of Section 11, Article XII of the 1987 Philippine Constitution.

Fifthly, there was also violation of the non-impairment clauses enshrined under the 1987 Philippine Constitution as Stewardship Agreements are in the nature of contracts between the grantee and the government. Hence, it is protected by the law on contracts, most specifically the non-impairment clause provided under the Constitution. Under the Social Forestry Program, forest occupants enter into Stewardship Agreements with the government where they are allowed to occupy and possess a certain area subject to conditions. It gives participants a measure of security of tenure over the land within the usual period of twenty-five (25) years. Republic Act No. 10083 effectively modifies the terms of the original Stewardship Agreements and thus impairs the obligations of the parties thereto and restrict the exercise of their vested rights under the said original agreement. Clearly too, the law encroached on the affected sectors' right to non-impairment of contracts under the Constitution.

Finally, the right to due process of affected sectors guaranteed under the 1987 Philippine Constitution was also violated as the people of Casiguran, Aurora were not consulted before the passage of the laws for the establishment of the Aurora Ecozone. No public hearing at the House of Representatives was conducted in which the affected sectors were invited to air their side on the proposed creation of Aurora Ecozone. Therefore, there was no forum for the affected sectors to thresh out and address possible problems and issues involving the creation of the economic zone. Had there been public hearings, the proponents of the Aurora ecozone would have at once known that they would be unjustly dispossessing the agrarian reform beneficiaries of their farmlots. More importantly, farmers would have been adequately consulted on the proposed legislation. The railroading of the law creating the Aurora ecozone at the House of Representatives and the Senate, therefore, is another violation of their due process right. The compulsory coverage of affected sectors' properties constitute taking without due process of law and without payment of just compensation.

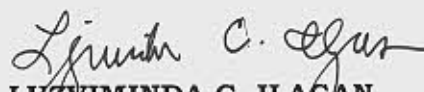
The farmers, fisherfolks and indigenous peoples, are presently in great danger of losing their properties and livelihood, in clear violation of the rights and protection mandated to them by the Constitution. Moreover, any program of industrialization and development projects should work for the benefit of the people and not to their disadvantage. Social justice must be promoted in all phases of national development.

In view of the foregoing, the early passage of this bill is earnestly requested.

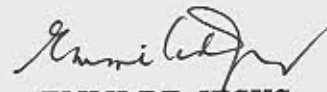

FERNANDO L. HICAP
ANAKPAWIS Party-list



NERI JAVIER COLMENARES
BAYAN MUNA Party-list



LUZVIMINDA C. ILAGAN
GABRIELA Women's Party



EMMI DE JESUS
GABRIELA Women's Party



ANTONIO TINIO
ACT Teachers Party



JAMES MARK TERRY RIDON
KABATAAN Party-list

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AN ACT
REPEALING REPUBLIC ACT NO. 10083 OTHERWISE KNOWN AS THE
“AURORA PACIFIC ECONOMIC ZONE AND FREEPORT ACT OF 2010”

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

SECTION 1. Republic Act No. 10083 otherwise known as the “Aurora Pacific Economic Zone and Freeport Act of 2010” is hereby repealed.

SECTION 2. Repealing Clause. - All laws, jurisprudence, executive orders, executive issuances or letter of instructions, or any part thereof, inconsistent with or contrary to the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SECTION 3. Effectivity Clause. -This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved.