

ORIGINAL

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **5439**



Introduced by Representative Antonio F. Lagdameo, Jr.

EXPLANATORY NOTE

This bill seeks the establishment of a special economic zone and in the Island Garden City of Samal, Province of Davao del Norte.

Poverty of majority of Filipino is an issue of national concern, which the government should immediately address. If government wants to minimize, if not eradicate poverty and hasten economic recovery of the country, it should enact measures to encourage the infusion of foreign investment to generate employment for our people thereby improving their quality of life.

The establishment of an economic zone in the Island Garden City of Samal is proffered as a vehicle that would contribute to the urgent national effort of curbing poverty. As proposed, the zone will be a self-sustaining industrial, commercial, tourist/recreational, banking, investment and financial center, introducing attractive features of freeport commerce similar to Hongkong, Singapore and Labuan, Malaysia. Customs duty and tariff-free trade of imported goods, preferential tax treatment for operators, lenient immigration laws and other forms of incentives characterize the business climate within the economic zone to encourage potential foreign investors.

Likewise, the Samal Island Special Economic Zone Authority (SISEZA) is also created to oversee the operation and management of the economic zone. The proposed measure once enacted into law will bolster the realization of the country's dream of becoming the "Economic Miracle of Asia."

Hence, the early approval of this bill is earnestly sought.


ANTONIO F. LAGDAMEO, JR.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH (16th) CONGRESS
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AN ACT
ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE ISLAND GARDEN
CITY OF SAMAL, CREATING FOR THAT PURPOSE THE SAMAL ISLAND
SPECIAL ECONOMIC ZONE AUTHORITY, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES

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

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CHAPTER I
GENERAL PROVISIONS

Section 1. Short Title. - "Samal Island Special Economic Zone Act of 2015."

Section 2. Declaration of Policy. - It is hereby declared the policy of the State to actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people especially those in the rural areas, increase productivity, raise individual and family income, and thereby improve the level and quality of living condition through the establishment, among others, of special economic zones and freeport in suitable and strategic locations in the country and through measures that will attract legitimate and productive foreign investments.

1 CHAPTER II
2 CREATION OF THE ECOZONE

3 **Section 3. Creation of the Samal Island Special Economic Zone**
4 **and Freeport.** - In pursuit of the foregoing declared policy and subject to the
5 concurrence of the concerned local government units (LGUs) of Ilocos Norte
6 affected by the zone, there is hereby established a special economic zone
7 and freeport in the Island Garden City of Samal in the Province of Davao del
8 Norte to be known as the Samal Island Special Economic Zone, hereinafter
9 referred to as the Samal Island Ecozone. The specific metes and bounds of
10 the Samal Island Ecozone shall be more particularly defined in a presidential
11 proclamation that shall be issued for this purpose.

12 **Section 4. Governing Principles.** - The Samal Island Ecozone shall
13 be managed and operated by the Samal Island Special Economic Zone
14 Authority, hereinafter referred to as the SISEZA created under Section 5 of
15 this Act, under the following principles:

- 16 (a) Within the framework and limitations of the Constitution and the
17 applicable provisions of the Local Government Code, the Samal
18 Island Ecozone shall be developed into and operated as a
19 decentralized, self-reliant and self-sustaining industrial,
20 commercial/trading, agro-industrial, tourism, banking, financial
21 and investment center with suitable residential areas;
- 22 (b) The Samal Island Ecozone shall be provided with transportation,
23 telecommunications and other facilities needed to attract
24 legitimate and productive investments, generate linkage
25 industries and employment opportunities for the people of the
26 Province of Davao del Norte and its neighboring towns and
27 cities;
- 28 (c) The Samal Island Ecozone may establish mutually beneficial
29 economic relations with other entities or enterprises within the
30 country or, subject to the administrative guidance of the
31 Department of Foreign Affairs (DFA), the Philippine Economic
32 Zone Authority (PEZA) and/or the Department of Trade and
33 Industry (DTI), with foreign entities or enterprises;

- 1 (d) Foreign citizens and companies owned by non-Filipinos in
2 whatever proportion may set up enterprises in the Samal Island
3 Ecozone, either by themselves or in joint venture with Filipinos
4 in any sector of industry, international trade and commerce
5 within the Samal Island Ecozone;
- 6 (e) The Samal Island Ecozone shall be managed and operated as a
7 separate customs territory ensuring free flow or movement of
8 goods and capital within, into and out of its territory;
- 9 (f) The Samal Island Ecozone may provide incentives such as tax
10 and duty-free importations of raw materials, capital equipment to
11 registered enterprises located therein. However, exportation or
12 removal of goods from the territory of the Samal Island Ecozone
13 to the other parts of the Philippine territory shall be subject to
14 customs duties and taxes under the Tariff and Customs Code of
15 the Philippines, as amended, and the National Internal Revenue
16 Code (NIRC) of 1997, as amended;
- 17 (g) The areas comprising the Samal Island Ecozone may be
18 expanded or reduced when necessary. For this purpose, the
19 SISEZA, in consultation with the LGUs, shall have the power to
20 acquire either by purchase, negotiation or condemnation
21 proceedings, any private land within or adjacent to the Samal
22 Island Ecozone for the following purposes: (1) consolidation of
23 lands for Samal Island Ecozone development; (2) acquisition of
24 right of way to the Samal Island Ecozone; and (3) the protection
25 of watershed areas and natural assets valuable to the prosperity
26 of the Samal Island Ecozone;
- 27 (h) Goods manufactured by Samal Island Ecozone enterprise shall
28 be made available for immediate retail sale in the domestic
29 market, subject to the payment of corresponding taxes on raw
30 materials and other regulations that may be formulated by the
31 SISEZA, in consultation with the PEZA, the Bureau of Customs
32 (BoC), and the DTI. However, in order to protect domestic
33 industries, a negative list of industries shall be drawn up and
34 regularly updated by the PEZA and the Board of Investments

(BOI). Enterprises engaged in industries included in such negative list shall not be allowed to sell their products locally; and

- (i) The defense of the Samal Island Ecozone and the security of its perimeter fence shall be the responsibility of the national government in coordination with the Samal Island Ecozone and the LGUs concerned. For this purpose, a special defense team shall be organized to define its power, duties and responsibilities.

CHAPTER III GOVERNING STRUCTURES

Section 5. Creation of the Samal Island Special Economic Zone and Freeport Authority. - There is hereby created a body corporate to be known as the Samal Island Special Economic Zone and Freeport Authority, hereinafter referred to as the SISEZA, which shall manage and operate the Samal Island Ecozone in accordance with the provisions of this Act. This corporate franchise shall expire in fifty (50) years counted from the first year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

Section 6. Capitalization. - The SISEZA shall have an authorized capital stock of two billion (2,000,000,000) no-par shares with a minimum issue of Ten Pesos (P10.00) each, the majority shares of which shall be subscribed and paid for by the national government and the LGUs embracing the Samal Island Ecozone. The Board of Directors of the SISEZA may, with the written concurrence of the Secretary of Finance, sell shares, representing not more than forty *per centum* (40%) of the capital stock of the SISEZA to the general public under such policy as the Board and the Secretary of Finance may determine. The national government and the LGUs shall, in no case, own less than sixty *per centum* (60%) of the total issued and outstanding capital of the SISEZA.

1 The amount necessary to subscribe and pay for the shares of the
2 national government to the capital stock of the SISEZA shall be included in
3 the annual General Appropriations Act. For LGUs, the funds shall be taken
4 from their internal revenue allotment and other local funds.

5 **Section 7. Principal Office of the SISEZA.** - The SISEZA shall
6 maintain its principal office at Samal District, Davao del Norte, but it may
7 establish liaison offices within the Philippines as may be necessary for the
8 proper conduct of its business.

9 **Section 8. Powers and Functions of the SISEZA.** - The SISEZA
10 shall have the following functions:

- 11 (a) Recommend to the President of the Philippines the issuance of
12 a proclamation to fix and delimit the site of the Samal Island
13 Ecozone;
- 14 (b) Operate, administer, manage and develop the Samal Island
15 Ecozone according to the principles and provisions set forth in
16 this Act;
- 17 (c) Register, regulate and supervise the enterprises in the Samal
18 Island Ecozone in an efficient and decentralized manner, subject
19 to existing laws;
- 20 (d) Issue certificates of origin for products manufactured or
21 processed in the Samal Island Ecozone in accordance with
22 prevailing rules of origin, and the pertinent regulations of the
23 PEZA, the DTI and/or the Department of Finance (DOF);
- 24 (e) Authorize or undertake, on its own or through others, and
25 regulate the establishment, operation and maintenance of:
 - 26 e.1. public utilities, services and infrastructure in the Samal
27 Island Ecozone such as shipping, barging, stevedoring,
28 cargo handling and storage, warehousing, port services
29 or concessions, piers, wharves, bulkheads, bulk
30 terminals, mooring areas, storage areas, roads, toll
31 roads, bridges, terminals, conveyors, sewerage,
32 drainage, and airport operations, in coordination with the
33 Civil Aviation Authority of the Philippines (CAAP),

1 e.2. such other utilities or services such as, but not limited to
2 heat, light and power, water supply and storage,
3 telecommunications, and transport necessary or
4 incidental to the accomplishment of the objectives of this
5 Act, and fix just, reasonable and competitive rates, fares,
6 charges and prices thereof.

7 Provided, however, That the private investors in the Samal
8 Island Ecozone shall be given priority in the awarding of
9 contracts, franchises, licenses, or permits for the establishment,
10 operation and maintenance of utilities, services and
11 infrastructure in the Samal Island Ecozone;

12 (f) Construct, acquire, own, lease, operate and maintain on its own
13 or through contracts, franchises, licenses, bulk purchase from
14 the private sector or permits under any of the schemes allowed
15 in Republic Act No. 6957 (the Build-Operate-Transfer Law, as
16 amended), or joint venture, adequate facilities and
17 infrastructures required or needed for the operation and
18 development of the Samal Island Ecozone, in coordination with
19 appropriate national and local government authorities and in
20 conformity with applicable laws thereon;

21 (g) Operate on its own, either directly or through a subsidiary entity,
22 or concession or license to others, tourism-related activities and
23 sports facilities, such as golf courses and others under priorities
24 and standards set by SISEZA;

25 (h) Protect, preserve, maintain and develop the virgin forests,
26 beaches, coral and coral reefs, and maintain ecological balance
27 within the Samal Island Ecozone;

28 (i) Create, operate and/or contract to operate such functional units
29 or offices of the SISEZA as it may deem necessary;

30 (j) Adopt, alter and use a corporate seal; contract, lease, buy,
31 acquire, own or otherwise dispose of personal and/or real
32 property of whatever nature; sue and be sued; and otherwise
33 carry out its functions and duties as provided for in this Act;

- 1 (k) Subject to the approval of the President of the Philippines and
2 the Monetary Board of the Bangko Sentral ng Pilipinas (BSP),
3 upon the recommendation of the DOF, to raise or borrow
4 adequate and necessary funds from local or foreign sources to
5 finance its projects and programs under this Act and for that
6 purpose, to issue bonds, promissory notes, and other forms of
7 securities, and to secure the same by a guarantee, pledge,
8 mortgage, deed of trust or an assignment of all or part of its
9 property or assets;
- 10 (l) Issue working visas renewable every two (2) years to foreign
11 executives and foreign technicians with highly specialized skills
12 which no Filipino possesses, as certified by the Department of
13 Labor and Employment (DOLE);
- 14 (m) Report to the Bureau of Immigration (BI) the names of the
15 foreigners who have been granted permanent resident status
16 and working visas within thirty (30) days after issuance of such
17 grant;
- 18 (n) Provide security to the Samal Island Ecozone in coordination
19 with the national and local governments. Military forces sent by
20 the national government for the purpose of defense shall not
21 interfere in the internal affairs of the Samal Island Ecozone and
22 expenditures for these military forces shall be borne by the
23 national government. For this purpose, the SISEZA may
24 establish and maintain its security forces and firefighting
25 capability or hire others to provide the same;
- 26 (o) Coordinate with LGUs and exercise general supervision over the
27 development plans, activities and operations of the Samal Island
28 Ecozone;
- 29 (p) Exercise such powers as may be essential, necessary or
30 incidental to the powers granted to it hereunder, as well as those
31 that shall enable it to carry out, implement and accomplish the
32 purposes, objectives and policies of this Act; and

1 (q) Issue rules and regulations consistent with the provisions of this
2 Act as may be necessary to accomplish and implement the
3 purposes, objectives and policies provided herein.

4 **Section 9. Applicability Clause.** - The provisions of sections 30 to 42
5 of Republic Act No. 7916, otherwise known as "The Special Economic Zone
6 Act of 1995", as amended, on leases of lands and buildings, land conversion,
7 shipping and shipping register, protection of environment, termination of
8 business, registration of business enterprises, one-stop shop center and on
9 industrial harmony in the ecozones shall apply to the SISEZA.

10 **Section 10. Tax Exemptions.** - The SISEZA is hereby declared
11 exempt from the payment of all taxes, duties, fees, imposts, charges, costs,
12 and service fees in any court or administrative proceedings in which it may be
13 a party.

14 The foregoing exemptions may, however, be entirely or partially lifted
15 by the President of the Philippines upon the recommendation of the Secretary
16 of Finance, not earlier than five (5) years from the effectivity of this Act, if the
17 President shall find the SISEZA to be self-sustaining and financially capable
18 by then to pay such taxes, customs duties, fees and other charges after
19 providing for debt service requirements of the SISEZA and of its projected
20 capital and operating expenditures.

21 Furthermore, all donations made by any person or entity in favor of the
22 SISEZA shall be exempt from the payment of the donor's tax and the same
23 shall be considered as deductible from the gross income of the donor,
24 pursuant to the NIRC of 1997, as amended.

25 **Section 11. Administration, Implementation and Monitoring of**
26 **Incentives.** - The SISEZA shall be responsible for the administration and
27 implementation of the incentives granted to its respective registered
28 enterprises: *Provided*, That any incentive policy adopted by the BOI for
29 incentives common to all registered enterprises shall be uniformly applied by
30 the SISEZA.

31 The following are the duties and responsibilities of the SISEZA in the
32 administration of incentives:

- 1 (a) Adopt consistent procedures of administering incentives in
2 accordance with the guidelines established by the BOI and to
3 amend the same when necessary;
- 4 (b) Adopt and implement systems and procedures affecting trade
5 and customs policies in accordance with the requirements
6 established by the DOF, BoC and the BOI and to amend the
7 same when necessary;
- 8 (c) Submit data and information to the DOF and the BOI as required
9 by any of these agencies to ascertain consistency of investment
10 policies and incentives, including their implementation as
11 provided in (a) and to ensure proper implementation of systems
12 and procedures affecting trade and customs policies as provided
13 in (b); and
- 14 (d) Perform all other duties and responsibilities as may be required
15 by the President of the Philippines.

16 For proper monitoring, the BOI shall create a single database of all
17 incentives provided by all incentives-granting agencies, including the SISEZA.

18 **Section 12. Board of Directors.** - The powers of the SISEZA shall be
19 vested in and exercised by a board of directors, hereinafter referred to as the
20 Board, which shall be composed of the following:

- 21 (a) The Chairperson who shall, at the same time, be the
22 administrator of the SISEZA;
- 23 (b) A Vice Chairperson who shall come from among the members of
24 the Board;
- 25 (c) The Members consisting of:
 - 26 (1) The Governor of the Province of Davao del Norte;
 - 27 (2) The Congressional Representative of the district covering
28 the site of the SISEZA;
 - 29 (3) The Mayor of the Island Garden City of Samal;
 - 30 (4) One (1) representative from the domestic investors;
 - 31 (5) One (1) representative from the foreign investors
 - 32 (6) One (1) labor representative from the workers working in
33 the Samal Island Ecozone;

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1 The chairperson and the members of the Board shall be appointed by
2 the President of the Philippines to serve for a term of six (6) years unless
3 sooner separated from service due to death, voluntary resignation or removal
4 for cause. In case of death, resignation or removal for cause, the
5 replacement shall serve only the unexpired portion of the term.

6 Except for the representatives of the business and labor sectors, no
7 person shall be appointed by the President of the Philippines as a member of
8 the Board unless he is a Filipino citizen, of good moral character, of proven
9 probity and integrity, and a degree holder in any of the following fields:
10 economics, business, public administration, law, management or their
11 equivalent, and with at least ten (10) years relevant work experience
12 preferably in the field of management or public administration.

13 The members of the Board shall each receive *per diem* at rates to be
14 determined by the Department of Budget and Management (DBM) in
15 accordance with existing rules and regulations: *Provided, however,* That the
16 total *per diem* collected each month shall not exceed the equivalent *per diem*
17 for four (4) meetings. Unless and until the President of the Philippines has
18 fixed a higher *per diem* for the members of the Board, such *per diem* shall not
19 be more than Ten Thousand Pesos (P10,000.00) for every Board meeting.

20 **Section 13. Powers and Duties of the Chairperson-Administrator.**

21 - The chairperson-administrator shall have the following powers and duties:

- 22 (a) Direct and manage the affairs of the SISEZA in accordance with
23 the policies of the Board;
- 24 (b) Establish the internal organization of the SISEZA under such
25 conditions that the Board may prescribe;
- 26 (c) Submit an annual budget and necessary supplemental budget to
27 the Board for its approval;
- 28 (d) Submit within thirty (30) days after the close of each fiscal year
29 an annual report to the Board and such other reports as may be
30 required;
- 31 (e) Submit to the Board for its approval policies, systems,
32 procedures, rules and regulations that are essential to the
33 operation of the Samal Island Ecozone;

- 1 (f) Upon approval by the Board, submit the Samal Island Ecozone
2 plans, programs and projects to the Regional Development
3 Council for inclusion and inputs to the overall regional
4 development plan;
- 5 (g) Create a mechanism in coordination with relevant agencies for
6 the promotion of industrial peace, the protection of the
7 environment and the advancement of the quality of life; and
- 8 (h) Perform such other duties as may be assigned to him/her by the
9 Board or which are necessary or incidental to his/her office.

10 **Section 14. Organization and Personnel.** - The Board of Directors of
11 the SISEZA shall provide for its organization and staff. Upon the
12 recommendation of the chairperson-administrator, the Board shall appoint and
13 fix the remuneration and other emoluments of its officers and employees in
14 accordance with existing laws on compensation and position classification:
15 *Provided, That* the Board shall have exclusive and final authority to promote,
16 transfer, assign or reassign officers of the SISEZA, any provision of existing
17 law to the contrary notwithstanding: *Provided, further, That* the chairperson-
18 administrator may carry out removal of such officers and employees.

19 The officers and employees of the SISEZA, including all members of
20 the Board, shall not engage directly or indirectly in partisan activities nor take
21 part in any election, except to vote.

22 No officer or employee of the SISEZA, subject to civil service laws and
23 regulations, shall be removed or suspended except for cause, as provided by
24 law.

25 **Section 15. Legal Counsel.** - The SISEZA shall have its own internal
26 legal counsel under the supervision of the government corporate counsel.
27 When the exigencies of its businesses and operations demand it, the SISEZA
28 may engage the services of an outside counsel either on a case to case or on
29 a fixed retainer basis.

30 **CHAPTER IV**
31 **INCENTIVES TO ECOZONE ENTERPRISES/INVESTORS**

Section 16. Incentives to Registered Enterprises. - The SISEZA shall provide the following incentives to the registered enterprises located therein to the extent of the activity/project:

(a) Income Tax Holiday (ITH) - Registered enterprises shall be entitled to an ITH from the start of their commercial operations to the extent of their activity under the following categories:

(1) Category A – Registered domestic enterprises producing/rendering new products/services or having strong backward or forward linkages shall be entitled to a six (6) year ITH; and

(2) Category B - Registered export enterprises shall be entitled to a six (6)-year ITH: *Provided*, That an export enterprise shall be entitled to an eight (8)-year ITH if it complies with the following:

(i) Large capital investments or sizeable employment generation; or

(ii) Use of high level technology.

Registered enterprises embarking on new investments that are listed in the current Investment Priorities Plan (IPP) shall be entitled to incentives provided herein pertaining to the new investments and subject to such terms and conditions as the Board of Investments may determine.

Additional investments in the project shall be entitled to the ITH corresponding to such investments as may be determined by the BOI. Additional ITH may be granted for as long as the investment is made on the same project: *Provided*, That the project is listed in the IPP at the same time the additional investment in the project is made: *Provided, further*, That the entitlement period for additional investments shall not exceed three (3) times the period provided under this subsection: *Provided, however*, That the total ITH period for an export enterprise availing of an eight (8)-year ITH shall not exceed twenty (20) years. Any unused incentive shall therefore be deemed forfeited if not used during the incentive period.

Enterprises registered with the SISEZA are required to share in the special development fund of the BOI for investment promotion projects of the government equivalent to one percent (1%) of the ITH granted for every application.

The Bureau of Internal Revenue (BIR) shall require a registered enterprise availing of the ITH or the net operating loss carryover (NOLCO) to secure a certificate of eligibility from the SISEZA before submitting its income tax return (ITR) with the SISEZA for validation.

Failure to secure certification and/or to file the ITH or the NOLCO availment for validation by the SISEZA within forty-five (45) days from the last day of statutory filing date for ITR shall cause the forfeiture of the availment for the taxable period.

- (b) NOLCO - The net operating loss of the business or enterprise during the first three (3) years from the start of commercial operations which have not been previously offset as a deduction from the gross income shall be carried over as a deduction from the gross income for the next five (5) consecutive years immediately following the year of such loss: *Provided, however,* That operating loss resulting from the availment of incentives provided in this Act shall not be entitled to NOLCO.

Registered enterprises availing of the ITH as herein provided shall not be entitled to avail of the NOLCO.

- (c) Imposition of a Tax Rate of Five Percent (5%) on Gross Income Earned (GIE) - No taxes, local and national, shall be imposed on business establishments operating within the Samal Island Ecozone. In lieu thereof, there shall be imposed a tax of five percent (5%) of the gross income earned by all the business enterprises within the SISEZA and remitted as follows:

- (1) Two per centum (2%) to the National Government;
- (2) One per centum (1%) for the Province of Davao del Norte;
- (3) One per centum (1%) to be shared by the city and municipalities affected by the declaration of the

Zone in proportion to their income from business activities within the Zone; and

(4) One centum (1%) to the SISEZA which shall be created under this Act.

All persons and service establishments in the Samal Island Ecozone that are not covered by section 16 hereof shall be subject to national and local taxes under the NIRC of 1997, as amended, and the Local Government Code, as amended.

(d) Accelerated Depreciation - Accelerated depreciation of plant, machinery and equipment that are reasonably needed and actually used for the production and transport of goods and services may be allowed using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of Finance and the provisions of the NIRC of 1997, as amended.

(e) Capital Equipment

(e.1) Incentives

(e.1.1) Waived Taxes and Customs Duties - Importations of machinery, capital equipment and spare parts shall be exempted to the extent of one hundred percent (100%) of the taxes and customs duties: *Provided*, That the importation thereof shall comply with the following conditions:

(i) These are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;

(ii) These are reasonably needed and will be used exclusively by the registered enterprise in its registered activity, unless prior

1 approval of the SISEZA is secured
2 for the part-time utilization of said
3 equipment in a non-registered
4 activity; and
5 (iii) Approval of the SISEZA was
6 obtained by the registered
7 enterprise for the importation of
8 such machinery, equipment and
9 spare parts.

10 (e.1.2) Subject to Zero Percent (0%) Value-Added
11 Tax - The purchase of machinery and
12 capital equipment and raw materials,
13 supplies, parts and semi-finished products
14 used in the fabrication of machinery and
15 capital equipment by a registered export-
16 oriented enterprise from a domestic
17 manufacturer shall be subject to zero
18 percent (0%) value-added tax.

19 (e.1.3) Tax Credit on Domestic Capital Equipment -
20 The registered export-oriented enterprise
21 shall be granted a tax credit equivalent to
22 the amount of duties that would have been
23 waived on the machinery, capital equipment
24 and raw materials, supplies, parts and semi-
25 finished products used in the fabrication of
26 machinery and capital equipment, had
27 these items been imported, upon its
28 submission to the DOF of the bill of
29 materials evidencing the transaction value
30 of such and other pertinent documents, for
31 verification and proper endorsement.

32 The registered export-oriented
33 enterprise availing of the incentives
34 provided under the immediately preceding

two (2) paragraphs shall be subject to the following: (i) that said capital equipment, machinery and spare parts will be used exclusively by the registered enterprise in its registered activity; (ii) that the capital equipment or machinery where the raw materials, supplies, parts and semi-finished products were used would have qualified for tax-and duty-free importation; and (iii) that the approval of the SISEZA is obtained by the registered enterprise. If the registered enterprise sells, transfers or disposes of these machineries, capital equipment and spare parts, the provision in the preceding paragraphs for such disposition shall apply.

This incentive shall be deemed waived if application for tax credit under this subsection was not filed within one (1) year from the date of delivery.

- (e.2) Sale, Transfer or Disposition of Capital Equipment - Approval of the SISEZA must be secured before any sale, transfer or disposition of the imported capital equipment, machinery or spare parts is made: *Provided*, That if such sale, transfer or disposition is made within the first five (5) years from the date of importation, any of the following conditions must be present:
- (i) If made to another enterprise enjoying tax and duty exemption on imported capital equipment;
 - (ii) If made to another enterprise not covered by part (i), upon payment of the taxes and duties on the net book value of the capital equipment to be sold;

(iii) Exportation of the capital equipment, machinery, spare parts or source documents or those required for pollution abatement and control; and

(iv) For reasons of proven technical obsolescence.

When the aforementioned sale, transfer or disposition is made under any of the conditions provided for in the foregoing paragraphs other than paragraph (ii), the registered firm shall not pay the taxes and duties waived on such items: *Provided, further,* That if the registered enterprise sells, transfers or disposes the aforementioned imported items without prior approval within five (5) years from the date of importation, the registered enterprise and the vendee, transferee or assignee shall be solidarily liable to pay twice the amount of the tax and duty exemption given it: *Provided, finally,* That even if the sale, transfer or disposition of the capital equipment, machinery or spare parts is approved after five (5) years from the date of importation, the registered enterprise is still liable to pay the taxes and duties based on the net book value of the capital equipment, machinery or spare parts if it has violated any of its registration terms and conditions. Otherwise, it shall no longer be subject to the payment of the taxes and duties waived thereon.

(f) Tax-and Duty-Free Importation - The importation of source documents by information technology-registered enterprises shall be eligible for tax- and duty-free importation.

(g) Raw Material Incentives - Every registered export-oriented enterprise shall enjoy a tax credit equivalent to the internal revenue taxes and customs duties paid on the supplies, raw materials and semi-manufactured products: *Provided,* That the same are not sufficient in quantity, quality or are not competitively priced which are used in the manufacture,

processing or production of its export products forming part thereof, exported directly and indirectly by the registered export-oriented enterprise based on the actual taxes and duties paid for such materials/supplies/semi-manufactured products by the registered enterprise.

This incentive shall be deemed waived if application for tax credit under this subsection was not filed within one (1) year from the date of exportation of the final product.

- (h) Incentives on Breeding Stocks and Genetic Materials – Importation of breeding stocks and genetic materials within ten (10) years from the date of registration of commercial operation of the enterprise shall be exempt from all taxes and duties: *Provided*, That such breeding stocks and genetic materials are reasonably needed in the registered activity and approved by the SISEZA.

The availment of the incentives by a registered enterprise shall be subject to the following: (1) that said breeding stocks and genetic materials would have been qualified for tax- and duty-free importation under the preceding paragraph; (2) that the breeding stocks and genetic materials are reasonably needed in the registered activity; (3) that approval of the SISEZA has been obtained by the registered enterprise; and (4) that the purchase is made within ten (10) years from the date of registration of commercial operation of the registered enterprise.

This incentive shall be deemed waived if application for tax credit under this subsection is not filed within one (1) year from the date of delivery.

- (i) Exemption From Wharfage Dues - The provisions of law to the contrary notwithstanding, exports by a registered enterprise shall be exempted from wharfage dues.

- (j) Deferred Imposition of the Minimum Corporate Income Tax - The minimum corporate income tax (MCIT) of two percent (2%) of the gross income as of the end of the taxable year shall be imposed when the MCIT is greater than the income tax

computed under the NIRC of 1997, as amended, for the taxable year: *Provided, however,* That said MCIT shall be imposed only after the enterprise's entitlement period to the income tax-based incentives.

(k) Tax Treatment of Goods and Services in the Samal Island Ecozone - The treatment of goods and services in the SISEZA shall be as follows:

(k.1) Tax Treatment of Merchandise - The free trade/freeport zone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods within, into and exported out of the free trade/freeport zone. Importations of raw materials and capital equipment are tax- and duty-free. However, exportations or removal of goods from the free trade/freeport zone to the other parts of the Philippine territory shall be subject to customs and internal revenue regulations:

(i) Except as otherwise provided in this Act, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the Samal Island Ecozone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded or otherwise processed, manufactured, mixed with foreign or domestic merchandise, whether directly or indirectly related in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, any provision of law to the contrary notwithstanding;

(ii) Merchandise purchased by a registered Samal Island Ecozone enterprise, from the customs territory and subsequently brought into the export processing zone, shall be considered as export

- 1 sales and exportation thereof shall be entitled to
2 the benefits allowed by law for such transaction;
- 3 (iii) Domestic merchandise sent from the Samal Island
4 Ecozone to the customs territory shall, whether or
5 not combined with or made part of other articles
6 likewise of local origin or manufactured in the
7 Philippines while in the export processing zone, be
8 subject to internal revenue laws of the Philippines
9 as domestic goods sold, transferred or disposed of
10 for local consumption;
- 11 (iv) Merchandise sent from the Samal Island Ecozone
12 to the customs territory shall, whether or not
13 combined with or made part of other articles while
14 in the zone, be subject to rules and regulations
15 governing imported merchandise. The duties and
16 taxes shall be based on the value of said imported
17 materials (except when the final product is
18 exempt);
- 19 (v) Domestic merchandise on which all internal revenue
20 taxes have been paid, if subject thereto, and
21 foreign merchandise previously imported on which
22 has been paid, or which have been admitted free
23 of duty and tax, may be taken into the Samal
24 Island Ecozone from the customs territory of the
25 Philippines and be brought back thereto free of
26 quotas, duty or tax;
- 27 (vi) Subject to such regulations respecting identity and
28 safeguarding of revenue as the SISEZA may deem
29 necessary, when the identity of an article entered
30 into the export processing zone under the
31 immediately preceding paragraph has been lost,
32 such article when removed from the zone and
33 taken to the customs territory shall be treated as
34 foreign merchandise entering the country for the

- 1 first time, under the provisions of the Tariff and
2 Customs Code of the Philippines, as amended;
- 3 (vii) Articles produced or manufactured in the Samal
4 Island Ecozone and exported therefrom shall, on
5 subsequent importation into the customs territory,
6 be subject to the import laws applicable to like
7 articles manufactured in a foreign country; and
- 8 (viii) Unless the contrary is shown, merchandise taken
9 out of the export processing zone shall be
10 considered for tax purposes to have been sent to
11 customs territory.
- 12 (k.2) Tax Treatment of Services - (i) Sale of service by an
13 entity from the customs territory to a registered ecozone
14 or free trade enterprise, or by a registered ecozone or
15 freeport enterprise to another ecozone or freeport
16 enterprise shall be treated as indirect export and, hence,
17 entitled to the benefits allowed by law for such
18 transaction; and (ii) Sale or service by a registered
19 ecozone or freeport enterprise to the customs territory
20 shall be subject to applicable internal revenue laws and
21 regulations.
- 22 (l) Bonded Warehousing System - Registered export-oriented
23 enterprise shall have access to the utilization of the bonded
24 warehousing system in accordance with the rules and
25 regulations of the BoC.
- 26 (m) Employment of Foreign Nationals - Subject to the provisions of
27 section 29 of Commonwealth Act No. 613 otherwise known as
28 "The Philippine Immigration Act of 1940", as amended, a
29 registered enterprise may employ foreign nationals in
30 supervisory or technical positions for a period not exceeding ten
31 (10) years from its registration: *Provided*, That when the
32 majority of the capital stock of a registered enterprise is owned
33 by foreign investors, the positions of the president, treasurer and
34 general manager or their equivalents may be retained by foreign

1 nationals beyond the period set forth herein and such officer is
2 the owner or a stockholder owning at least ten percent (10%) of
3 the outstanding capital stock of the registered enterprise and
4 he/she remains the owner or maintains his stockholdings
5 therein.

6 Foreign nationals under employment contract within the
7 purview of this incentive, their spouses and unmarried children
8 under twenty-one (21) years of age, who are not excluded by
9 section 29 of Commonwealth Act No. 613, as amended, shall be
10 permitted to enter and reside in the Philippines during the period
11 of employment of such foreign nationals. They shall be issued
12 multiple-entry visas, renewable every two (2) years, and shall be
13 allowed to enter and leave the Philippines without further
14 documentary requirements other than valid passports or other
15 travel documents in the nature of passports.

16 The foreign nationals admitted herein, as well as their
17 respective spouses and dependents, shall be exempt from: (1)
18 obtaining alien certificates of registration and immigration
19 clearance certificates; and (2) securing the alien employment
20 permits and all types of clearances, permits, licenses or their
21 equivalents required by any government department or agency.

22 **Section 17. Extension of Period of Availment.** - The availment
23 period of the incentives provided herein may be extended by the SISEZA in
24 the event that the registered enterprise suffers operational *force majeure* or
25 any event equivalent thereto, impairing its viability.

26 **Section 18. Duration of Incentives.** - Enterprises registered with the
27 SISEZA may enjoy the ITH or NOLCO granted by the latter prior to the
28 availment of the five percent (5%) tax rates on Gross Income Earned.

29 Fiscal incentives under this Act shall be terminated after a cumulative
30 period of twenty (20) years from the date of registration or the start of
31 commercial operation, whichever is applicable, except that it could be
32 extended with regard to industries deemed indispensable to national
33 development as determined by SISEZA.

1 The industries exempted from this provision shall be recommended by
2 the BOI, with the concurrence of the secretaries of the DOF and the DTI.

3 **Section 19. Incentive to Investors.** - Any foreign national covered
4 under subsection (m) of section 16 of this Act, who invests an amount of One
5 Hundred Fifty Thousand US Dollars (US\$150,000.00), either in cash and/or
6 equipment, in a registered enterprise shall be entitled to an investor's visa:
7 *Provided, That,*

- 8 (a) He is at least eighteen (18) years of age;
- 9 (b) He has not been convicted of a crime involving moral turpitude;
- 10 (c) He is not afflicted with any loathsome, dangerous or contagious
11 disease; and
- 12 (d) He has not been institutionalized for any mental disorder or
13 disability: *Provided, further,* That in securing the investor's visa,
14 the alien-applicant shall be entitled to the same privileges
15 provided for under section 16(m), last paragraph.

16 As a holder of an investor's visa, an alien shall be entitled to reside in
17 the Philippines while his investment subsists. For this purpose, he shall
18 submit an annual report, in the form duly prescribed for the purpose, to prove
19 that he has maintained his investment in the country. Should said alien
20 withdraw his investments from the Philippines, then the investor's visa issued
21 to him shall automatically expire.

22 **Section 20. Banking Rules and Regulations.** - Existing banking laws
23 and rules/regulations of the BSP shall apply to banks and financial institutions
24 to be established in the Samal Island Ecozone, such as those governing
25 foreign exchange and other current account transactions (trade and
26 nontrade), local and foreign borrowings, foreign investments, establishment
27 and operation of local and foreign banks, foreign currency deposit units,
28 offshore banking units and other financial institutions under the supervision of
29 the BSP.

30 **Section 21. Remittance of Earnings.** - In the case of foreign
31 investments, a registered enterprise in the SISEZA shall have the right to
32 remit earnings from the investment in the currency in which the investment
33 was originally made and at the exchange rate prevailing at the time of

1 remittance, subject to the provisions of section 74 of Republic Act No. 7653
2 (The New Central Bank Act), as amended.

3 **CHAPTER V**
4 **NATIONAL GOVERNMENT AND OTHER ENTITIES**

5
6 **Section 22. Interpretation/Construction.** - The powers, authorities
7 and functions that are vested in the SISEZA are intended to decentralize
8 governmental functions and authority and promote an efficient and effective
9 working relationship among the Samal Island Ecozone, the national
10 government and the LGUs.

11 **Section 23. Supervision and Coordination of Development Plans.**
12 - For purposes of policy direction and coordination, the Samal Island Special
13 Economic Zone and Freeport Authority shall be under the direct control and
14 supervision of the Office of the President of the Philippines.

15 **Section 24. Authority of the Bureau of Customs to Examine the**
16 **Entry and Exit of Imported Articles in the Samal Island Special**
17 **Economic Zone and Freeport.** - The BoC, in coordination with the
18 appropriate government agencies such as, but not limited to, the Departments
19 of Trade and Industry, Agriculture, Transportation and Communications, and
20 Health shall have the authority to examine the entry and exit of imported
21 articles in the Samal Island Special Economic Zone and Freeport for the
22 purpose of determining: (a) the quantity and description of subject imported
23 articles, and (b) the compliance with the sanitary and agricultural
24 requirements.

25 **Section 25. Relationship with the Regional Development Council.**
26 - The SISEZA shall determine the development goals for the Samal Island
27 Ecozone within the framework of national development plans, policies and
28 goals. The administrator shall, upon approval by the Board, submit the Samal
29 Island Ecozone plans, programs and projects to the Regional Development
30 Council for inclusion and inputs to the overall regional development plan.

31 **Section 26. Relationship with LGUs.** - Except as herein provided,
32 the LGUs comprising the Samal Island Ecozone shall retain their basic
33 autonomy and identity. The Island Garden City of Samal shall operate and

1 function in accordance with the Local Government Code of 1991, as
2 amended. In case of any conflict among the SISEZA and the Province of
3 Davao del Norte on matters affecting the Samal Island Ecozone other than
4 defense and security matters, the decision of the SISEZA shall prevail.

5 **CHAPTER VI.**
6 **MISCELLANEOUS**

7
8 **Section 27. Separability Clause.** - If any provision of this Act shall be
9 held unconstitutional or invalid, the other provisions not otherwise affected
10 shall remain in full force and effect.

11 **Section 28. Repealing Clause.** - All laws, executive orders or
12 issuances, or any part thereof which are inconsistent herewith are hereby
13 repealed or amended accordingly.

14 **Section 29. Effectivity Clause.** - This Act shall take effect fifteen (15)
15 days after its publication in at least two (2) national newspapers of general
16 circulation.

17 Approved,