

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2927

HOUSE OF REPRESENTATIVES	
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REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by Representatives **PANTALEON D. ALVAREZ** and **ANTONIO R. FLOIRENDO, JR.**

EXPLANATORY NOTE

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

Poverty of majority of Filipinos 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 investments 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 free port commerce similar to Hong Kong, Singapore and Labuan, Malaysia. Customs duty and tariff-free trade or 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 and Freeport Authority (SISEZFA) is also created to oversee the operation and management of 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.



PANTALEON D. ALVAREZ
Representative
First District, Davao del Norte



ANTONIO R. FLOIRENDO, JR.
Representative
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HOUSE BILL NO. 2927

Introduced by Representatives PANTALEON D. ALVAREZ and ANTONIO R.
FLOIRENDO, JR.

AN ACT
ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE ISLAND GARDEN
CITY OF SAMAL IN THE PROVINCE OF DAVAO DEL NORTE, CREATING
FOR THAT PURPOSE THE SAMAL ISLAND SPECIAL ECONOMIC ZONE
AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER
PURPOSES

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

3 CHAPTER I
4 GENERAL PROVISIONS

5
6 **Section 1. Short Title.** – This Act shall be known as the “Samal Island Special
7 Economic Zone Act of 2016.”

8
9 **Section 2. Declaration of Policy.** – It is hereby declared the policy of the State to
10 actively encourage, promote, induce and accelerate the sound and balanced industrial,
11 economic and social development of the country in order to provide jobs to the people
12 especially those in the rural areas, increase productivity and individual and family
13 income, and thereby improve the level and quality of living conditions through the
14 establishment, among others, of special economic zones and freeport in suitable and

CHAPTER II
CREATION OF THE ECOZONE

Section 3. Creation of the Samal Island Special Economic Zone and Freeport.

– In pursuit of the foregoing declared policy and subject to the concurrence of the concerned local government units (LGUs) of Davao del Norte affected by the zone, there is hereby established a special economic zone and Freeport in the Island Garden City of Samal in the Province of Davao de Norte to be known as the Samal Island Special Economic Zone, hereinafter referred to as the Samal Island Ecozone. The specific metes and bounds of the Samal Island Ecozone shall be more particularly defined in a presidential proclamation that shall be issued for this purpose.

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

(a) Within the framework and limitations of the Constitution and the applicable provisions of the Local Government Code, as amended, the Samal Island Ecozone shall be developed into and operated as a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourism, banking, financial and investment center with suitable residential areas;

(b) The Samal Island Ecozone shall be provided with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment opportunities for the people of the Province of Davao del Norte and its neighboring towns and cities;

1
2 (c) The Samal Island Ecozone may establish mutually beneficial economic
3 relations with other entities or enterprises within the country or, subject to
4 the administrative guidance of the Department of Foreign Affairs (DFA),
5 the Philippine Economic Zone Authority (PEZA) and/or the Department
6 of Trade and Industry (DTI), with foreign entities or enterprises;
7

8 (d) Foreign citizens and companies owned by non-Filipinos in whatever
9 proportion may set up enterprises in the Samal Island Ecozone, either by
10 themselves or in joint venture with Filipinos in any sector of industry,
11 international trade and commerce within the Samal Island Ecozone;
12

13 (e) The Samal Island Ecozone shall be managed and operated as a
14 separate customs territory ensuring free flow or movement of goods and
15 capital within into and out of its territory;
16

17 (f) The Samal Island Ecozone may provide incentives such as tax and
18 duty-free importations of raw materials, capital equipment to registered
19 enterprises located therein. However, exportation or removal of goods
20 from the territory of the Samal Island Ecozone to the other parts of the
21 Philippine territory shall be subject to customs duties and taxes under the
22 Tariff and Customs Code of the Philippines, as amended, and the National
23 Internal Revenue Code (NIRC) of 1997, as amended;
24

25 (g) The areas comprising the Samal Island Ecozone may be expanded or
26 reduced when necessary. For this purpose, the SISEZA, in consultation
27 with the LGUs, shall have the power to acquire either by purchase,
28 negotiation or condemnation proceedings, any private land within or
29 adjacent to the Samal Island Ecozone for the following purposes: (1)
30 consolidation of lands for the Samal Island Ecozone development; (2)
31 acquisition of right-of-way to the Samal Island Ecozone; and (3) the

1 protection of watershed areas and natural assets valuable to the prosperity
2 of the Samal Island Ecozone;

3
4 (h) Goods manufactured by Samal Island Ecozone enterprise shall be
5 made available for immediate retail sale in the domestic market, subject to
6 the payment of corresponding taxes on raw materials and other regulations
7 that may be formulated by the SISEZA, together with the PEZA, the
8 Bureau of Customs (BoC) and the DIT. However, in order to protect
9 domestic industries, a negative list of industries shall be drawn up and
10 regularly updated by the PEZA and the Board of Investments (BOI).
11 Enterprises engaged in industries included in such negative list shall not
12 be allowed to sell their products locally; and

13
14 (i) The defense of the Samal Island Ecozone and the security of its
15 perimeter fence shall be the responsibility of the national government in
16 coordination with the Samal Island Ecozone and the LGUs concerned. For
17 this purpose, a special defense team shall be organized to define its power,
18 duties and responsibilities.

19
20 **CHAPTER III**
21 **GOVERNING STRUCTURES**
22

23 **Section 5. Creation of the Samal Island Special Economic Zone and Freeport**

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

1
2 **Section 6. Capitalization** - The SISEZA shall have an authorized capital stock
3 of two billion (2,000,000,000) no-par value shares with a minimum issue of Ten Pesos
4 (P10.00) each, the majority shares of which shall be subscribed and paid for by the
5 national government and the LGUs embracing the Samal Island Ecozone. The Board of
6 Directors of the SISEZA may, with the written concurrence of the Secretary of Finance,
7 sell shares, representing not more than forty *per centum* (40%) of the capital stock of the
8 SISEZA to the general public under such policy as the Board and the Secretary of
9 Finance may determine. The national government and the LGUs shall, in no case, own
10 less than sixty *per centum* (60%) of the total issued and outstanding capital of the
11 SISEZA.
12

13 The amount necessary to subscribe and pay for the shares of the national
14 government to the capital stock of the SISEZA shall be included in the annual General
15 Appropriations Act. For LGUs, the funds shall be taken from their internal revenue
16 allotment and other local funds.
17

18 **Section 7. Principal Office of the Samal Island Special Economic Zone**

19 **Authority.** – The SISEZA shall maintain its principal office in Samal District, Davao del
20 Norte, but it may establish branches within the Philippines as may be necessary for the
21 proper conduct of its business.
22

23 **Section 8. Powers and Functions of the SISEZA.** - The SISEZA shall have the
24 following functions:
25

26 (a) Recommend to the President of the Philippines the issuance of a
27 proclamation to fix and delimit the site of the Samal Island Ecozone;
28

29 (b) Operate, administer, manage and develop the Samal Island Ecozone
30 according to the principles and provisions set forth in this Act;
31

1 (c) Register, regulate and supervise the enterprises in the Samal Island
2 Ecozone in an efficient and decentralized manner, subject to existing laws;

3
4 (d) Issue certificates of origin for products manufactured or processed in the
5 Samal Island Ecozone in accordance with prevailing rules of origin, and the
6 pertinent regulations of the PEZA, the DTI and/or Department of Finance
7 (DOF);

8
9 (e) Authorize or undertake, on its own or through others, and regulate the
10 establishment, operation and maintenance of:

11
12 e.1 public utilities, services, and infrastructure in the Samal Island
13 Ecozone such as shipping, barging, stevedoring, cargo handling and
14 storage, warehousing, port services or concessions, piers, wharves,
15 bulkheads, bulk terminals, mooring areas, storage areas, roads, toll roads,
16 bridges, terminals, conveyors, sewerage, drainage, and airport operations in
17 coordination with the Civil Aviation Authority of the Philippines (CAAP),
18

19 e.2 such other utilities or services such as, but not limited to heat, light and
20 power, water supply and storage, telecommunications, and transport
21 necessary or incidental to the accomplishment of the objectives of this Act,
22 and fix just, reasonable and competitive rates, fares, charges and prices
23 thereof. Provided, however, That the private investors in the Samal Island
24 Ecozone shall be given priority in the awarding of contracts, franchises,
25 licenses, or permits for the establishment, operation and maintenance of
26 utilities, services and infrastructure in the Samal Island Ecozone;

27
28 (f) Construct, acquire, own, lease, operate and maintain on its own or through
29 contracts, franchise, licenses, bulk purchase from the private sector or permits
30 under any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-
31 Transfer Law, as amended), or joint venture, adequate facilities and

infrastructures required or needed for the operation and development of the Samal Island Ecozone, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;

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

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

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

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

(k) Subject to the approval of the President of the Philippines and the Monetary Board of the Bangko Sentral ng Pilipinas (BSP), upon the recommendation of the DOF, to raise or borrow adequate and necessary funds from local or foreign sources to finance its projects and programs under this Act and for that purpose, to issue bonds, promissory notes and other forms of securities, and to secure the same by a guarantee, pledge, mortgage, deed of trust or an assignment of all or part of its property or assets; (l) Issue working visas renewable every two (2) years to foreign executives and foreign technicians with highly specialized skills which no Filipino possesses, as certified by the Department of Labor and Employment (DOLE);

(m) Report to the Bureau of Immigration (BI) the names of the foreigners who have been granted permanent resident status and working visas within thirty (30) days after issuance of such grant;

(n) Provide security to the Samal Island Ecozone in coordination with the national and local governments. Military forces sent by the national government for the purpose of defense shall not interfere in the internal affairs of the Samal Island Ecozone and expenditures for these military forces shall be borne by the national government. For this purpose, the SISEZA may establish and maintain its security forces and firefighting capability or hire others to provide the same;

(o) Coordinate with LGUs and exercise general supervision over the development plans, activities and operations of the Samal Island Ecozone;

(p) Exercise such powers as may be essential, necessary or incidental to the powers granted to it hereunder, as well as those that shall enable it to carry out, implement and accomplish the purposes, objectives and policies of this Act; and

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

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

1 **Section 10. Tax Exemptions.** – The SISEZA is hereby declared exempt from the
2 payment of all taxes, duties, fees, imposts, charges, costs, and service fees in any court or
3 administrative proceedings in which it may be a party.
4

5 The foregoing exemptions may, however, be entirely or partially lifted by the
6 President of the Philippines upon the recommendation of the Secretary of Finance, not
7 earlier than five (5) years from the effectivity of this Act, if the President shall find the
8 SISEZA to be self-sustaining and financially capable by then to pay such taxes, customs
9 duties, fees and other charges after providing for debt service requirements of the
10 SISEZA and of its projected capital and operating expenditures.
11

12 Furthermore, all donations made by any person or entity in favor of the SISEZA
13 shall be exempt from the payment of the donor's tax and the same shall be considered as
14 deductible from the gross income of the donor, pursuant to the NIRC of 1997, as
15 amended.
16

17 **Section 11. Administration, Implementation and Monitoring of Incentives.** -
18 The SISEZA shall be responsible for the administration and implementation of the
19 incentives granted to its respective registered enterprises: *Provided*, that any incentive
20 policy adopted by the BOI for incentives common to all registered enterprises shall be
21 uniformly applied by the SISEZA.
22

23 The following are the duties and responsibilities of the SISEZA in the
24 administration of incentives:
25

- 26 (a) Adopt consistent procedures of administering incentives in accordance with the
27 guidelines established by the BOI and to amend the same when necessary;
28
29 (b) Adopt and implement systems and procedures affecting trade and customs
30 policies in accordance with the requirements established by the DOF and the
31 BOI and to amend the same when necessary;

1
2 (c) Submit data and information to the DOF and the BOI as required by any of
3 these agencies to ascertain consistency of investment policies and incentives,
4 including their implementation as provided in (a) and to ensure proper
5 implementation of systems and procedures affecting trade and customs policies
6 as provided in (b); and

7
8 (d) Perform all other duties and responsibilities as may be required by the President
9 of the Philippines.
10

11 For proper monitoring, the BOI shall create a single database of all incentives
12 provided by all incentives-granting agencies, including the SISEZA and all information
13 thereto. Double-entry accounting shall be done by the BOI in recording all incentives
14 granted by the government for transparency purposes.
15

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

20 (a) The chairperson who shall, at the same time, be the administrator of the
21 SISEZA;
22

23 (b) A vice chairperson who shall come from among the members of the Board;
24

25 (c) The members who shall consist of:
26

27 (1) The governor of the Province of Davao del Norte;
28

29 (2) The congressional representative of the district covering the site of
30 the Samal Island Ecozone;
31

- (3) The mayor of the Island Garden City of Samal;
- (4) One (1) representative from the domestic investors;
- (5) One (1) representative from the foreign investors; and
- (6) One (1) labor representative from among the workers in the Samal Island Ecozone.

The governor, the congressional representative and the mayor of the Island Garden City of Samal shall serve as *ex officio* members of the Board, whose terms in the Board correspond to their terms of office.

The chairperson and the members of the Board, except the *ex officio* members, shall be appointed by the President of the Philippines to serve for a term of six (6) years unless sooner removed for cause or dies or resigns voluntarily. In case of death, resignation or removal for cause, the replacement shall serve only the unexpired portion of the term.

The Chairperson must be a Filipino citizen, of good moral character, of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least ten (10) years relevant working experience preferably in the field of management or public administration.

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

1 **Section 13. Powers and Duties of the Chairperson-Administrator.** The
2 chairperson-administrator shall have the following powers and duties:

3
4 (a) Direct and manage the affairs of the SISEZA in accordance with the
5 policies of the Board;

6
7 (b) Establish the internal organization of the SISEZA under such conditions
8 that the Board may prescribe;

9
10 (c) Submit an annual budget and necessary supplemental budget to the Board
11 for its approval;

12
13 (d) Submit within thirty (30) days after the close of each fiscal year an annual
14 report to the Board and such other reports as may be required;

15
16 (e) Submit to the Board for its approval policies, systems, procedures, rules
17 and regulations that are essential to the operation of the Samal Island Ecozone;

18
19 (f) Create a mechanism in coordination with relevant agencies for the
20 promotion of industrial peace, the protection of the environment and the
21 advancement of the quality of life; and

22
23 (g) Perform such other duties as may be assigned to him/her by the Board or
24 which are necessary or incidental to his/her office.
25
26
27

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

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

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

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

CHAPTER IV

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 (BOI) 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 Code 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 rate 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;

- 1 (2) One per centum (1%) for the Province of Davao del Norte;
2 (3) One per centum (1%) to be shared by the city and municipalities
3 affected by the declaration of the Zone in proportion to their income
4 from business activities within the Zone; and
5 (4) One per centum (1%) to the SISEZA which shall be created under this
6 Act.

7
8 All persons and service establishments in the Samal Island Ecozone that are not
9 covered by Section 16 hereof shall be subject to national and local taxes under the
10 NIRC of 1997, as amended, and the Local Government Code, as amended.

11
12 (d) Accelerated Depreciation – Accelerated depreciation of plant, machinery
13 and equipment that are reasonably needed and actually used for the production
14 and transport of goods and services may be allowed using a rate not exceeding
15 twice the rate which would have been used had the annual allowance been
16 computed in accordance with the rules and regulations prescribed by the Secretary
17 of Finance and the provisions of the NIRC of 1997, as amended.

18
19 (e) Capital Equipment

20
21 (e.1) Incentives

22
23 (e.1.1) Importation of machinery, capital equipment and spare parts shall be
24 exempted to the extent of one hundred percent (100%) of the taxes and
25 customs duties: *Provided*, That the importation thereof shall comply with
26 the following conditions:

- 27
28 (i) These are not manufactured domestically in sufficient
29 quantity, of comparable quality and at reasonable prices;
30

- 1 (ii) These are reasonably needed and will be used exclusively
2 by the registered enterprise in its registered activity, unless
3 prior approval of the SISEZA is secured for the part-time
4 utilization of said equipment in a non-registered activity;
5 and; and
6 (iii) Approval of the SISEZA was obtained by the registered
7 enterprise for the importation of such machinery,
8 equipment and spare parts.

9
10 (e.1.2) Subject to Zero Percent (0%) Value-Added Tax – The
11 purchase of machinery and capital equipment and raw materials, supplies,
12 parts and semi-finished products used in the fabrication of machinery and
13 capital equipment by a registered export-oriented enterprise from a domestic
14 manufacturer shall be subject to zero percent (0%) value-added tax.

15
16 (e.1.3) Tax Credit on Domestic Capital Equipment – The
17 registered export-oriented enterprise shall be granted a tax credit
18 equivalent to the amount of duties that would have been waived on the
19 machinery, capital equipment and raw materials, supplies, parts and semi-
20 finished products used in the fabrication of machinery and capital
21 equipment, had these items been imported, upon its submission to the DOF
22 of the bill of materials evidencing the transaction value of such and other
23 pertinent documents, for verification and proper endorsement.

24
25 The registered export-oriented enterprise availing of the incentives provided
26 under the immediately preceding two (2) paragraphs shall be subject to the
27 following: (i) that said capital equipment, machinery and spare parts will be
28 used exclusively by the registered enterprise in its registered activity; (ii)
29 that the capital equipment or machinery where the raw materials, supplies,
30 parts and semi-finished products were used would have qualified for tax-and
31 duty-free importation; and (iii) that the approval of the SISEZA is obtained

1 by the registered enterprise. If the registered enterprise sells, transfers or
2 disposes of these machineries, capital equipment and spare parts, the
3 provision in the preceding paragraphs for such disposition shall apply.

4
5 This incentive shall be deemed waived if application for tax credit
6 under this subsection is not filed within one (1) year from the date of
7 delivery.

8
9 (e.2) Sale, Transfer or Disposition of Capital Equipment – Approval of the
10 SISEZA must be secured before any sale, transfer or disposition of the
11 imported capital equipment, machinery or spare parts is made: *Provided*,
12 that if such sale, transfer or disposition is made within the first five (5) years
13 from the date of importation, any of the following conditions must be
14 present:

- 15
16 (i) If made to another enterprise enjoying tax and duty exemption on
17 imported capital equipment;
18 (ii) If made to another enterprise not covered by part (i), upon payment
19 of the taxes and duties on the net book value of the capital equipment to be
20 sold;
21 (iii) Exportation of the capital equipment, machinery, spare parts or
22 source documents or those required for pollution abatement and control;
23 and
24 (iv) For reasons of proven technical obsolescence.

25
26 When the aforementioned sale, transfer or disposition is made under any of
27 the conditions provided for in the foregoing paragraphs other than paragraph
28 (ii), the registered firm shall not pay the taxes and duties waived on such
29 items: *Provided, further*, That if the registered enterprise sells, transfers or
30 disposes the aforementioned imported items without prior approval within
31 five (5) years from the date of importation, the registered enterprise and the

1 vendee, transferee or assignee shall be solidarily liable to pay twice the
2 amount of the tax and duty exemption given it: *Provided, finally*, That even
3 if the sale, transfer or disposition of the capital equipment, machinery or
4 spare parts is approved after five (5) years from the date of importation, the
5 registered enterprise is still liable to pay the taxes and duties based on the
6 net book value of the capital equipment, machinery or spare parts if it has
7 violated any of its registration terms and conditions. Otherwise, it shall no
8 longer be subject to the payment of the taxes and duties waived thereon.
9

10 (f) Tax-and Duty-Free Importation - The importation of source documents by
11 information technology-registered enterprises shall be eligible for tax-and duty-
12 free importation.
13

14 (g) Raw Material Incentives – Every registered export-oriented enterprise shall
15 enjoy a tax credit equivalent to the internal revenue taxes and customs duties
16 paid on the supplies, raw materials and semi-manufactured products: *Provided*,
17 That the same are not sufficient in quantity, quality or are not competitively
18 priced which are used in the manufacture, processing or production of its export
19 products forming part thereof, exported directly and indirectly by the registered
20 export-oriented enterprise based on the actual taxes and duties paid for such
21 materials/supplies/semi-manufactured products by the registered enterprise.
22

23 This incentive shall be deemed waived if application for tax credit under this
24 subsection was not filed within one (1) year from the date of exportation of the
25 final product.
26

27 (h) Incentives on Breeding Stocks and Genetic Materials – Importation of
28 breeding stocks and genetic materials within ten (10) years from the date of
29 registration of commercial operation of the enterprise shall be exempt from all
30 taxes and duties: *Provided*, that such breeding stocks and genetic materials are
31 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 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 ecozone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods within, into and exported out of the ecozone. Importations of raw materials and capital equipment are tax- and duty-free. However, exportations or removal of goods from the ecozone 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 zone 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 sales and exportation thereof shall be entitled to the benefits allowed by law for such transaction;

(iii) Domestic merchandise sent from the Samal Island Ecozone to the customs territory shall, whether or not combined with or made part of other articles likewise of local origin or manufactured in the Philippines while in the export processing zone, be subject to internal revenue laws of the Philippines as domestic goods sold, transferred or disposed of for local consumption;

(iv) Merchandise sent from the Samal Island Ecozone to the customs territory shall, whether or not combined with or made part of other articles while in the zone, be subject to rules and regulations governing imported merchandise. The duties and taxes

1 shall be based on the value of said imported materials (except
2 when the final product is exempt);
3

4 (v) Domestic merchandise on which all internal revenue taxes
5 have been paid, if subject thereto, and foreign merchandise
6 previously imported on which has been paid, or which have been
7 admitted free of duty and tax, may be taken into the Samal Island
8 Ecozone from the customs territory of the Philippines and be
9 brought back thereto free of quotas, duty or tax;
10

11 (vi) Subject to such regulations respecting identity and
12 safeguarding of revenue as the SISEZA may deem necessary,
13 when the identity of an article entered into the export processing
14 zone under the immediately preceding paragraph has been lost,
15 such article when removed from the zone and taken to the customs
16 territory shall be treated as foreign merchandise entering the
17 country for the first time, under the provisions of the Tariff and
18 Customs Code of the Philippines, as amended;
19

20 (vii) Articles produced or manufactured in the Samal Island
21 Ecozone and exported therefrom shall, on subsequent importation
22 into the customs territory, be subject to the import laws applicable
23 to like articles manufactured in a foreign country; and
24

25 (viii) Unless the contrary is shown, merchandise taken out of the
26 export processing zone shall be considered for tax purposes to have
27 been sent to customs territory.
28
29

(k.2) Tax Treatment of Services – (i) Sale of service by an entity from the customs territory to a registered ecozone enterprise, or by a registered ecozone to another ecozone enterprise shall be treated as indirect export and, hence, entitled to the benefits allowed by law for such transaction; and (ii) Sale or service by a registered ecozone enterprise to the customs territory shall be subject to applicable internal revenue laws and regulations.

(l) Bonded Warehousing System - Registered export-oriented enterprise shall have access to the utilization of the bonded warehousing system in accordance with the rules and regulations of the BoC.

(m) Employment of Foreign Nationals – Subject to the provisions of Section 29 of Commonwealth Act No. 613 otherwise known as “The Philippine Immigration Act of 1940”, as amended, a registered enterprise may employ foreign nationals in supervisory or technical positions for a period not exceeding ten (10) years from its registration: *Provided*, That when the majority of the capital stock of a registered enterprise is owned by foreign investors, the positions of the president, treasurer and general manager or their equivalents may be retained by foreign nationals beyond the period set forth herein and such officer is the owner or a stockholder owning at least ten percent (10%) of the outstanding capital stock of the registered enterprise and he/she remains the owner or maintains his stockholdings therein.

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 No. 613, as amended, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals. They shall be issued multiple-entry visas, renewable every two (2) years, and shall be allowed to enter and leave the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports.

1
2 The foreign nationals admitted herein, as well as their respective spouses and
3 dependents, shall be exempt from: (1) obtaining alien certificates of registration
4 and emigration clearance certificates; and (2) securing the alien employment
5 permits and all types of clearances, permits, licenses or their equivalents required
6 by any government department or agency.
7

8 **Section 17. Extension of Period of Availment.** – The availment period of the
9 incentives provided herein may be extended by the SISEZA in the event that the
10 registered enterprise suffers operational *force majeure* or any event equivalent thereto,
11 impairing its viability.
12

13 **Section 18. Duration of Incentives.** – Enterprises registered with the SISEZA
14 may enjoy ITH or NOLCO granted by the latter prior to the availment of the five percent
15 (5%) tax rate on Gross Income Earned.

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

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

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

- 26 (a) He is at least eighteen (18) years of age;
27 (b) He has not been convicted of a crime involving moral turpitude;
28 (c) He is not afflicted with any loathsome, dangerous or contagious disease; and
29 (d) He has not been institutionalized for any mental disorder or disability: *Provided,*
30 *further,* that in securing the investor's visa, the alien-applicant shall be entitled to the
31 same privileges provided for under Section 16(m), last paragraph.

1
2 As a holder of an investor's visa, an alien shall be entitled to reside in the
3 Philippines while his investment subsists. For this purpose, he shall submit an annual
4 report, in the form duly prescribed for the purpose, to prove that he has maintained his
5 investment in the country. Should said alien withdraw his investments from the
6 Philippines, then the investor's visa issued to him shall automatically expire.

7 **Section 20. Banking Rules and Regulations.** - Existing banking laws and
8 rules/regulations of the BSP shall apply to banks and financial institutions to be
9 established in the Samal Island Ecozone, such as those governing foreign exchange and
10 other current account transactions (trade and nontrade), local and foreign borrowings,
11 foreign investments, establishment and operation of local and foreign banks, foreign
12 currency deposit units, offshore banking units and other financial institutions under the
13 supervision of the BSP.
14

15 **Section 21. Remittance of Earnings.** In the case of foreign investments, a
16 registered enterprise in the SISEZA shall have the right to remit earnings from the
17 investment in the currency in which the investment was originally made and at the
18 exchange rate prevailing at the time of remittance, subject to the provisions of Section 74
19 of Republic Act No. 265 (The New Central Bank Act), as amended.

20 **CHAPTER V**
21 **NATIONAL GOVERNMENT AND OTHER ENTITIES**
22

23 **Section 22. Interpretation/Construction.** – The powers, authorities and
24 functions that are vested in the SISEZA are intended to decentralize governmental
25 functions and authority and promote an efficient and effective working relationship
26 among the Samal Island Ecozone, the national government and the LGUs.
27

1 **Section 23. Supervision and Coordination of Development Plans.** – For
2 purposes of policy direction and coordination, the Samal Island Ecozone shall be under
3 the direct control and supervision of the Office of the President of the Philippines.
4

5 **Section 24. Authority of the Bureau of Customs to Examine the Entry and**
6 **Exit of Imported Articles in the Samal Island Special Economic Zone.** - The BOC, in
7 coordination with the appropriate government agencies such as, but not limited to, the
8 Departments of Trade and Industry, Agriculture, Transportation and Communications,
9 and Health shall have the authority to examine the entry and exit of imported articles in
10 the Samal Island Special Economic Zone for the purpose of determining: (a) the quantity
11 and description of subject imported articles, and (b) the compliance with the sanitary and
12 agricultural requirements.
13

14 **Section 25. Relationship with the Regional Development Council.** – The
15 SISEZA shall determine the development goals for the Samal Island Ecozone within the
16 framework of national development plans, policies and goals. The administrator shall,
17 upon approval by the Board, submit the Samal Island Ecozone plans, programs and
18 projects to the Regional Development Council for inclusion and inputs to the overall
19 regional development plan.
20

21 **Section 26. Relationship with LGUs.** – Except as herein provided, the LGUs
22 comprising the Samal Island Ecozone shall retain their basic autonomy and identity. The
23 Island Garden City of Samal shall operate and function in accordance with the Local
24 Government Code of 1991, as amended. In case of any conflict among the SISEZA and
25 the Island Garden City of Samal on matters affecting the Samal Island Ecozone other
26 than defense and security matters, the decision of the SISEZA shall prevail.
27

1 **CHAPTER VI.**
2 **MISCELLANEOUS**

3
4 **Section 27. Separability Clause.** – If any provision of this Act shall be held
5 unconstitutional or invalid, the other provisions not otherwise affected shall remain in full
6 force and effect.

7
8 **Section 28. Repealing Clause.** – All laws, executive orders or issuances, or any
9 part thereof which are inconsistent herewith are hereby repealed or amended accordingly.

10
11 **Section 29. Effectivity Clause.** – This Act shall take effect fifteen (15) days
12 after its publication in at least two (2) national newspapers of general circulation.

13
14 Approved,