

**RECENT DOCUMENTS:**

**UNITED NATIONS HUMAN RIGHTS COVENANTS**

*Adopted and opened for signature at New York, December 16, 1966\**

**INTERNATIONAL COVENANT ON ECONOMIC SOCIAL  
AND CULTURAL RIGHTS**

**PREAMBLE**

*The States Parties to the present Covenant,*

*Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,*

*Recognizing that these rights derive from the inherent dignity of the human person,*

*Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,*

*Considering the obligation of states under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,*

*Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,*

*Agree upon the following articles:*

**PART I**

**ARTICLE 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

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\* Annex to General Assembly Res. 2200 (XXI), adopted Dec. 16, 1966 (A/RES/2200 (XXI)). The vote recorded on the two Covenants was unanimous; on the Optional Protocol it was: 66 in favor, 2 against and 38 abstentions.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

### ARTICLE 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights, recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### ARTICLE 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### ARTICLE 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the state in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

## ARTICLE 5

1. Nothing in the present Covenant may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## PART III

## ARTICLE 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

## ARTICLE 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

- (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
- (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

#### ARTICLE 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the state.

3. Nothing in this article shall authorize State Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

#### ARTICLE 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

#### ARTICLE 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is

responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

#### ARTICLE 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvements of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; and

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

#### ARTICLE 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

### ARTICLE 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to choose for their children schools, other than those established by the public authorities, which conform to such minimum

educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the state.

#### ARTICLE 14

Each State Party to the present Covenant which, at the time of becoming a party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

#### ARTICLE 15

1. The States Parties to the present Covenant recognize the right of everyone:

- (a) To take part in cultural life;
- (b) To enjoy the benefits of scientific progress and its applications;
- (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

#### PART IV

#### ARTICLE 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on

the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant.

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of those specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

#### ARTICLE 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

#### ARTICLE 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

#### ARTICLE 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or as appropriate for information the reports concerning human rights submitted by states in accordance with Article 16 and 17,

and those concerning human rights submitted by the specialized agencies in accordance with Article 18.

#### ARTICLE 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under Article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

#### ARTICLE 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

#### ARTICLE 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance, any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

#### ARTICLE 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the governments concerned.

#### ARTICLE 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective

responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

#### ARTICLE 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

### PART V

#### ARTICLE 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all states which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

#### ARTICLE 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each state ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

#### ARTICLE 28

The provisions of the present Covenant shall extend to all parts of federal states without any limitations or exceptions.

## ARTICLE 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

## ARTICLE 30

Irrespective of the notifications made under Article 26, paragraph 5, the Secretary-General of the United Nations shall inform all states referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under Article 26;
- (b) The date of the entry into force of the present Covenant under Article 27 and the date of the entry into force of any amendments under Article 29.

## ARTICLE 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all states referred to in Article 26.

## INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

### PREAMBLE

*The States Parties to the present Covenant,*

*Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,*

*Recognizing that these rights derive from the inherent dignity of the human person,*

*Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,*

*Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,*

*Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,*

*Agree upon the following articles:*

### PART I

#### ARTICLE 1

1. All peoples have the right of self-determination. By virtue of this right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter.

**PART II****ARTICLE 2**

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

**ARTICLE 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

**ARTICLE 4**

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from article 6, 7, 8, (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall inform immediately the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

#### ARTICLE 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

#### PART III

#### ARTICLE 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

#### ARTICLE 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

#### ARTICLE 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour;

(b) The preceding sub-paragraph shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in case of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

#### ARTICLE 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that such court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### ARTICLE 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

#### ARTICLE 11

No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

#### ARTICLE 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary

to protect national security, public order ("ordre public"), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

#### ARTICLE 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

#### ARTICLE 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reason of morals, public order ("ordre public") or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of his rights; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself, or to confess guilt.

4. In the case of juveniles, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offense and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offense for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

#### ARTICLE 15

1. No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense, under national or international law, at the time when it committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offense was committed. If, subsequent to the commission of the offense, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time

when it was committed, was criminal according to the general principles of law recognized by the community of nations.

#### ARTICLE 16

Everyone shall have the right to recognition everywhere as a person before the law.

#### ARTICLE 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

#### ARTICLE 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to ensure the religious and moral education of their children in conformity with their own convictions.

#### ARTICLE 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in the foregoing paragraph carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such

only as are provided by law and are necessary (1) for respect of the rights or reputations of others, (2) for the protection of national security or of public order ("ordre public"), or of public health or morals.

#### ARTICLE 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

#### ARTICLE 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order ("ordre public"), the protection of public health or morals or the protection of the rights and freedoms of others.

#### ARTICLE 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order ("ordre public"), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise, to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in the Convention.

#### ARTICLE 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

#### ARTICLE 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as required by his status as minor, on the part of his family, the society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

#### ARTICLE 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

#### ARTICLE 26

All persons are equal before the law and are entitled without any discrimination to equal protection of the law. In this respect the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### ARTICLE 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to en-

joy their own culture, to profess and practice their own religion, or to use their own language.

## PART IV

### ARTICLE 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as "the Committee"). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

### ARTICLE 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

### ARTICLE 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election of the Committee other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant not later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant con-

vened by the Secretary-General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

#### ARTICLE 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee consideration shall be given equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal system.

#### ARTICLE 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in paragraph 4 of article 30.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

#### ARTICLE 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

#### ARTICLE 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the

Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

#### ARTICLE 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide having regard to the importance of the Committee's responsibilities.

#### ARTICLE 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Covenant.

#### ARTICLE 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

#### ARTICLE 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

#### ARTICLE 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

- (a) Twelve members shall constitute a quorum;
- (b) Decisions of the Committee shall be made by a majority vote of the members present.

#### ARTICLE 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights: (a) within one year of the entry into force of the present Covenant for the States Parties concerned and (b) thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may after consultation with the Committee transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports and such general comments as it may consider appropriate to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

#### ARTICLE 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligation under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

(d) The Committee shall hold closed meetings when examining communications under this article.

(e) Subject to the provisions of sub-paragraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in this Covenant.

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (b), to supply any relevant information.

(g) The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(h) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b), submit a report:

(i) If a solution within the terms of sub-paragraph (e) is reached, the Committee shall confine its reports to a brief statement of the facts and of the solution reached;

(ii) If a solution is not reached within the terms of sub-paragraph (e), the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communications by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General of the United Nations unless the State Party has made a new declaration.

#### ARTICLE 42

1. (a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an *ad hoc* Conciliation Commission (hereafter referred to as "the Commission"). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission the members of the Commission concerning whom no agreement was reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the Commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned.

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter.

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached.

(c) If a solution within the terms of sub-paragraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned as well as its views on the possibilities of amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned.

(d) If the Commission's report is submitted under sub-paragraph (c), the States Parties concerned shall, within three months of the receipt of the report, inform the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned in accordance with paragraph 9 of this article.

#### ARTICLE 43

The members of the Committee and of the *ad hoc* conciliation commission which may be appointed under article 41, shall be entitled to the facilities, privileges and immunities of experts on mis-

sion for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### ARTICLE 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

#### ARTICLE 45

The Committee shall submit to the General Assembly, through the Economic and Social Council, an annual report on its activities.

### PART V

#### ARTICLE 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

#### ARTICLE 47

Nothing in the Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

### PART VI

#### ARTICLE 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

#### ARTICLE 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

#### ARTICLE 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

#### ARTICLE 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference the Secretary-General of the United Nations shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States

Parties being still bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

#### ARTICLE 52

Irrespective of the notification made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 48;
- (b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

#### ARTICLE 53

1. The Present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

### OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

*The States Parties to the present Protocol,*

*Considering that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as "the Covenant") and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as "the Committee") to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant,*

*Have agreed as follows:*

#### ARTICLE 1

A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals, subject to its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No commu-

nication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

## ARTICLE 2

Subject to the provision of Article 1, individuals claiming that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

## ARTICLE 3

The Committee shall consider inadmissible any communication under this Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with provisions of the Covenant.

## ARTICLE 4

1. Subject to the provisions of Article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.

2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

## ARTICLE 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.

2. The Committee shall not consider any communication from an individual unless it has ascertained that:

(a) The same matter is not being examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.

3. The Committee shall hold closed meeting when examining communications under the present Protocol.

4. The Committee shall forward its views to the State Party concerned and to the individual.

## ARTICLE 6

The Committee shall include in its annual report under Article 54 of the Covenant a summary of its activities under the present Protocol.

## ARTICLE 7

Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

## ARTICLE 8

1. The present Protocol is open for signature by any State which has signed the Covenant.

2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol to it of the deposit of each instrument of ratification or accession.

## ARTICLE 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

## ARTICLE 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitation or exception.

### ARTICLE 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference the Secretary-General of the United Nations shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties being still bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

### ARTICLE 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General of the United Nations.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under Article 2 before the effective date of denunciation.

### ARTICLE 13

Irrespective of the notifications made under Article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in Article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Signatures, ratifications and accessions under Article 8;
- (b) The date of the entry into force of the present Protocol under Article 9 and the date of the entry into force of any amendments under Article 11;
- (c) Denunciations under Article 12.

**ARTICLE 14**

1. The Present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in Article 48 of the Covenant.

[REPUBLIC ACT No 5186]

AN ACT PRESCRIBING INCENTIVES AND GUARANTEES TO INVESTMENTS IN THE PHILIPPINES, CREATING A BOARD OF INVESTMENTS, APPROPRIATING THE NECESSARY FUNDS THEREFOR AND FOR OTHER PURPOSES.

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

SECTION 1. *Short Title.*—This Act shall be known and cited as the Investment Incentives Act.

SEC. 2. *Declaration of Policy.*—To accelerate the sound development of the national economy in consonance with the principles and objectives of economic nationalism, and in pursuance of a planned, economically feasible and practicable dispersal of industries, under conditions which will encourage competition and discourage monopolies, it is hereby declared to be the policy of the state to encourage Filipino and foreign investments, as hereinafter set out, in projects to develop agricultural, mining and manufacturing industries which increase national income most at the least cost, increase exports, bring about greater economic stability, provide more opportunities for employment, raise the standards of living of the people, and provide for an equitable distribution of wealth. It is further declared to be the policy of the state to welcome and encourage foreign capital to establish pioneer enterprises that are capital intensive and would utilize a substantial amount of domestic raw materials, in joint venture with substantial Filipino capital, whenever available.

SEC. 3. *Definition of Terms.*—For purposes of this Act:

(a) "Board" shall mean the Board of Investments created under this Act.

(b) "Registered enterprise" shall mean a corporation (1) incorporated, organized and existing under Philippine laws, (2) of which, except as provided in Section nineteen of this Act, at least sixty per cent of the capital stock outstanding and entitled to vote is owned and held by Philippine Nationals, and at least sixty per cent of the members of the Board of Directors are citizens of the Philippines, (3) engaged in a preferred area of investment, and

(4) duly registered with the Board of investments; *Provided, however,* That the term registered enterprise shall not include commercial banks, savings and mortgage banks, rural banks, savings and loan associations, building and loan associations, development banks, trust companies, investment banks, finance companies, brokers and dealers in securities, consumers cooperatives and credit unions and other business organizations whose principal purpose or principal source of income is to receive deposits, lend or borrow money, buy and sell or otherwise deal, trade or invest in common or preferred stocks, debentures, bonds or other marketable instruments generally recognized as securities, or discharge other similar intermediary, trust or fiduciary functions; neither shall the term include business organizations whose exclusive or principal purpose is to provide services or buy goods and merchandise and resell the same in substantially the same form in which bought.

(c) "*Technological assistance contracts*" shall mean contracts for: (1) the transfer, by license or otherwise, of patents, processes, formulas or other technological rights of foreign origin; and/or (2) foreign assistance concerning technical and factory management, design, planning, construction and similar matters.

(d) "*Foreign loan*" shall mean any credit facility or financial assistance other than equity investment obtained by a registered enterprise from a source outside the Philippines and brought into the Philippines either in foreign exchange or in other assets, and registered with the Central Bank and the Board, which shall assess and appraise the assets other than foreign exchange representing the proceeds of the loan.

(e) "*Foreign investments*" shall mean equity investment, owned by a non-Philippine National in a registered enterprise, made in the form of foreign exchange or other assets actually transferred to the Philippines and registered with the Central Bank and the Board, which shall assess and appraise the value of such assets other than foreign exchange.

(f) "*Philippine National*" shall mean a citizen of the Philippines; or a partnership or association wholly owned by citizens of the Philippines; or a corporation organized under the laws of the Philippines of which at least sixty per cent of the capital stock outstanding and entitled to vote is owned and held by citizens of the Philippines; or a trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine National and at least sixty per cent of the fund will accrue to the benefit of Philippine Nationals: *Provided,* That where a corporation and its non-Filipino stockholders own stock in a registered enterprise, at least sixty per cent of the capital stock outstanding

and entitled to vote of both corporations must be owned and held by the citizens of the Philippines and at least sixty per cent of the members of the Board of Directors of both corporations must be citizens of the Philippines in order that the corporation shall be considered a Philippine National.

(g) "*Preferred areas of investment*" shall mean the economic activities that the Board shall have declared as such in accordance with Section eighteen hereof.

(h) "*Pioneer enterprise*" shall mean a registered enterprise (1) engaged in the manufacture, processing, or production, and not merely in the assembly or packaging, of goods, products, commodities or raw materials that have not been or are not being produced in the Philippines on a commercial scale or (2) which uses a design, formula, scheme, method, process or system of production or transformation of any element, substance or raw material into another raw material or finished good which is new and untried in the Philippines: *Provided*, That the final product involves or will involve substantial use and processing of domestic raw materials, whenever available.

(i) "*Measured capacity*" shall mean the estimated additional volume of production which the Board determines to be desirable in each preferred and pioneer area of investment, in order to supply the needs of the economy at reasonable prices, taking into account the export potential of the area. Measured capacity shall not be less than the amount by which the measurable market demand exceeds the existing productive capacity in said preferred and pioneer areas nor shall measured capacity be so much in excess of measurable market demand as to foster or encourage overcrowding in any such area. For export market industries, the Board shall base measured capacity on the availability of domestic raw materials after deducting the needs of the domestic market therefor. In no case shall measured capacity be construed so as to result in a monopoly in any preferred or pioneer area of investment.

(j) "*Tax credit*" shall mean any of the credits against taxes extended to a registered enterprise by this Act, to evidence which a tax credit certificate shall be issued by the Bureau of Internal Revenue. Unless otherwise provided herein, the tax credit certificate may be used by the registered enterprise to pay taxes, duties, charges and fees due to the national government in connection with its registered operations. A tax credit certificate shall be non-transferable; it may be used by the registered enterprise only for as long as it enjoys the benefits and incentives provided for in this Act, but may not be used so as to result in a refund.

(k) "*Investments Priorities Plan*" shall mean the plan prepared by the Board and approved by the President upon recommendation of the National Economic Council, which shall contain the analysis, synthesis, and projections of data collected by the Board from public and private sources, and which measures and indicates:

(1) The existing and prospective demand for specific products and commodities, final and intermediate, in the light of the level and structure of income, production, trade, prices and relevant economic and technical factors;

(2) The existing capacities for producing specific products and commodities;

(3) The gaps between prospective demand and existing supply for specific products and commodities, and the additional production capacities that must be induced where such gaps exist;

(4) The specific products and commodities, manufactured out of or with the use of domestic raw materials, the export of which should be encouraged;

(5) The specific areas of economic activity to be declared preferred and pioneer areas of investment and the corresponding measured capacities thereof;

(6) The capital investments necessary to bring such additional capacities into existence;

(7) The raw material input requirements of the additional production capacities needed, and the sources thereof, whether domestic or imported;

(8) The manpower requirements of existing and new industries;

(9) The regions where such additional capacities can be located considering the presence of natural resources, labor, transport facilities, power, water supply, and the like;

(10) The respective roles and responsibilities of the private sector and the government in bringing such additional capacities into existence;

(11) The specific public works projects that need to be undertaken by the government and the capital investment required therefor, to make private investments in preferred and pioneer areas feasible;

(12) The prospective impact of the projected investments on prices, the exchange rate and the balance of payments;

(13) The changes in tariffs that would be required for the protection of industry during its infant state;

(14) The minimum requirements for maintaining conditions of competition in any industry; and

(15) Other similar or relevant factors which the Board considers desirable to include.

**Sec. 4 Basic Rights and Guarantees.**—All investors and enterprises are entitled to the basic rights and guarantees provided in the Constitution. Among other rights recognized by the Government of the Philippines are the following:

(a) *Repatriation of Investment.* — In the case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation, subject to the provisions of Section seventy-four of Republic Act Numbered Two hundred sixty-five.

(b) *Remittance of Earnings.*—In the case of foreign investments, the right to remit earnings from the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance, subject to the provisions of Section seventy-four of Republic Act Numbered Two hundred sixty-five.

(c) *Foreign Loans and Contracts.*—The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from technological assistance contracts, subject to the provisions of Section seventy-four of Republic Act Numbered Two hundred sixty-five.

(d) *Freedom from Expropriation.*—There shall be no expropriation by the government of the property represented by investments or of the property of enterprises except for public use or in the interest of national welfare and defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate at the time of remittance, subject to the provisions of Section seventy-four of Republic Act Numbered Two hundred sixty-five.

(e) *Requisition of Investment.*— There shall be no requisition of the property represented by the investment or of the property of enterprises, except in the event of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid either at the time of requisition or immediately after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance, subject to the provisions of Section seventy-four of Republic Act Numbered Two hundred sixty-five.

**SEC. 5. *Incentives to Investors in a Registered Enterprise.***—An investor, with respect to his investment in a registered enterprise, shall be granted the following incentive benefits:

(a) *Protection of Patents and Other Proprietary Rights.*—The right to be protected from infringement of patents, trademarks, copyright, trade names, and other proprietary rights, where such patents, trademarks, copyright, trade names, and other proprietary rights have been registered with the Board and the appropriate agencies of the Government of the Philippines.

(b) *Capital Gains Tax Exemption.*—Exemption from income tax on that portion of the gains realized from the sale, disposition, or transfer of capital assets, as defined in Section thirty-four of the National Internal Revenue Code, that corresponds to the portion of the proceeds of the sale that is invested in new issues of capital stock of a registered enterprise within six months from the date the gains were realized: *Provided*, (1) that the said sale, disposition or transfer and the investment of the proceeds thereof have been registered with the Board and the Bureau of Internal Revenue; and (2) that the shares of stock representing the investment are not disposed of, transferred, assigned, or conveyed for a period of five years from the date the investment was made. If such shares of stock are disposed of within the said period of five (5) years, all taxes due on the gains realized from the original transfer, sale or disposition of the capital assets shall immediately become due and payable.

**SEC. 6. *Incentives to Philippine Nationals Investing in Pioneer Enterprises.***—In addition to the incentives provided in the preceding sections, Philippine Nationals investing in a pioneer enterprise shall be granted the following incentives benefits:

(a) *Tax Allowance for Investments.*—An investment allowance to the extent of his actual investment paid in cash or property shall be allowed as a deduction from his taxable income but not to exceed ten per cent thereof: *Provided*, (1) That the investment is made in a subscription of shares in the original and/or increased capital stock of a pioneer enterprise within seven years from the date of registration; (2) that the shares are held for a period of not less than three years; and (3) that the investment is registered with the Board. If the shares are disposed of within the said three-year period, the taxpayer shall lose the benefit of this deduction, his income tax liability shall be recomputed, and he shall pay whatever additional sum be due plus interest thereon, within thirty days from the date of disposition.

(b) *Capital Gains Tax Exemption.*—Exemption from income tax on the portion of the gains realized from the sale, disposition,

or transfer of capital assets, as defined in Section thirty-four of the National Internal Revenue Code, that corresponds to the portion of the proceeds of the sale that is invested in new issues of capital stock of, or in the purchase of stock owned by foreigners in, pioneer enterprises, within six months from the date the gains were realized: *Provided*, (1) That such sale, disposition or transfer and the investment of the proceeds thereof are registered with the Board and the Bureau of Internal Revenue; and (2) that the shares of stock representing the investment are not disposed of, transferred, assigned or conveyed for a period of three (3) years from the date the investment was made. If said shares of stock are disposed of within the said period of three (3) years, all taxes due on the gains realized from the original transfer, sale or disposition of the capital assets shall immediately become due and payable.

(c) *Tax Exemption on Sales of Stock Dividends.*—Exemption from income tax on all gains realized from the sale, disposition, or transfer of stock dividends received from a pioneer enterprise: *Provided*, That the sale, disposition or transfer occurs within seven years from the date of registration of the enterprise.

SEC. 7. *Incentives to a Registered Enterprise.*—A registered enterprise, to the extent engaged in a preferred area of investment, shall be granted the following incentive benefits:

(a) *Deduction of Organizational and Pre-Operating Expenses.*—All capitalized organizational and pre-operating expenses attributable to the establishment of a registered enterprise may be deducted from its taxable income over a period of not more than ten years beginning with the month the enterprise begins operations, provided the taxpayer indicates the desired amortization period at the time of the filing of income tax returns for the first taxable year. For the purpose of this provision, organizational and pre-operating expenses shall include expenses for pre-investment studies, start up costs, costs of initial recruitment and training, and similar expenses.

(b) *Accelerated Depreciation.*—At the option of the taxpayer and in accordance with the procedure established by the Bureau of Internal Revenue, fixed assets may be (1) depreciated to the extent of not more than twice as fast as normal rate of depreciation or depreciated at normal rate of depreciation if expected life is ten years or less; or (2) depreciated over any number of years between five years and expected life if the latter is more than ten (10) years; and the depreciation thereon allowed as a deduction from taxable income: *Provided*, That the taxpayer notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this section will be used by it.

(c) *Net Operating Loss Carry-over.*—A net operating loss incurred in any of the first ten years of operations may be carried over as a deduction from taxable income for the six years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the six taxable years following the loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining five years. The net operating loss shall be computed in accordance with the provisions of the National Internal Revenue Code, any provision of this Act to the contrary notwithstanding, except that income not taxable either in whole or in part under this or other laws shall be included in gross income.

(d) *Tax Exemption on Imported Capital Equipment.*—Within seven years from the date of registration of the enterprise, importation of machinery and equipment, and spare parts shipped with such machinery and equipment, shall not be subject to tariff duties and compensating tax: *Provided*, That said machinery, equipment and spare parts: (1) are not manufactured domestically in reasonable quantity and quality at reasonable prices; (2) are directly and actually needed and will be used exclusively by the registered enterprise in the manufacture of its products; (3) are covered by shipping documents in the name of the registered enterprise to whom the shipment will be delivered direct by customs authorities; (4) the prior approval of the Board was obtained by the registered enterprise before the importation of such machinery, equipment, and spare parts; and (5) the registered enterprise chooses not to avail of the privileges granted by Republic Act Numbered Thirty-one hundred twenty-seven, as amended. If the registered enterprise sells, transfers, or disposes of these machinery, equipment and spare parts without the prior approval of the Board within five (5) years from the date of acquisition, the registered enterprise shall pay twice the amount of the tax exemption given it. However, the Board shall allow and approve the sale, transfer, or disposition of the said items within the said period of five (5) years if made: (1) to another registered enterprise; (2) for reasons of proven technical obsolescence; or (3) for purposes of replacement to improve and/or expand the operations of the enterprise.

(e) *Tax Credit on Domestic Capital Equipment.*—A tax credit equivalent to one hundred per cent (100%) of the value of the compensating tax and customs duties that would have been paid on the machinery, equipment and spare parts had these items been imported shall be given to the registered enterprise who purchases

machinery, equipment and spare parts from a domestic manufacturer, and another tax credit equivalent to fifty per cent (50%) thereof shall be given to the said manufacturer: *Provided*, (1) That the said machinery, equipment and spare parts are directly and actually needed and will be used exclusively by the registered enterprise in the manufacture of its products; (2) that the prior approval of the Board was obtained by the local manufacturer concerned; and (3) that the sale is made within seven years from the date of registration of the registered enterprise. If the registered enterprise sells, transfers or disposes of these machinery, equipment and spare parts without the prior approval of the Board within five years from the date of acquisition, then it shall pay twice the amount of the tax credit given it. However, the Board shall allow and approve the sale, transfer, or disposition of the said items within the said period of five years if made (1) to another registered enterprise; (2) for reasons of proven technical obsolescence; or (3) for purposes of replacement to improve and/or expand the operations of the enterprise.

(f) *Tax Credit for Withholding Tax on Interest*.—A tax credit for taxes withheld on interest payments on foreign loans shall be given a registered enterprise when (1) no such credit is enjoyed by the lender-remittee in his country and (2) the registered enterprise has assumed the liability for payment of the tax due from the lender-remittee.

(g) *Employment of Foreign Nationals*.—Subject to the provisions of Section twenty-nine of Commonwealth Act Numbered Six hundred thirteen, as amended, an enterprise may, within five years from registration, employ foreign nationals in supervisory, technical or advisory positions not in excess of five *per centum* of its total personnel in each such category: *Provided*, That in no case shall each employment exceed five years. The employment of foreign nationals after five years from registration, or within such five years but in excess of the proportion herein provided, shall be governed by Section twenty of Commonwealth Act Numbered Six hundred thirteen, as amended.

Foreign nationals under employment contract within the purview of this Act, their spouse and unmarried children under twenty-one years of age, who are not excluded by Section twenty-nine of Commonwealth Act Numbered Six hundred thirteen, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals.

A registered enterprise shall train Filipinos in administrative, supervisory, and technical skills and shall submit annual reports on such training to the Board of Investments.

(h) *Deduction for Expansion Reinvestment.*—When a registered enterprise reinvests its undistributed profit or surplus by actual transfer thereof to the capital stock of the corporation for procurement of machinery, equipment and spare parts previously approved by the Board under Subsections “d” and “e” hereof or for the expansion of machinery and equipment used in production or for the construction of the buildings, improvements or other facilities for the installation of the said machinery and equipment, the amount so reinvested shall be allowed as a deduction from its taxable income in the year in which such reinvestment was made: *Provided*, (1) That prior approval by the Board of such reinvestment was obtained by the registered enterprise planning such reinvestment, and (2) that the registered enterprise does not reduce its capital stock represented by the reinvestment within seven years from the date such reinvestment was made. In the event the registered enterprise does not order the machinery and equipment within two (2) years from the date the reinvestment was made or reduces its capital stock represented by the reinvestment within a period of seven years from the date of reinvestment, a recomputation of the income tax liability therefor shall be made for the period when the deduction was made, and the proper taxes shall be assessed and paid with interest.

(i) *Anti-Dumping Protection.*—Upon recommendation of the Board, made after notice and hearing, the President shall issue a directive banning for a limited period the importation of goods or commodities which, as provided in Section three hundred one (a) of the Tariff and Customs Code of the Philippines, unfairly or unnecessarily compete with those produced by registered enterprises: *Provided*, (1) That the Board certifies to the satisfactory quality of the goods or commodities produced or manufactured by the registered enterprises; and (2) that the enterprises agree not to increase the price of these goods or commodities during this period, unless for good cause, the Board allows such an increase.

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

SEC. 8. *Incentives to a Pioneer Enterprise.*—In addition to the incentives provided in the preceding section, pioneer enterprises shall be granted the following incentives benefits:

(a) *Tax Exemptions.*—Exemption from all taxes under the National Internal Revenue Code, except income tax, to the following extent:

- (1) One hundred per cent up to December 31, 1972;
- (2) Seventy-five per cent up to December 31, 1975;
- (3) Fifty per cent up to December 31, 1977;
- (4) Twenty per cent up to December 31, 1979;
- (5) Ten per cent up to December 31, 1981.

(b) *Employment of Foreign Nationals.*—Subject to the provisions of Section twenty-nine of Commonwealth Act Numbered Six hundred thirteen, as amended, to employ and bring into the Philippines foreign nationals under the following conditions:

- (1) That all such foreign nationals shall register with the Board;
- (2) That the employment of all foreign nationals shall cease and they shall be repatriated five years after the registered enterprise has begun operating: *Provided*, That when the majority of the capital stock of the pioneer enterprise is owned by foreign investors, the positions of president, treasurer and general manager, or their equivalents, may be retained by foreign nationals. In exceptional cases, the Board may allow employment of foreign nationals in other positions that cannot be filled by Philippine nationals, but in such cases the limitations of Section seven paragraph (g) of this Act shall apply.

Foreign nationals under employment contract within the purview of this Act, their spouse and unmarried children under twenty-one years of age, who are not excluded by Section twenty-nine of Commonwealth Act Numbered Six hundred thirteen, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals.

(c) *Post-Operative Tariff Protection.*—Upon recommendation of the Board, the President, with or without the recommendation of the Tariff Commission or the National Economic Council, shall issue a certification that a pioneer industry shall be entitled to post-operative tariff protection to an extent not exceeding fifty per cent of the dutiable value of imported items similar to those being manufactured or produced by a pioneer enterprise, unless a higher rate or amount is provided for in the Tariff Code or pertinent laws. Said tariff shall take effect automatically upon certification by the Board that the pioneer enterprise is operating on a commercial scale: *Provided*, That said tariff, once operative, may be modified in accordance with Section four hundred one of the Tariff and Customs Code.

**SEC. 9. *Special Export Incentives for Registered Enterprises.***—Registered enterprises shall be entitled to the following special incentives for exports of their completely finished products and commodities:

(a) *Double Deduction of Promotional Expenses.*—To deduct from taxable income twice the amount of the ordinary and necessary expenses incurred for the purpose of promoting the sale of their products abroad;

(b) *Double Deduction of Shipping Costs.*—To deduct from taxable income twice the amount of shipping freight incurred in connection with the export of their products, if the shipments are made in vessels of Philippine registry to their regular ports of call; and to deduct one hundred fifty per cent (150%) of the freight when shipments are made in vessels of foreign registry to a port which is not a regular port of call of Philippine vessels;

(c) *Special Tax Credit on Raw Materials.*—A tax credit equivalent to seven per cent (7%) of the total cost of the raw materials and supplies purchased by registered enterprises or an amount equivalent to the taxes actually paid by registered enterprises on said raw materials, whichever is higher, to the extent used in manufacturing exported products and commodities.

Before registered enterprises may avail themselves of the foregoing exports incentives benefits, they shall apply first with the Board, which shall approve the application upon proof: (1) that the enterprise proposes to engage in good faith in creating a market for its product abroad; (2) that the product to be included in the investment priorities plan as suitable for export, or if not so included that its export will not adversely affect the needs of the domestic market for the finished product to be exported or for the domestic raw materials used in its manufacture; (3) that the enterprise has or will set up an adequate accounting system to segregate revenues, purchases and expenses of its export market operations from those of its domestic market operations; and (4) that the exported products and commodities meet the standards of quality established by the Bureau of Standards or, in default thereof, by the Board.

**SEC. 10. *Preference in Grant of Government Loans.***—Government financial institutions such as the Development Bank of the Philippines, Philippine National Bank, Government Service Insurance System, Social Security System, Land Bank, and such other government institutions as are now engaged or may hereafter engage in financing or investment operations shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters

of applicable laws, accord high priority to applications for financial assistance submitted by pioneer and other registered enterprises, whether such financial assistance be in the form of equity participation in preferred, common, or preferred convertible shares of stock, or in loans and guarantees, and shall facilitate the processing thereof and the release of the funds therefor. However, no financial assistance shall be extended under this section to any investor or enterprise that is not a Philippine National.

The above-mentioned financial institutions, to the extent allowed by their respective charters or applicable laws, shall contribute to the capital of a registered enterprise whenever the said contribution would enable the formation of a pioneer or other registered enterprise with at least sixty per cent control by Philippine Nationals: *Provided*, That the capital contribution of the said financial institutions shall be limited to the amount that cannot be contributed by private Filipino investors, and shall in no case exceed thirty per cent of the total capitalization of the pioneer or other registered enterprises. The shares representing the contribution of the said financial institutions shall be offered for public sale to Philippine Nationals through all the members of a registered Philippine stock exchange.

To facilitate the implementation of the provisions of this Section, all the said financial institutions shall coordinate their financial assistance programs with each other, exchange relevant information about applicants and applications, and submit a monthly report to the Board showing the amount of funds available for financial assistance to pioneer or other registered enterprises. The Board shall recommend to the Board of Directors of each such financial institution what order of priority shall be given the applications of pioneer and other registered enterprises, or of applicants that propose to seek registration as such.

SEC. 11. *Private Financial Assistance*.—Any provision of existing laws to the contrary notwithstanding, the Insurance Commissioner is hereby authorized to allow insurance companies, under such rules and regulations as he may issue, to invest in new issues of stock of registered enterprises, notwithstanding that said enterprises may not have paid regular dividends, to the extent set out in section two hundred, paragraphs (c) and (f) of the Insurance Act, as amended: *Provided*, that said investments are diversified.

SEC. 12. *Loans for Investment*.—The Government Service Insurance System and the Social Security System shall extend to their respective members five-year loans at a rate of interest not to exceed six per cent *per annum* for the purchase of shares of stock in any registered enterprise: *Provided*, That (1) the shares

so purchased shall be deposited in escrow with the lending institution for the full five-year term of the loan; partial releases of the shares shall, however, be allowed to the extent of the payment of amortization made therefor; (2) such loans shall be amortized in sixty equal monthly installments which shall be withheld by the employer from the monthly salary of the employee concerned and remitted to the lending institution by the employer; but any and all dividends earned by shares of stock while they are held in escrow shall be delivered to the employee; and (3) the maximum loan available to each employee in any one calendar year shall not exceed fifty *per centum* of the employee's annual gross income: *Provided, further, That the total investment of the government financial institution concerned, consisting of its direct investment in the registered enterprise and the loans it has extended to its respective members which have been invested by the members in a registered enterprise, shall not be more than forty-nine per cent (49%) of the total capitalization of the registered enterprise in which the investments have been made.*

**SEC. 13. Board of Investments.**—To carry out the purposes of this Act, there is hereby created a Board of Investments which shall be organized within sixty days after the approval of this Act, composed of five full-time members to be appointed by the President of the Philippines with the consent of the Commission on Appointments, from a list of nominees submitted by the Chamber of Commerce of the Philippines, the Chamber of Industries, Base Metals Producers Association, Gold Producers Association, Chamber of Agriculture and Natural Resources of the Philippines, the Bankers Association of the Philippines and other similar business organizations as well as from duly organized and existing labor confederations, federations and other organizations of national standing in the Philippines from which the President may request nominees: *Provided, That each association shall submit a list of not less than three (3) but not more than five (5) nominees and that no association shall have more than one member in the Board at any particular time: And provided, further, That the President may appoint as members of the Board qualified persons who have not been so nominated. The Board shall elect a Chairman from among themselves. The tenure of office of each member shall be six (6) years: Provided, however, That the members of the Board first appointed shall hold office for two (2) years, three (3) years, four (4) years, five (5) years and six (6) years as fixed in their respective appointments: Provided, further, That upon the expiration of his term, a member shall serve as such until his successor shall have been appointed and qualified: Provided, finally, That no vacancy*

shall be filled except for the unexpired portion of any term, and that no one may be designated to be a member of the Board in an acting capacity, but all appointments shall be *ad interim* or permanent.

For administrative purposes, the Board shall be under the Office of the President of the Philippines.

SEC. 14. *Qualifications of Members of the Board.*—The members of the Board shall be citizens of the Philippines, at least thirty (30) years old, of good moral character, and of recognized competence in the field of economics, finance, banking, commerce, industry, agriculture, engineering, management, law or labor, such competence to be certified by the association making the nomination or by the association whose members belong to the same profession, calling or occupation as the person appointed. No member of the Board may be a candidate for any elective office during his incumbency and within four (4) years from the date he ceases to be a member of the Board; nor shall he during his incumbency and for a period of seven (7) years thereafter invest or have any financial interest, direct or indirect, in any enterprise registered during his incumbency, except where such interest was acquired by intestate succession or as a compulsory heir in a testate succession.

SEC. 15. *Compensation of the Chairman and Members of the Board.*—The Chairman shall receive an annual salary of fifty thousand pesos (P50,000.00) and a monthly commutable allowance of two thousand pesos (P2,000.00), and each member shall receive an annual salary of forty thousand pesos (P40,000.00) and a monthly commutable allowance of one thousand five hundred pesos (P1,500.00).

SEC. 16. *Powers and Duties of the Board.*—The Board shall meet as often as may be necessary, but not less than once each week on such day as it may fix. Notice of special meetings shall be given all members of the Board and proof of such notice shall be spread upon the minutes. The presence of three (3) members shall constitute a *quorum*; and the affirmative vote of three (3) members in a meeting validly held shall be necessary to exercise its powers and perform its duties, which shall be as follows:

(a) Draw up annually an investments priorities plan in the manner prescribed in Section eighteen which shall be the basis for the implementation of this Act;

(b) Promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Act, which rules and regulations shall take effect thirty (30) days after their publication in two (2) newspapers of general circulation in the Philippines;

(c) Process and approve, imposing such terms and conditions as it may deem necessary to promote the objectives of this Act, applications for registration under this Act, and issue the proper certificate of registration upon payment of the necessary fees, which shall not exceed two hundred pesos;

(d) After due hearing, decide controversies concerning the implementation of this Act that may arise between registered enterprises or investors therein and government agencies, within thirty (30) days after the controversy has been submitted for decision: *Provided*, That the investor or the registered enterprise may appeal from the decision of the Board within fifteen (15) days from receipt thereof to the Court of First Instance of the City of Manila or of the city or province where the principal office of the registered enterprise is located, in the manner provided for by the Rules of Court in cases of this nature;

(e) Recommend to the Commissioner of Immigration the entry into the Philippines for employment of foreign nationals as permitted in Sections seven and eight of this Act;

(f) Periodically check and verify, either by inspection of the books or by requiring regular reports, the proportion of the participation of Philippine Nationals in a registered enterprise to ascertain compliance with its qualification to retain registration under this Act;

(g) Periodically check and verify the compliance by registered enterprises with the provisions of this Act, with the rules and regulations promulgated under this Act and with the terms and conditions of registration;

(h) After notice and hearing, cancel the registration or suspend the enjoyment of incentive benefits of any registered enterprise for (1) failure to maintain the qualifications required by this Act for registration or (2) for wilfull or grossly negligent violation of any provision of this Act, of the rules and regulations issued under this Act, or the terms and conditions of registration, or of laws for the protection of labor or of the consuming public: *Provided*, That the registered enterprise affected by the order of cancellation or suspension may appeal within fifteen (15) days from the receipt of the order to the Court of First Instance of the City of Manila or of the city or province where the principal office of the registered enterprise is located;

(i) Appoint, discipline and remove, and determine the compensation of, its technical staff and other personnel: *Provided*, That, except as to the technical staff and such other positions as the Board may declare to be highly technical or primarily confidential, all positions in the Board are subject to the provisions of

the Civil Service Law and Rules, but are exempt from the regulations of the Wage and Position Classification Office;

(j) Prepare or contract for the preparation of feasibility and other pre-investment studies for pioneer areas either upon its own initiative or upon the request of Philippine Nationals who commit themselves to invest therein and show the capability of doing so, and upon condition that in no case shall the expenditure of the Board exceed one hundred twenty-five thousand pesos (P125,000) per study: *Provided*, That if the venture is implemented, then the amount advanced by the Board should be repaid within five (5) years from the date the commercial operation of said enterprise starts;

(k) Within four (4) months after the close of the fiscal year, submit annual reports to the President and Congress, with copies to each member thereof, which shall cover its activities in the administration of this Act, including recommendations on investment policies; and

(l) Generally, exercise all the powers necessary or incidental to attain the purposes of this Act.

SEC. 17. *Powers and Duties of the Chairman.*—The Chairman shall also be the Managing Head of the Board, and shall have the following powers and duties:

(a) Prepare the agenda for the meetings of the Board and submit for its consideration and approval the policies and measures which he deems necessary and proper to carry out the provisions of this Act;

(b) Manage the affairs of the Board subject to the policies of the Board;

(c) Gather and compile statistical data required for the effective implementation of this Act;

(d) Provide, through Philippine diplomatic missions, such information as may be of interest to prospective foreign investors;

(e) Collate, analyze and compile pertinent information and studies concerning areas that have been or may be declared preferred or pioneer areas of investment;

(f) Assist registered enterprises and prospective investors to have their papers processed with dispatch by all government offices, agencies, instrumentalities and financial institutions;

(g) Act as liaison between investors seeking joint venture arrangements in particular areas of investment; and

(h) Perform such other duties as may be assigned to him by the Board.

**SEC. 18. Preferred and Pioneer Areas of Investment.**—Within one hundred twenty (120) days after its organization and not later than the end of January of every year thereafter, the Board of Investments shall submit to the President, through the National Economic Council, an Investments Priorities Plan as defined in Section three, paragraph (k) of this Act.

In determining the preferred and pioneer areas of investment and their corresponding measured capacities, the Board shall determine which areas of investment best accomplish the policy declared in this Act, including those which will economically produce goods for domestic use in substitutions for goods being imported in large quantities, and especially those which will process further and thereby increase the value of agricultural, mining and timber products already being produced for export or which will make products at costs low enough to be sold competitively in export markets. Any area of investment where an enterprise: (1) is engaged in the exportation of finished products completely processed and manufactured in the Philippines with at least seventy (70%) per cent of the peso value of its total raw material content being Philippine raw material; (2) is exporting more than fifty (50%) per cent of its total production; and (3) does not enjoy any preferential treatment arising from any agreement or arrangement between the Philippine government and the importing country; shall be considered a preferred area of investment and included in the Investment Priorities Plan.

The Board shall take into account all the following criteria:

- (a) The gaps between prospective demand and existing supply for specific products, commodities and services, and the additional production capacities that must be induced where such gaps exist;
- (b) The potential of such areas of investments for creating new markets both domestic and foreign, for domestic suppliers of raw materials and/or intermediate goods, or new sources of supply for domestic consumers of the products;
- (c) The potential of such areas of investments for creating productive employment, considering the necessity for the dispersal of industries in the country on a planned and balanced basis to the extent that is economically feasible and practicable;
- (d) The extent to which investment in such areas will integrate existing production facilities;
- (e) The amounts of import substitution or of new exports such areas of investment will promote;
- (f) The amount of capital normally needed thereby;

(g) The nature of the risks, commercial or otherwise, which may be entailed;

(h) The proportion of the required capital, raw material and labor inputs of indigenous origin;

(i) The rate of profitability;

(j) The rate of return to the economy;

(k) The maintenance of competition; and

(l) Such other criteria as the Board may adopt.

Considering the amount of investment capital which the Board may estimate to be available during any given year, the Board shall give priority to projects with the highest rates of return to the national economy. No project shall be included in the Investment Priorities Plan, nor declared a preferred area of investment, nor designated a pioneer area, unless it is shown to be economically, technically and financially sound after thorough investigation and analysis by the Board. In any of the areas declared preferred areas of investment, the Board may designate as pioneer areas the specific products and commodities that meet the requirements of Section three, paragraph (h) of this Act.

The National Economic Council, within sixty (60) days from receipt of the plan from the Board, shall evaluate and submit the same, with its recommendation on the entire plan or portions of it, to the President for his approval. If the National Economic Council fails to act on the plan within the said period of sixty (60) days, it shall automatically be submitted to the President for approval.

Upon approval, the President shall proclaim the whole or part of such plan as in effect; or alternatively, return the whole or part of the plan to the Board of Investments for revision. Portions not returned to the Board of Investments shall be proclaimed in effect.

Upon the effectivity of the plan or portions thereof, the President shall issue all necessary directives to all departments, bureaus, agencies and instrumentalities of the government to ensure the implementation of the plan by the agencies concerned in a synchronized and integrated manner. No government body shall adopt any policy or take any course of action contrary to or inconsistent with the plan.

The Board of Investments may, after notice and public hearing, amend the whole or any part of the plan, alter any of the terms of the declaration of an investment area, or the designation of measured capacities, or terminate the status of preference or pioneer: *Provided*, That in all such cases the procedures outlined in this sections are observed to the extent that they are applicable. In no case, however, shall any amendment of the plan impair whatever

rights may have already been legally vested in qualified enterprises which shall continue to enjoy such rights to the full extent allowed under this Act. The Board shall not accept applications in an area of investment prior to the approval of the same as a preferred or pioneer area by the President nor after approval of its deletion as a preferred or pioneer area of investment. Upon approval of the plan, in whole or in part, or upon approval of an amendment thereof, the plan or the amendment, specifying and declaring the preferred and pioneer areas of investment and their corresponding measured capacity shall be published in the Official Gazette and in at least two newspapers of general circulation, and all such areas shall be open for application until publication of an amendment or deletion thereof, or until the Board approves registration of enterprises which fill the measured capacity.

**SEC. 19. Qualification of Applicants.**—To be entitled to registration, an applicant must satisfy the Board that:

(a) It possesses the qualifications prescribed for registered enterprises in Section three, paragraph (b) of this Act; or if it does not possess the required degree of ownership by Philippine Nationals, the following circumstances must be satisfactorily established:

(1) That it is otherwise qualified under Section three, paragraph (b) of this Act;

(2) That it proposes to engage in a pioneer project as defined in Section three, paragraph (h) of this Act which, considering the nature and extent of capital requirements, processes, technical skills and relative business risks involved, is in the opinion of the Board of such a nature that the available measured capacity thereof cannot be readily and adequately filled by Philippine Nationals;

(3) That it obligates itself to attain the status of a Philippine National as defined in Section three, paragraph (f) of this Act by:

- (1) having its shares of stock listed with a Philippine stock exchange within ten (10) years from the date of registration; and
- (2) actually offering for sale the said shares to Philippine Nationals not later than the beginning of the eleventh year from the date of its registration. In any event, a sufficient number of shares must be disposed of within a period of twenty (20) years from the date of its registration to enable Philippine Nationals to hold and own at least sixty per cent (60%) of the capital stock outstanding and entitled to vote of said enterprise: *Provided, however,* That the Board may extend this period for another period not to exceed twenty years, subject to such conditions as it may impose in the national interest, and upon proof by the registered enterprise (1) that it has made a *bona fide* offer to sell the

required number of shares to Philippine Nationals as required by this Section but Philippine Nationals have not bought the same; and (2) that it has not offered to buy and has not bought shares of stock from Philippine Nationals; or (3) that such other cause exists as the Board may deem sufficient to justify the extension of the period.

(4) That the pioneer area it will engage in is one that is not within the activities reserved by the Constitution or other laws of the Philippines to Filipino citizens or corporations owned and controlled by Filipino citizens.

(b) The enterprise is proposing to start and operate a preferred or pioneer project, or only a pioneer project in the case of non-Philippine enterprises, within a reasonable time to be fixed by the Board;

(c) The enterprise is capable of operating on a sound and efficient basis and of contributing to the national development of the preferred or pioneer area in particular and of the national economy in general;

(d) If the enterprise is engaged or proposes to engage in undertakings or activities other than preferred or pioneer projects in addition to the project mentioned in subsection (b) hereof, it has installed or undertake to install an accounting system adequate to identify the investments, revenues, costs, and profits or losses of each preferred or pioneer project undertaken by the enterprise separately from the aggregate investment, revenues, costs, and profits or losses of the whole enterprise or to establish a separate corporation for each preferred or pioneer project if the Board should so require to facilitate proper implementation of this Act.

Notwithstanding the provisions of paragraphs (a) and (b) of this Section, if the measured capacity of any preferred, non-pioneer area is not filled within three years from the date of its declaration as a preferred, non-pioneer area, the Board shall allow enterprises not possessing the required percentage of Philippine ownership and control, but otherwise qualified, to be registered in such areas, under the conditions prescribed above for pioneer areas.

**SEC. 20. Application.**—Applications shall be recorded in a registration book and shall be processed in the order in which they are filed; and for this purpose the date appearing on the registration book and stamped on the application shall be considered the date of filing. The Board shall cease to register any enterprise in a preferred or pioneer area of investment when the measured capacity therein has been filled; but all enterprises registered within the measured capacity shall enjoy the status of preferred or pioneer enterprises, as the case may be. Where several qualified enter-

prises apply for registration with the Board but the total of their proposed combined production capacities exceeds the available measured capacity of the preferred or pioneer area of investment in which they are proposing to engage, the Board shall approve and register only those that can be accommodated within the available measured capacity and are better suited to achieve the objectives of this Act. The Board shall base its choice on the following criteria:

(a) The extent of ownership and control by Philippine Nationals of the enterprises;

(b) The manner in which the enterprises are integrated, and the length of their experience in the preferred area of investment or in areas closely related to it;

(c) The cost factors and the economies of scale involved in their processes;

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

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

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

(g) The extent to which they shall insure the maintenance of competition within the industry; and

(h) The extent of public participation in the enterprise.

In making a choice between two or more enterprises applying for registration and proposing to produce identical or substantially identical products or commodities, both possessing the required degree of Filipino ownership and control, the Board shall give preference to projects that constitute an expansion of, or addition to or integration of existing facilities whenever these enjoy the advantages of lower costs and economies of scale over projects undertaken in isolation from technically related facilities; and other things being equal, the Board shall give preference to enterprises where the degree of ownership and control by Philippine Nationals is greater.

Nothing in this Section shall be construed to exclude any non-registered enterprises from freely engaging, within existing constitutional and statutory limitations, and without enjoying the incentives benefits provided in this Act, in any line of economic activity or endeavor that has been declared a preferred area of investment: *Provided*, That a non-Philippine National may engage, without incentives, in preferred areas of investment where Philippine Nationals are already engaged only after three (3) years from the date of declaration of the area as preferred if the measured capacity has not

been filled within the said period, except where such non-Philippine National shall engage, without incentives, in the manufacture of finished products primarily for export. The Board shall fix the percentage of production that must be exported by a non-Philippine National in order to be deemed to be engaged in manufacture primarily for export, which percentage shall not be less than seventy per cent (70%) of its total production.

Any order or decision of the Board under this Section may be appealed within thirty (30) days from receipt of said order or decision to the National Economic Council. Upon failure on the part of the National Economic Council to act within the said period of ninety (90) days, the decision of the Board shall be deemed upheld. The Board or the enterprise applying for registration under this Act may appeal the decision of the National Economic Council to the President within thirty (30) days from its promulgation.

**Sec. 21. Certification of Registration.**—All enterprises registered under this Act shall be issued a certificate of registration under the seal of the Board of Investments and the signature of its chairman and/or such other officer or employee of the Board as it may empower and designate for the purpose. The certificate shall be in such form and style as the Board may determine, and shall state, among other matters:

- (a) The name of the registered enterprise;
- (b) The preferred area of investment in which the registered enterprise is proposing to engage;
- (c) The nature of the activity it is undertaking or proposing to undertake, whether preferred or pioneer, and the registered capacity of the enterprise; and
- (d) The other terms and conditions to be observed by the registered enterprise by virtue of the registration.

**Sec. 22. General Provisions.**—Notwithstanding any provision of law to the contrary:

(a) *Number of Directors.*—Registered enterprises may fix the number of their Directors at any number not in excess of fifteen;

(b) *Types of Stock.*—For purposes of transferability, registered enterprises shall issue two types of voting shares of capital stock: one type which may be transferable only to Philippine Nationals and which shall at all times be not less than sixty per cent of the stock entitled to vote; and another which may be transferred to Philippine or foreign nationals, and which shall at no time be more than forty per cent of the voting stock. Each share shall have its type clearly designated on the face of the certificate.

(c) *Marketing Affiliate*.—Philippine Nationals who are stockholders in a registered enterprise in which non-Philippine Nationals hold stock may establish a marketing corporation to handle and distribute exclusively the product of the registered enterprise in its preferred area of investment: *Provided*, (1) That the said marketing company is wholly owned by, with entire beneficial ownership and control vested in, Philippine citizens; (2) That the stock of said marketing company is available for acquisition by other citizens of the Philippines who may desire to invest therein; (3) That Philippine Nationals hold at least twenty-one per cent of the voting stock of the registered enterprise; and (4) That the Board approves the creation of the marketing corporation for reasons of economy and practicability.

SEC. 23. *Other Incentives Acts*.—After the promulgation and designation of the preferred areas of investments and/or pioneer industries under this Act, the Board of Industries created by Republic Act Numbered Three thousand one hundred twenty-seven, as amended, shall not accept any application for the exemptions provided for in the said Act, except (1) from persons, firms, or corporations that had been granted tax exemptions under the said Act prior to the effective date of this Act; (2) from persons, firms or corporations whose applications were pending approval at the time of the approval of this Act; (3) from persons, firms or corporations with applications which are necessary implementations or necessary consequences of Nos. 1 and 2; and (4) from persons, firms or corporations who are engaged in industries entitled to the benefits of said Republic Act Numbered Three thousand one hundred twenty-seven, which are not within the preferred areas of investments under this Act.

(b) A registered enterprise under this Act which is entitled to benefits under other laws shall be entitled, to the extent of its registered capacity, to such of the benefits granted under this Act as are not granted by said other laws and to such benefits granted under the latter as are not granted under the former.

SEC. 24. *Penal Clause*.—(a) Any violation of the provisions of this Act or of the terms or conditions of registration shall be punished by a fine not to exceed fifty thousand pesos (P50,000.00) or imprisonment for not more than three (3) years or both, at the discretion of the Court. If the offender is not a citizen of the Philippines, he shall be deported without further proceedings on the part of the Deportation Board in addition to the penalty prescribed herein and after service of the sentence therefor.

(b) No official or employee of the government, its subdivisions or instrumentalities shall appear as counsel for or act as agent or

representative of, or in any manner intervene or intercede, directly or indirectly, in behalf of any party in any transaction with the Board regarding the availment of incentives benefits under this Act. Violation of this subsection shall be subject to the same penalty provided for in subsection (a) hereof. If the guilty party is an appointive official or employee, he shall, in addition, be dismissed from the service with prejudice to reinstatement and subsequent appointment to any public office. If the violation is committed by a member of the Board, such member shall be punished with double the penalty herein provided.

**SEC. 25. *Applicability and Interpretation.***—In interpreting and applying the provisions of this Act, the following rules shall be observed:

(a) *Applicability to Existing Enterprises.*—An enterprise which satisfies the definition of a "Philippine National," engaged at the time of passage of this Act in an area of investment declared by the Board as a preferred area of investment, shall be entitled to registration as to its present capacity, as well as to such an expansion or enlargement thereof requiring new or additional machinery and equipment as shall be within the unfilled measured capacity of the area; so also, an investor in such an existing enterprise shall be entitled to benefits and incentives to the extent of his present as well as new or additional investment therein: *Provided*, That the benefits of this Act, so far as may be applicable to such existing enterprises, and investors in such existing enterprises, shall be given prospective effect only from the date of registration.

(b) *Benefits of Multiple Area Enterprises.*—When a registered enterprise engages in activities or endeavors that have not been declared preferred or pioneer areas of investment, the benefits and incentives accruing under this Act to registered enterprises and investors therein shall be limited to the portion of the activities of such registered enterprise as is a preferred or pioneer area of investment.

(c) *Resolving Doubts.*—All doubts concerning the benefits and incentives granted enterprises and investors by this Act shall be resolved in favor of investors and registered enterprises.

**SEC. 26. *Separability Clause.***—The provisions of this Act are hereby declared to be separable, and in the event one or more of such provisions are held unconstitutional, the validity of other provisions shall not be affected.

**SEC. 27. *Appropriation.***—To carry out the purposes of this Act, there is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, the sum of Two million pesos for

the fiscal year nineteen hundred sixty-seven-nineteen hundred sixty-eight. Thereafter, the appropriations for the Board of Investments shall be included in the annual General Appropriations Act.

SEC. 28. *Repealing Clause.*—All Acts, parts of Acts, executive orders and regulations inconsistent herewith, are hereby repealed or modified accordingly.

SEC. 29. *Effectivity.*—This Act shall take effect upon its approval.

Approved, September 16, 1967.

## **ANNOUNCEMENT:**

### **ASIAN INSTITUTE OF INTERNATIONAL STUDIES**

The Third Session of the Asian Institute of International Studies will be held at the College of Law of the University of the Philippines, Diliman, Quezon City, Philippines, from June 3 to 22, 1968.

The general theme of the Institute will be "Regional Economic Cooperation in Asia," which, for purposes of discussion, has been divided into three specific topics, namely: (1) *Regional Economic Cooperation — Financial and Technological*; (2) *Regional Economic Cooperation — Trade, Industry and Agriculture*; and (3) *Legal Aspects of Regional Lending and Development Financing*.

The first topic (set for June 3-8) will be handled by Mr. Wilfrid Kenneth Wardroper, one of the Directors of the Asian Development Bank, and the following as co-lecturers: Mr. Buu-Hoan, Alternate Director of said Bank; Mr. Douglas Gunsekera, Secretary of the same Bank; and Dr. Sixto K. Roxas, President of Bancom Development Corporation. The second topic (June 10-15) will be discussed by Dr. Hiroshi Kitamura, Director of Research and Planning, ECAFE; and the third (June 17-22), by Mr. Timothy Atkeson, General Counsel of the Asian Development Bank, with the assistance of his staff.

A joint project of the Law Center of the College of Law, University of the Philippines and the Philippine Society of International Law, the Institute with its chosen theme, is aimed not only at providing the participants with a better and more updated background in international law, but also with the proper perspective of contemporary economic and social problems, in the resolution of which, international law is of increasing importance.

The Institute is open to both Filipinos and foreigners provided they have a college degree and experience in any of the following fields: public service, law, political science, foreign service and economics. Although no degree will be conferred, a certificate of attendance will be awarded the participant upon completion of the course.

No application form is provided by the Institute. Prospective participants are requested to send their own letters of application to the Executive Secretary of the Institute. A registration fee of P50.00 (approximate conversion rate is P3.95 to US \$1.00) will be required of each participant. A limited number of grants to cover the traveling expenses and cost of living of qualified prospective foreign and local participants is available where the need for such

assistance is satisfactorily shown. Applications for such grants should be made simultaneously with the application to attend the Institute.

For further particulars, address all inquiries to:

The Executive Secretary  
Asian Institute of International Studies  
Law Center  
University of the Philippines  
Quezon City, Philippines