

Republic of the Philippines
PHILIPPINE ECONOMIC ZONE AUTHORITY
Roxas Boulevard corner San Luis Street
Pasay City

CERTIFICATE OF BOARD RESOLUTION

This is to certify that at the Special Board Meeting of the Philippine Economic Zone Authority (PEZA) held on **02 April 2004**, during which a quorum was present, the following resolution was approved:

RESOLUTION NO. 04-125

WHEREAS, pursuant to PEZA Board Resolution (BR) No. 00-393 dated 28 November 2000, PEZA had allowed Ecozone Developers-Operators/Facilities/Utilities Enterprises enjoying the 5% Gross Income Tax (GIT) incentive to import construction materials, elevators and like machinery, under bond;

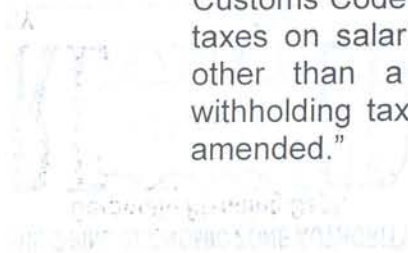
WHEREAS, the surety bond required by PEZA from said Ecozone Developers-Operators/Facilities/Utilities Enterprises pursuant to BR No. 00-393 is to answer for the duties that these companies will pay should the Department of Finance (DOF) later rule that they are not entitled to the tax and duty-free importation of these machinery and equipment;

WHEREAS, a number of these Ecozone Enterprises have requested PEZA to allow them to import their machinery and equipment, tax and duty-free;

WHEREAS, Sec. 24 of Republic Act (RA) No. 7916, as amended, provides that the 5% GIT incentive is in lieu of all national and local taxes;

WHEREAS, Bureau of Internal Revenue Regulation No. 12-97 defines "national taxes", as follows:

"h. "National Taxes" - shall refer to all internal revenue taxes, including the regular income taxes, otherwise due and collectible from a registered ECOZONE enterprise under the National Internal Revenue Code and customs duties and import charges under the Tariff and Customs Code. National Taxes, however, shall not include withholding taxes on salaries of employees or on income payments to persons other than a registered ECOZONE Enterprise, subject to the withholding tax at source under Section 50 (b) of the Tax Code, as amended."



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WHEREAS, in its letters to the Philippine International Airport Terminals Co. (PIATCO) dated 05 January 2001 and to the Department of Trade and Industry (DTI) dated 11 April 2001, the Department of Finance (DOF) ruled that national taxes cover both internal revenue taxes under the National Internal Revenue Code (NIRC) and customs duties and import charges under the Tariff and Customs Code (TCC);

WHEREAS, in the same DOF letters-opinions, the DOF said that a PEZA-registered enterprise availing of the 5% Gross Income Tax (GIT) incentive is exempt from the payment of customs duties and import charges under the TCC and that it is within the purview of the PEZA to decide what are the allowable importations under this incentive;

WHEREAS, considering that the surety bond required by PEZA to Ecozone Developers-Operators/Facilities/Utilities Enterprises under BR No. 00-393 is to answer for the import duties that these enterprises will pay should the DOF rule that they are not entitled to the tax and duty-free importation incentive and in view of the above-mentioned opinions of the DOF and the BIR Revenue Regulation No. 12-97 declaring that national taxes indeed refer to both internal revenue taxes under the NIRC and customs duties and import charges under the TCC;

RESOLVED THEREFORE, That PEZA-registered ECOZONE Developers-Operators/Facilities/Utilities Enterprises enjoying the 5% GIT incentive are hereby allowed to import machinery and equipment (e.g. power generation equipment of Utilities Enterprises engaged in power generation distribution), tax and duty-free;

RESOLVED FURTHER, That this approval/authority shall apply only to the Ecozone Developers-Operators/Facilities/Utilities Enterprises' importations of such machinery and equipment that are to be used in and are necessary for the technical viability of their operations, using as guideline the scope and criteria applied to duty and tax-free importations of Ecozone Export Enterprises;

RESOLVED FURTHERMORE, That PEZA Board Resolution No. 00-393 dated 28 November 2000 is hereby revoked and cancelled;

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RESOLVED FINALLY, That this approval/resolution shall not apply to PIATCO whose importations under bond were allowed under PEZA BR No. 02-062 dated 12 March 2002, pursuant to a directive from then DTI Secretary Mar Roxas as contained in his Memorandum to the PEZA Director General dated 28 February 2002.

A handwritten signature in black ink, appearing to read 'J. Romero', with a horizontal line extending to the left.

JENNY JUNE G. ROMERO
Acting Corporate Secretary