

[PRESIDENTIAL DECREE NO. 1167, June 27, 1977]

DEVELOPING AND REGULATING THE OVERSEAS CONSTRUCTION INDUSTRY, PROVIDING INCENTIVES THEREFOR, AND FOR OTHER OTHER PURPOSES.

WHEREAS, it is a primary concern of the government to promote and stimulate national economic development by embarking on an aggressive export promotion program;

WHEREAS, overseas construction operations provide an opportunity for the exportation not only of materials and commodities, but also of labor skills and technical and managerial expertise;

WHEREAS, these construction opportunities abroad would be most effectively availed of with organized, coordinated, and sustained efforts, and government encouragement and support;

WHEREAS, many Filipinos construction contractors who have the experience and skills have organized themselves, and are in position to undertake overseas construction work;

WHEREAS, success in overseas construction operations will bring not only economic benefits, but also confidence and pride in the nation's capabilities;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order as follows:

SECTION 1. *Short Title*.—This Decree shall be known as the "Overseas Construction Incentives Decree".

SEC. 2. *Declaration of Policy*.—It is the policy of State to actively encourage and support activities that lead to the export not only of goods and services, but also of technical and managerial expertise; accordingly, the State encourages and promotes Filipino contractors who have the necessary capability to undertake overseas construction and help increase foreign exchange earnings and employment opportunities, and thereby hasten the economic development of the Filipino people.

SEC. 3. *Definition of Terms*.—For the purpose of this Decree:

"a) "Construction contractor" shall mean a natural or juridical person organized and licensed under Philippine laws, who undertakes or offers to undertake, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, remove, move, wreck or demolish any structure, facility, project development or improvement, or to do any part thereof. The term contractor includes general engineering contractor, general building contractor and specialty contractor, construction management, engineering, and specialized consultancy group;

b) "Filipino contractor" shall mean a construction contractor, who is a citizen of the Philippines, or a corporation or other juridical entity, of which, in the case of a corporation at least sixty percent (60%) of its capital stock outstanding and entitled to vote, is owned and held by citizens of the Philippines and at least sixty percent (60%) of the Board of Directors thereof are citizens of the Philippines, and in the case of any juridical entity, at least sixty percent (60%) of its equity is owned and held by citizens of the Philippines.

c) "Overseas project" shall mean a construction or consultancy project undertaken or will be undertaken by a contractor outside the territorial boundaries of the Republic of the Philippines, and paid for in acceptable or freely convertible foreign currency;

d) "Overseas construction operations" shall mean any activity related to an overseas project, including provisions of technical, managerial and highly professional services; and

e) "Board" shall mean the Philippine Overseas Construction Board created under this Decree.

SEC. 4. *Incentives for Filipino Overseas Contractors.*-A duly registered Filipino contractor who is engaged or will be engaged in an overseas construction project, shall be granted the incentives provided in Subsections (a) and (b), or at his option, to the incentive provided in Subsection (c) of this Section:

a) *Tax credit*-(1) Taxes paid by the Filipino contractor to foreign governments on income derived from overseas projects subject, however, to the limitation of Section 30 (c) (4) (a) and (b) of the National Internal Revenue Code;

(2) Tax credit for taxes withheld on interest payments on foreign loans incurred directly and exclusively for overseas projects: *Provided*, That (i) no such credit is enjoyed by the lender-remittee in his country; and (ii) the overseas contractor has assumed the liability for payment of the tax due from the lender-remittee; and

(3) Tax credit equivalent to the sales or compensating taxes paid on domestically manufactured or produced materials or products which are purchased by the overseas contractor and actually exported by him to be used in his overseas projects: *Provided*, That the sales tax are indicated as a separate item on the sales invoice of the manufacturer or producer.

b) *Deduction from gross overseas income.*-(1) Accelerated depreciation-At the option of the Filipino construction contractor and in accordance with the procedures established by the Bureau of Internal Revenue fixed assets actually used in overseas operations may be: (i) depreciated to the extent of not more than twice as fast as the normal rate of

depreciation if expected life thereof is ten (10) years or less; or (ii) depreciated over any number of years between five (5) years and expected life if the latter is more than ten (10) years. Such depreciation cost as may be chosen by the said tax payer shall be allowed as deduction from taxable income: *Provided*, That he notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this Section will be used by him;

(2) Additional deduction of labor training expenses-An additional deduction from taxable income of one-half of the value of labor training expenses incurred for improving the performance and efficiency of unskilled labor: *Provided*, that such training program is duly approved by the Department of Labor: *Provided further*, That such deduction shall not exceed ten percent (10%) of the direct labor wage; and

(3) NNet operating loss carry-over-A net operating loss incurred on overseas projects in any year of operation may be carried over as a deduction from taxable income earned from overseas projects, within the three (3) years immediately following the year of such loss: *Provided*, That the loss carried over is computed net of incentives herein granted: *Provided further*, That no impairment of loans or guarantees extended by the Philippine Government or any of its instrumentalities has occurred or will occur as a result of overseas construction operations during the taxable year. The net operating loss shall be computed in accordance with the procedures established by the Bureau of Internal Revenue and shall be allowed only for purposes of income declaration in the Philippines.

c) In lieu of the income tax payable as a result of the application of the incentives provided for in the preceding subsections, the Filipino contractor may elect to pay a one and one-half percent (1 1/2%) tax on his overseas gross income.

SEC. 5. *Internationally Bidded Local Projects*.-The incentives provided in the preceding Section Four, other than that provided for in Subsection (c) thereof, shall be available to Filipino construction contractors participating as principal in internationally bidded or foreign-assisted projects, under such rules and regulations as shall be promulgated by the Board.

SEC. 6. *Priority in Hiring*.-Construction contractors shall have priority in the hiring or placement of construction workers for their overseas construction projects: *Provided*, That such activity is undertaken in accordance with the Labor Code as amended.

SEC. 7. *Registration*.-Construction contractors undertaking or who intend to undertake overseas construction projects shall register with the Board. No construction contractor shall tender or bid on any overseas construction project unless registered and authorized by the Board.

SEC. 8. *Composition of the Board*.- (a) The Board shall be composed of five (5) members to be appointed by the President of the Philippines. The members of the Board shall serve for a term of three (3) years or until their successors have been appointed. In case of any vacancy in the Board, the same shall be filled by the