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DATE : 03/26/92
TITLE : AN ACT GRANTING DAVAO AGRITECH, INC., A FRANCHISE TO
ESTABLISH,
OPERATE AND MAINTAIN DOMESTIC AIR SPRAYING SERVICES WITH DAVAO AS
ITS
MAJOR HUB

TEXT :

H. No. 34625

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second
day of July, nineteen hundred and ninety-one.

[REPUBLIC ACT No. 07296]

AN ACT GRANTING DAVAO AGRITECH, INC., A
FRANCHISE TO ESTABLISH, OPERATE AND
MAINTAIN DOMESTIC AIR SPRAYING SERVICES
WITH DAVAO AS ITS MAJOR HUB

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

SECTION 1. Nature and Scope of Franchise. - Subject to the
provisions of the Constitution and applicable laws, rules and
regulations, there is hereby granted to the Davao Agritech,
Inc., hereunder referred to as the grantee, its successors or
assigns a franchise to establish, operate and maintain
domestic air spraying services with Davao as its major hub.

Air spraying services shall include the maintenance and
operation of hangars and aircraft service stations and
facilities and other services of similar nature which may be
necessary, convenient or useful as an auxiliary to air
spraying serviecs.

The grantee shall be given the right at its terminals and
landing fields, as well as in its aircraft, to construct,
operate and maintain stations or transmitting sets for
wireless telegraphy and direction findings, and other radio
aids to air navigation, using wavelengths in accordance with

the rules and regulations issued from time to time by the proper agencies of the Government. The wireless communication facilities shall be used solely for receiving and transmitting weather forecasts and other matters in connection with the grantee's services.

SEC. 2. Prior Approval of the Civil Aeronautics Board. -The grantee shall secure from the Civil Aeronautics Board the appropriate permits and licenses for its operations.

All aircraft used by the grantee and the flight crew members operating such aircraft shall be licensed by the Government of the Philippines and, together with its accessories and equipment, shall at all times be in airworthy condition. They shall be equipped with radio communication, safety and other equipment and shall be operated and maintained in accordance with the regulations and technical requirements of the Air Transportation Office or such other regulatory bodies as the Government may prescribe for this purpose.

The grantee's equipment and the operation of such equipment shall at all times be subject to inspection and regulation by the Air Transportation Office.

The grantee shall comply with the provisions of Republic Act Numbered Seven hundred and seventy-six, and the regulations promulgated thereunder from time to time.

SEC. 3. Responsibility to the Public. - Excepting cases of force majeure and whenever weather conditions permit, the grantee shall maintain air spraying services within Davao and any and all points and places throughout the Philippines as traffic needs may require.

SEC. 4. Rates for Services. - The grantee shall fix just and reasonable rates for its air spraying operation, subject to the regulations and approval of the Civil Aeronautics Board and other proper regulatory agencies of the Government.

SEC. 5. Term of Franchise. - This franchise shall be for a term of forty (40) years from the date of the approval of this Act, unless sooner revoked or cancelled. In the event that the grantee fails to operate continuously for two (2) years, this franchise shall be deemed ipso facto revoked.

SEC. 6. Landing Facilities. - The grantee may use the landing and other airport facilities on land and water as may be maintained or owned by the Government within the Philippines or the grantee's lines subject to such terms and conditions, restrictions and national policy consideration as the Philippine Government may prescribe and, reciprocally, the Philippine Government shall have the right to use the landing and other airport facilities as may be maintained or

owned by the grantee in the Philippines.

SEC. 7. Contracts. - The grantee is authorized to enter into air spraying and air spraying maintenance and/or servicing contracts, and such other contracts relating to air spraying activities. The grantee shall give preferential consideration to contracts with the Philippine Government.

SEC. 8. Right of Government. - In case of war, insurrection, domestic trouble, public calamity or national emergency, the Philippine Government, upon order of the President, shall have the right to take over and operate the equipment of grantee, paying for its use or damages.

SEC. 9. Eminent Domain. - With the approval of the President of the Republic of the Philippines and subject to the limitations and procedures prescribed by law, the grantee shall be authorized to exercise the right of eminent domain as may be reasonably necessary for its stations, landing fields, hangars, docks, ramps, wireless stations and other structures in connection with the grantee's activities.

No private property shall be taken for any purpose by the grantee without proper condemnation proceedings and just compensation paid or tendered therefor, and any authority to take and occupy land contained herein shall not apply to the taking, use or occupation of any land except such as is required for the actual purposes for which this franchise is granted.

SEC. 10. Warranty in Favor of National and Local Governments. - The grantee shall hold the national, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the operation of the services under the franchise hereby granted.

SEC. 11. Public Equity Participation. - In compliance with the constitutional mandate to democratize ownership of public utilities, the herein grantee shall make a public offering through the stock exchanges of at least thirty percent (30%) of its common stock within a period of ten (10) years from the date of the effectivity of this Act: Provided, That no single person or entity shall be allowed to own more than five percent (5%) of the stock offering.

SEC. 12. Tax Provisions. - In consideration of the franchise and rights hereby granted, the grantee shall pay to the Philippine Government during the life of this franchise a franchise tax of five percent (5%) of the gross receipts derived by the grantee from its air spraying operations.

The grantee shall, however, be subject to income tax levied

under Title II of the National Internal Revenue Code, as amended, and the tax on its real property under existing law.

SEC. 13. Interpretation of Franchise. - This franchise shall not be interpreted to mean as an exclusive grant of the privileges herein provided for. However, in the event that any competing individual, partnership, or corporation shall receive a similar permit or franchise with terms and/or provisions more favorable than those herein granted or which tend to place the grantee herein at any disadvantage, then such terms and/or provisions shall be deemed part hereof and shall operate equally in favor of the grantee herein.

SEC. 14. Sale, Lease, Transfer, Assignment, Usufruct, etc. - The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise and the rights and privileges acquired thereunder to any person, firm, company, corporation or legal entity, nor shall the controlling interest in the grantee be transferred to any such private person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines.

Any person or entity to which this franchise is sold, transferred or assigned shall be subject to all the conditions, terms, restrictions and limitations of this Act.

SEC. 15. Reportorial Requirement. - The grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and on its operations within sixty (60) days from the end of every year.

SEC. 16. Legislative Amendment. - This franchise is subject to amendment or repeal by the Congress of the Philippines when the common good so requires.

SEC. 17. Separability Clause. - If any section or provision of this franchise, as amended, is held or declared unconstitutional or invalid by a competent court in a final judgment, the other sections or provisions hereof shall continue to be in force as if the section or provision so annulled or voided had never been incorporated in this franchise.

SEC. 18. Repealing Clause. - All laws, decrees, orders, instructions, and rules and regulations or parts thereof which are inconsistent herewith are hereby repealed or modified accordingly.

SEC. 19. Effectivity Clause. - This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation in the Philippines.

Approved,

NEPTALI A. GONZALES
MITRA
President of the Senate
House

RAMON V.
Speaker of the
House of Representatives

This Act which originated in the House of Representatives was finally passed by the House of Representatives and the Senate on February 5, 1992 and February 4, 1992, respectively.

ANACLETO D. BADOY, JR.
SABIO
Secretary of the Senate
General

CAMILO L.
Secretary
House of Representatives

Approved: March 26, 1992

CORAZON C. AQUINO
President of the Philippines