

IMPLEMENTING RULES AND REGULATIONS (EDA 7844)

PART I. GENERAL PROVISIONS

Pursuant to the provisions of Republic Act No. 7844, otherwise known as the “Export Development Act of 1994”, the following rules and regulations are hereby adopted:

RULE I. Declaration of Policy

Section 1. It is declared the policy of the State to evolve export development into a national effort. The Government shall champion exports as a focal strategy for a sustainable agri-industrial development to achieve Philippine NIChood towards the year 2000. The private sector shall take the lead in the collective effort to promote exports through discipline and hard work, as it confronts the challenge of winning international markets.

Sec. 2. The Government and the private sector shall jointly transform the Philippines into an exporting nation. The State shall instill in the Filipino people that exporting is not just a sectoral concern but the key to national survival and the means through which the economic goals of increased employment and enhanced incomes can most expeditiously be achieved.

RULE II. Basic Principles, Policies and Objectives

Sec. 1. It is the goal and objective of the Export Development Act, hereinafter referred to as the Act, to provide a macroeconomic policy framework that supports export development, especially in the following key areas of concern:

a) Monetary and foreign exchange policies shall establish and maintain a competitive exchange rate, supported by measures to provide safety nets for various sectors that may be adversely affected by the implementation of such policies. Such policies shall be consistent with the responsibility and primary objectives of the Bangko Sentral ng Pilipinas pursuant to Section 3 of Republic Act No. 7653;

b) Fiscal and credit policies shall provide adequate funds for public and private investments and business expansion for export purposes, while keeping the cost of credit comparable to international levels and ensuring access to loanable funds for SMEs as well as highly technical export enterprises, especially those in the countryside;

c) Agricultural policies shall build up viability and competitiveness of the country’s agriculture sectors and facilitate their linkage with industry to strengthen the agri-industrial base of the country’s export thrust;

d) Trade, tariff and customs policies shall engender competitiveness of domestic industries and facilitate their participation in international trade;

e) Technical support policies to improve the quality of export products shall be adopted, particularly those relating to technology transfers, R & D, technical training and related activities. As such, the Department of Science and Technology (DOST) and the Department of Agriculture (DA) shall be supported by state colleges and universities in the diffusion of technology, information and training to the countryside for agri-industrial and export development;

- f) Urgent attention shall be given to policies affecting infrastructure in order to ensure the adequate supply and quality of power; water (e.g., for irrigation); transportation (e.g. air, shipping and cargo handling); communication, and environmental, sanitary and phyto-sanitary, health and security measures to support the flow of sufficient and suitable goods and services in the context of the national export drive;
- g) The link between export growth and countryside development must be strengthened through policies favorable to SMEs, regional industrial centers, and export processing zones to boost rural and farm-based entrepreneurship in identified geographic economic growth areas of the country;
- h) Labor and industrial relations policies must recognize the inevitable industrial shifts that will occur in the effort to achieve international competitiveness. Focus shall be given to the formulation of accords between labor and management which shall provide for sustained increase in productivity and competitiveness. In line with this, dual training schemes shall be integrated as a basic component to the country's primary and secondary education program to ensure that the manpower needs of agriculture and industry will be matched by the skills generated by the educational system. Reasonable price and income policies shall likewise be adopted in order to safeguard the interests of the labor sector;
- i) All government agencies whose action affect exporters, such as the Board of Investments (BOI), Bureau of Customs (BOC) and the Bureau of Internal Revenue (BIR) shall simplify procedures to minimize bureaucratic red tape, and
- j) Provisions of existing laws deemed detrimental to the export sector shall be repealed in subsequent acts.

RULE III. Definition of Terms

Sec. 1. For purposes of these Rules, the terms used herein shall be construed to have the following meanings:

- a) "Exporter" shall mean any person, natural or juridical, licensed to do business in the Philippines, engaged directly or indirectly in the production, manufacture or trade of products or services which earns at least fifty per cent (50%) of its normal operating revenues from the sale of its products or services abroad for foreign currency. In the case of indirect exporters, the requirement that products or services be sold "abroad for foreign currency" shall not apply as, by the very nature of their business, the sale of their products or services takes place in the Philippines, and such indirect exporters are usually paid in Philippine currency;
- b) "Services" shall refer to the supply of service for export, in the following areas only: information technology services, construction services, consultancy and professional services and other services, as defined jointly by the Department of Finance (DOF) and the Department of Trade and Industry (DTI). The aforementioned areas may be likewise expanded jointly by the DOF and DTI. Services rendered by overseas contract workers are not covered by this definition. As provided in the immediately preceding section, these need not be rendered abroad as, by the nature of some services, the sale of the same takes place in the Philippines;
- c) "Export Promotion" shall refer to a range of export activities which the public and the private sectors undertake. These activities include, but shall not be limited to, networking, especially in export support services and trade/market information provision; organization of trade fairs and missions; advisory services; conduct of export-related seminars, lectures, workshops, conferences and trainings; publication

of export-related documents; handling of quality standards, product design and related activities aimed at promoting existing exports to improve the position of Philippine products in specific foreign markets, and other activities necessary to implement the Philippine Export Development Plan (PEDP);

d) “Export Incentives” shall refer to the support measures provided by the government to exporters to encourage investment in the export sector, create a freer trade environment and motivate exporters to increase export sales as well as perform competitively in the export market. These export incentives include the incentives provided for in the Act and the incentives being granted by the Board of Investments (BOI) and local government units (LGUs);

e) “Accredited organization” shall refer to the organization of exporters granted accreditation by the Export Development Council (EDC). Such accreditation shall be granted only to the dominant one among the existing export organizations taking into consideration some of the following guidelines: it should be non-stock and non-profit; must champion, as its primary objective, the interests of the private sector exporters, have multi-sectoral coverage, regional representation, the biggest number of active membership of direct, indirect and service exporters, a track record of conducting promotional activities for exporters, and such other requisites as may be required by the Council to ensure that the organization is representative of the exporters’ sector;

f) “Export sale or export revenue” shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, lading certificates and other commercial documents, of export products, exported directly or indirectly by an export producer or the net selling price of export products sold by an export producer to another export producer, or to an export trader that subsequently exports the same: *Provided*, That such sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported as certified by the latter: *Provided, further*, That without actual exportation, the following shall be considered constructively exported for purposes of this provision: (1) sales to export oriented manufacturers through the bonded manufacturing warehouses or common bonded warehouses; (2) sales to export processing zones; (3) sales to export traders operating bonded warehouses supplying raw materials used in the manufacture of export products under the guidelines already set by the Board of Investments (BOI), the Bureau of Customs (BOC) and the Bureau of Internal Revenue (BIR); (4) sales to foreign military bases, diplomatic missions, duty-free shops, and other agencies and/or instrumentalities granted tax immunities, of locally-manufactured, assembled or repacked products, whether paid for in foreign currencies or not: *Provided, further*, That export sales of registered export traders may include commission income: and *Provided, finally*, That exportation of goods on consignment shall not be deemed export sales until the export products consigned are, in fact, sold by the consignee;

Sales of locally manufactured or assembled goods for household and personal use of Filipinos abroad and other non-residents of the Philippines as well as returning Overseas Filipinos under the Internal Export Program of the government and paid for in convertible foreign currency inwardly remitted through the Philippine banking systems shall also be considered export sales;

g) “Small and Medium-Scale Enterprises (SMEs)”, for purposes of this Act, shall mean those enterprises in export activities with assets up to Sixty Million Pesos (P60,000,000.00) which is relevant to a minimum size competitive economic activity vis-à-vis the East Asian Region;

h) “Eximbank” shall refer to the institution which will be established to deal primarily or exclusively with export financing, guarantee and insurance as well as other financing services that will support the operations of exporters of

manufactured products and services and indirect exporters, particularly the SMEs, and

i) "Negotiability" shall mean that tax credits granted are negotiable in accordance with Rule VII, Sec. 4 of these Rules.

PART II THE PHILIPPINE EXPORT DEVELOPMENT PLAN (PEDP)

RULE IV. Formulation and Approval

Sec. 1. The President of the Republic of the Philippines shall approve a rolling three-year Philippine Export Development Plan (PEDP) prepared by the Department of Trade and Industry (DTI) which shall form part of the Medium-Term Philippine Development Plan (MTPDP). It shall be formulated in consultation with the private sector, validated and updated semestraly.

Sec. 2. The PEDP shall define the country's annual and medium-term export thrusts, strategies, programs and projects and shall be jointly implemented by the government, exporters and other concerned sectors.

PART III INSTITUTIONAL STRUCTURES

RULE V. The Export Development Council (EDC)

Sec. 1. Structure. The existing Export Development Council, hereinafter referred to as the Council, which was created by Executive Order No. 98 (1993) as modified by Executive Order No. 110 (1993), and Executive Order No. 180 (1994), shall be strengthened and institutionalized for the purpose of overseeing the implementation of the PEDP and coordinating the formulation and implementation of policy reforms to support the said Plan.

Sec. 2. Powers and Functions. The Council shall have the following powers and functions:

- a) Approve the PEDP for its submission to and approval by the President and its integration into the Medium-Term Philippine Development Plan (MTPDP); coordinate, monitor and assess the implementation thereof, and when necessary, institute appropriate adjustments thereon in the light of changing conditions in both the domestic and international environment;
- b) Periodically review and assess the country's export performance, problems and prospects;
- c) Identify the main bottlenecks, problem areas and constraints in all areas, sectors and activities which influence the development of exports, including, but not limited to, such matters as policy framework, physical infrastructure, foreign exchange, financing, technology, production, promotion and marketing;
- d) Mandate specific departments and agencies to attend to the bottlenecks and problems constraining the development of exports in any of the areas mentioned in paragraph (c) above, and require the concerned Secretaries to deliver a progress report(s) on the actions or initiatives taken to resolve these areas of concern at the next meeting(s);
- e) Ensure export quality control by overseeing the formulation and implementation of quality control guidelines by appropriate agencies to make Philippine exports at par with world-class products;

- f) Impose sanctions on any government agency or officer or employee thereof, or private sector entity that impedes efficient exportation of Philippine goods;
- g) Recommend to Congress any proposed legislation that would contribute to the development of exports;
- h) Submit quarterly reports to the heads of both the House of Representatives and the Senate;
- i) Formulate policies or recommend measures and draw up a study within ninety (90) days from the approval of the Act, relative to the rationalization of the government's export promotion and development functions/activities and programs for the eventual transfer of government export promotions and development activities to the private sector within a period of two (2) years after the approval of the Act;
- j) Formulate the policies for the granting of incentives to exporters;
- k) Adopt such policies, rules, procedures and administrative systems for the efficient and effective exercise of its powers and functions, including the creation or adoption of an executive committee or secretariat;
- l) Grant and review the accreditation of the organization of exporters: *Provided*, That the organization accredited shall meet the following requisites: it must be non-stock and non-profit, must champion the interests of the export sector as its primary objective, have multi-sectoral coverage, regional representation, the biggest number in membership of direct and indirect exporters, a track record of conducting promotional activities for exporters, and such other requisites as may be required by the Council to ensure that the organization is representative of the exporters' sector;
- m) Issue standards and policies to be observed by local government units (LGUs) in order to:
 - i) Ensure that LGUs' plans and budgets are supportive of agri-industrial growth and export competitiveness thrusts of the national government, and
 - ii) Ensure optimal allocation of expenditures.

Sec. 3. Composition. The Council shall be composed of the following:

- a) Secretary of the Department of Trade and Industry as Chairman;
- b) Director-General of the National Economic and Development Authority;
- c) Secretary of the Department of Finance;
- d) Governor of the Bangko Sentral ng Pilipinas;
- e) Secretary of the Department of Science and Technology;
- f) Secretary of the Department of Agriculture;
- g) Secretary of the Department of Foreign Affairs;
- h) Secretary of the Department of Labor and Employment, and

i) Nine (9) representatives from the private sector, the majority of whom shall be recommendees of the accredited organization and one of whom shall be appointed as Vice-Chairman.

Other heads of executive agencies, private organizations or individuals can be called upon by the Council to resolve issues and problems that concern their respective offices.

Likewise, such heads of agencies, private organizations or individuals shall respond to the queries of the Council within two (2) weeks from the time such queries were received.

The President shall appoint the private sector representatives, who are not *ex-officio* members, upon nomination of the accredited organization, ensuring balanced representation from the Visayas and Mindanao and various sectors, such as the labor sector, agricultural and traditional export sectors as against the non-agricultural and non-traditional export sectors and the like. The private sector representatives of the Council shall serve for a period of two (2) years. When a vacancy arises due to the resignation, death or incapacity of a member, a replacement who shall serve for the remainder of the member's term of office shall be appointed by the President.

Sec. 4. *Executive Committee and the Secretariat.* There shall also be constituted an Executive Committee and a Secretariat to assist the Council.

The Executive Committee (ExCom) shall have the following powers and functions:

- a) Prepare initiatives for the Council's consideration;
- b) Assist the Council in coordinating and monitoring the implementation of the PEDP;
- c) Act as clearing house for all submissions to the Council;
- d) Summarize options on issues for discussion by the Council;
- e) Recommend the Council's agenda, and
- f) Review the budget, work plans and reports to be submitted to the Council.

The ExCom shall be composed of the following:

- a) the Secretary/Undersecretary of Trade and Industry as Chairman;
- b) the Secretary/Undersecretary of Finance;
- c) the Governor/Deputy Governor of the Bangko Sentral ng Pilipinas;
- d) the Director-General/Deputy Director-General of the NEDA;
- e) a representative of the Office of the President, and
- f) five (5) private sector representatives.

The Secretariat, as constituted under the old Export Development Council, shall serve as the support staff of the Council and the ExCom in the exercise of their functions.

Sec. 5. Meetings. The Council shall meet once a month: *Provided*, That the President or the Chairman may convene the Council anytime whenever he deems it necessary. The President shall preside over meetings of the Council on a quarterly basis.

Sec. 6. Funding. The activities and operational expenses of the Council shall be funded jointly by budgetary appropriations from the government and by private sector contributions as provided for in Executive Order No. 98.

RULE VI. Accredited Export Organization

Sec. 1. Accreditation. The Council shall accredit a single umbrella organization of exporters pursuant to Rule V, Sec. 2(l) of these rules to represent the private sector concerns and interests for three (3) years, after which the Council shall undertake a review of the accreditation prior to the granting or re-granting of the said accreditation.

Sec. 2. Functions. The accredited organization shall:

- a) Recommend private sector representatives to the Council, with consideration to balanced sectoral representation, as provided in Sec. 9 of the Act;
- b) Represent the interests of the export sector;
- c) Be responsible for coordinating, supporting and assisting the DTI relative to the formulation and implementation of the government's export promotion programs and policies: *Provided*, That in the event that some of the export promotion functions of the government are privatized in accordance with the Act, it shall be responsible for the performance of such privatized export promotion functions;
- d) Manage the Philippine Trade Centers, which shall include, among others, the authority to enter into contracts with specific organizations or firms for the operation of certain promotion functions or facilities, and
- e) Respect the obligations of the previous dominant exporters' organization.

PART IV EXPORT INCENTIVES

RULE VII. Availment of Incentives

Sec. 1. Registration Requirements. The incentives under Article 3 of the Act shall only be granted upon fulfillment of the following requirements:

- a) an annual accreditation from the Bureau of Export Trade Promotion (BETP) of the Department of Trade and Industry or the appropriate deputized agency that the exporter satisfies the requisites provided for in Rule III, Sec. 1(a) of these Rules,
- b) the submission of a sworn statement that the exporter complies with the requirements of the Minimum Wage and SSS laws, and
- c) payment of the corresponding fees,

thereby satisfying the requirements for accreditation.

For this purpose, BETP shall deputize the following appropriate agencies and monitor the effective issuance of the said certification:

- i) the Philippine Economic Zone Authority (PEZA), for companies registered within its zones;

- ii) the Board of Investments (BOI), for companies registered with it;
- iii) the Garments and Textile Export Board (GTEB), for companies accredited with it;
- iv) the Subic Bay Metropolitan Authority (SBMA) and the Clark Development Corporation (CDC), for companies situated within their areas;
- v) the Philippine Exporters Confederation, Inc. (Philexport) and/or the Philippine Chamber of Commerce and Industry (PCCI), for member-companies situated outside the above areas;
- vi) BETP, for companies whose manufacturing or service operations do not fall under the supervisory or regulatory functions of the above-enumerated offices or authorities, and
- vii) such other offices or authorities with the same or similar functions as the aforementioned: *Provided*, That they are so mandated by law: *Provided, further*, That if there are two (2) or more offices or authorities exercising supervisory or regulatory functions over an exporter's manufacturing or service operations, any one (1) of such offices or authorities may issue the aforesaid certification.

d) In case of importations, the exporter must submit a sworn statement that the items to be imported shall be used primarily for the production of export goods.

Sec. 2. Incentives. Exporters registered under Export Development Act shall be granted the following incentives:

a. ***Exemption from PD 1853, or the Advance Payment of Customs Duties.*** To be exempt from the provisions of PD 1853, an eligible exporter shall present the certification provided for in Sec.1(a).

The said certification shall be presented to the authorized agent bank (AAB) at the time of the opening of the letter of credit, and verified copies shall be distributed as follows:

- i) First or original copy, to the port where the articles are to be entered;
- ii) Second copy, to be retained by the AAB;
- iii) Third copy, to be filed with the entry documents, and
- iv) Fourth copy, to be retained by the Importer.

In cases where a letter of credit is not opened, the certification should be presented to the Office of the Collector of Customs at the port where the articles are to be entered.

b. ***Duty-free Importation of Machinery and Equipment and Accompanying Spare Parts until December 31, 1997.*** To qualify for the duty-free importation of machinery and equipment, including replacements and accompanying spare parts, which are primarily used in the manufacture of exported products, the importation should be covered, where applicable, by a Clean Report of Findings (CRF) issued by the Societe Generale de Surveillance (SGS): *Provided*, that importations of used machinery and equipment shall, in addition to the CRF, be covered by a Certificate of Approval from the Council or any of its deputized agencies: *Provided, further*,

That importations exempted from the SGS requirement prior to the approval of the Act shall continue to enjoy said exemption. The same certifications required in Sec. 1 (a) and (d) shall apply to the importations of machinery, equipment and accompanying spare parts.

Rules on tax credit granted under the existing Value-Added Tax (VAT) laws shall apply for importations of machinery and equipment and accompanying spare parts but adopting the definition of “exporter” as provided for in Art. I, Sec. 4(a) of the Act.

c. Tax Credit for Imported Inputs and Raw Materials Primarily Used for the Production and Packaging of Export Goods which are not Readily Available Locally until December 31, 1999. Importations of raw materials and inputs and semi-manufactured products utilized and/or forming part in the manufacture, processing, production or packaging of products to be exported directly or indirectly shall be allowed unless said raw materials or inputs are otherwise listed by the Council as locally available in sufficient quantity and price.

The tax credit granted under this section shall be equivalent to taxes and duties paid on inputs and raw materials primarily used and/or forming part of the production and packaging of export goods and the supply of services which are not readily available locally. Operators of bonded manufacturing warehouses, users of common bonded warehouses, and other special economic zones shall continue to be exempt from the payment of the taxes and duties provided herein.

d. Tax Credit for Increase in Current Year's Export Revenues.

The tax credit for increase in current year's export revenue shall be computed as follows:

The first 5% increase in annual export revenue over the previous year would mean a credit of 2.5% to be applied on the incremental export revenue converted to pesos at the current rate;

The next 5% increase would be entitled to a credit of 5%;

The next 5% increase would be entitled to a credit of 7.5%;

In excess of 15% would be entitled to a credit of 10%.

Such tax credit is only granted for the year when the performance is achieved. Export revenues used in the calculation of such tax credits shall be subject to verification as prescribed under the rules and regulations that shall be jointly prepared by the Secretary of Finance and Secretary of Trade and Industry, subsequent to these rules, to specify the particulars of the incentive.

e. Tax Credit for Use or Import-Substitution of Non-traditional Products. For exporters of non-traditional products who use or substitute locally produced raw materials, capital equipment and/or spare parts, tax credits equivalent to twenty-five per cent (25%) of the duties that would have been paid had these inputs been imported shall be granted: *Provided*, That this incentive would be available until December 31, 1997 and can be extended for another three (3) years by the President upon the joint recommendation of the Secretary of Finance and the Secretary of Trade and Industry.

The Secretary of Finance, Secretary of Trade and Industry and the Council shall jointly prepare a set of criteria to be used in classifying export products into traditional and non-traditional. Thereafter, on the basis of said criteria, products identified as traditional export products shall not be qualified for the tax credit under this section.

To be eligible for the tax credit, an exporter of a non-traditional product must have used locally-produced raw materials, capital equipment and/or spare parts, or has substituted locally-produced raw materials, capital equipment and/or spare parts for similar articles previously imported.

Exporters may also enjoy the incentives under Executive Order No. 226, otherwise known as the Omnibus Investments Code, as amended, and other laws: *Provided*, That they are registered according to the rules and regulations of the office or authority concerned: *Provided, further*, That in case of parallel incentives granted by the office or authority and the Act to exporters, a subsequent registration under the Act shall not entitle the exporter to the enjoyment of the same incentives provided herein. Any declaration to the contrary shall be dealt with in accordance with the provisions in Rule XV, without prejudice to the exporter's further criminal liability.

Sec. 3. Claims For Tax Credits. All claims for tax credits, except for increases in export revenues which shall be filed with the appropriate office of the Bureau of Internal Revenue (BIR), shall be filed with the One-Stop Shop Inter-agency Tax Credit and Duty Drawback Center, hereinafter referred to as the Center, pursuant to Administrative Order 226, as amended by AO 138. Tax credit claims shall be processed in accordance with the Center's existing rules and regulations.

The Center shall issue to the eligible exporter a corresponding Tax Credit Certificate (TCC), as evidence of the tax credit given to the claimant, containing the amount of tax credit granted as well as the legal basis for the grant to be signed by the Center's Executive Director, as authorized by the Secretary of Finance. The TCC can only be utilized after securing a Tax Debit Memo (TDM) which is officially issued by the Center. Without such TDM, no TCC can be utilized nor honored as payment for duties and taxes to the national government.

The TCC issued can be utilized for payment of taxes and duties to the national government, except withholding taxes.

a. **Imported Inputs, Raw Materials and Capital Equipment.** Tax credit applications herein shall be filed not later than ninety (90) working days from the date of exportation of the qualified exporter. The corresponding TCC shall then be issued by the Center not later than thirty (30) working days from the date the complete application has been accepted.

Taxes and duties which have been paid for imported inputs and raw materials cannot be claimed as a tax credit under this section if they have been previously claimed as a credit for purposes of the Value-Added Tax (VAT).

The BIR shall develop a mechanism to verify the consistency and accuracy between the amount of tax credit for the grant of incentive provided herein and the amount of tax credit claimed for purposes of computing the VAT.

b. **Increase in Current Year's Export Revenues.** The application for the incentive due to increases in export revenue shall be filed with the appropriate BIR office not later than sixty (60) days from the date of filing of

the income tax return. The application shall be subject to verification and the corresponding TCC shall be issued not later than thirty (30) working days from the date the complete application has been filed.

The incentive for increase in export revenues shall be availed of by the qualified exporter upon filing of an Application for Tax Credit, and attaching to the said application the following:

- i) an external auditor's certification that the increase in current year's export revenues of the qualified exporter is reported as part of his gross income which was declared for income tax purposes, and
- ii) A certified schedule of actual export sales indicating therein relevant information such as the name and address of the customer, date of actual exportation, sales invoice no., dollar value, dollar conversion rate, peso equivalent, etc. for the current and immediately preceding years.

The incentive can be granted even if the direct exporter reported a Net Taxable Loss in his income tax return during the current year: *Provided*, however, that proceeds from the sale of a TCC issued for the increase in export revenues shall be reported.

c. **Import-Substitution.** Tax credit applications herein shall be filed not later than ninety (90) working days from the date of exportation of the qualified exporter. The corresponding TCC shall then be issued by the Center not later than thirty (30) working days from the date the complete application has been accepted.

Sec. 4. Negotiability. The TCC for Sec. III(a) shall be valid for five (5) years from the date of the issuance thereof. The TCC for Sec. III(b) and (c) shall be valid for three (3) years from the date of the issuance thereof. Any TCC which is not utilized within the prescribed period shall be considered invalid and shall be subsequently cancelled. However, the negotiability or transferability thereof shall be limited to a maximum of three (3) transfers during its lifetime. The TCCs issued for the purpose shall be negotiable instruments and may be transferred to any person, natural or juridical, except to local government units. Within a period of thirty (30) days from the date of transfer of the TCC, the holder thereof shall notify the Center of the transfer of the TCC for purposes of recording and monitoring.

PART V SUPPORT AND PROMOTIONAL ACTIVITIES

RULE VIII. Export Financing, Guarantee and Insurance

Sec. 1. Export Financing Institution. Pursuant to Section 7(i) of the Act, the Council shall make the necessary legal and feasibility study/recommendation on the alignment and rationalization of government programs relative to export financing and existing organizations dealing primarily or exclusively with export financing, guarantee and insurance, likewise considering the creation of a private sector-led export financing institution whose services shall be primarily devoted towards supporting the operations of exporters and indirect exporters, particularly the SMEs.

The study shall include the powers, functions and operations of the proposed institution, and government equity contributions to the said institutions and, if and when necessary, the preparation of a bill creating the same which the Council will recommend to Congress within six (6) months after the effectivity of the Act.

Sec.2. Interim Export Financing Program. In the interim, while the Eximbank is not yet established, the Council, through the Networking Committee on Financing Costs, and government financial institutions (GFIs) such as the Bureau of Small and

Medium Business Development (BSMBD), the Guarantee Fund for Small and Medium Enterprises (GFSME), the Philippine Export and Foreign Guarantee Corporation (Philguarantee), the Small Business Guarantee Finance Corporation (SBGFC), the Development Bank of the Philippines (DBP), the Land Bank of the Philippines (LBP), and the Philippine National Bank (PNB) shall formulate within one year short-term, medium-term and long-term credit programs for exporters. Further, the Committee shall provide standardized terms and conditions for the greater accessibility of credit through simplified procedures and technical assistance at globally competitive rates.

The Heads of DBP, LBP and PNB shall report the progress of the above programs during the quarterly meetings of the Council with the President.

The GFIs involved in guarantee facilities such as BSMBD, GFSME, Philguarantee, and SBGFC shall activate their facilities based on the viability and quality of loan applications from both local and foreign banks.

The government counterpart funds shall come from direct budgetary appropriations, from consolidated capital funds of the government institutions involved in export financing and guarantees, as mentioned above, or from equity contributions of government finance institutions.

RULE IX. The Export Promotion Privatization Program

Sec. 1. The Council, through the DTI, shall commence a privatization program that shall embody the rationalization of the government's export promotion and development functions/activities and programs for the eventual transfer of the same to the private sector within two (2) years from the approval of the Act.

Sec. 2. The EDC shall create a Task Force that will draw up a study on the aforementioned, the same to be concluded within ninety (90) days from the approval of the Act.

Sec. 3. The Task Force shall likewise identify the appropriate funding mechanism for the said program. While the appropriate funding mechanism is not yet in place, financial and technical assistance to the accredited organization on a project-to-project basis shall be granted. In this regard, the national government shall appropriate such sums as may be necessary to the Council to be exclusively earmarked for export promotion and information until such time that the Council establishes the funding mechanism. The Council shall formulate the criteria to avail of this financial and technical assistance and the extent to which the assistance shall be granted with the primary consideration of encouraging the formation of a nationwide marketing cooperative for export promotion.

Sec. 4. The accredited export organization shall be responsible for the performance of such privatized export promotion functions.

RULE X. The Philippine Trade Centers (DBM)

Sec. 1. The government shall hereby assist the private sector in the establishment of Philippine Trade Centers which shall house the trade promotion offices and shall serve as the permanent exhibit sites of the country's export products. In this regard, the government shall provide the land for the centers, through a land grant or long-term lease to the accredited organization or its successor-in-interest, and shall arrange the financing for the construction of the trade complexes. The accredited export organization shall manage the centers and shall be authorized to enter into contracts with other firms for the centers' operation.

PART VI TRANSITORY PROVISIONS

RULE XI. Appointment of Private Sector Representatives

Sec. 1. Upon the effectivity of the Act, the President of the Republic of the Philippines shall appoint the nine (9) private sector representatives to the Council who shall serve a term of two (2) years. Thereafter, the determination of the private sector representatives shall be governed by Section 9 of the Act.

RULE XII. Transitional Operations

Sec. 1. The Council shall immediately function one (1) month after the approval of the Act. In the interim, the old Council, as constituted, shall continue to exercise the functions and powers provided in the Act.

RULE XIII. Funding

Sec. 1. Upon the effectivity of the Act, the budget granted to the old Export Development Council shall be transferred to the new Council created in the Act. Thereafter, such sums as may be necessary for its operation and maintenance shall be included in the annual General Appropriations Act.

PART VII VIOLATIONS OF THE PROVISIONS OF THE ACT AND/OR ITS RULES AND REGULATIONS

RULE XIV. Criminal Offenses and Penalties

Sec. 1. Any person, entity, government instrumentality or institution found to be willfully violating or grossly negligent in executing the mandates of the Act shall result in the expulsion from office of its chief executive and operating officers, as well as the responsible officers thereof. Notwithstanding any provision of law to the contrary, they shall likewise be prohibited from holding any government position for at least two (2) years.

RULE XV. Suspension and Cancellation

Sec. 1. The Council may cancel an exporter's registration for any of the following grounds:

- a. Failure to maintain the qualifications for registration as required by the Act;
- b. Violation of any provision of the Act;
- c. Violation of any of these Rules and Regulations or any of the general and specific terms and conditions of registration, or
- d. Violation of any law for the protection of labor, the consuming public, sanitary and phyto-sanitary processes, and/or the environment.

Sec. 2. For the same grounds enumerated in the immediately preceding section, the Council may suspend the enjoyment of one or more incentives enjoyed by an exporter depending upon the gravity of the offense committed.

PART IX FINAL PROVISIONS

RULE XVI. Repealing Clause

Sec.1. All laws, decrees, executive orders, administrative orders, rules and regulations or parts thereof which are inconsistent with the provisions of the Act are hereby repealed, amended or modified accordingly.

RULE XVII. Effectivity

Sec. 1. These implementing rules and regulations shall have retroactive effect to 30 December 1994, the date in which Republic Act No. 7844 took effect.

Done in Manila, Republic of the Philippines this 21st day of April 1995.



Secretary

R. S. NAVARRO

Department of Trade and Industry

By: ROMEO I. BERNARDO, Acting



ROBERTO F. DE OCAMPO

Department of Finance