PURSUANT TO PARAGRAPH (A) OF SECTION 11 OR PRESIDENTIAL DECREE NO. 66, AS FURTHER AMENDED BY EXECUTIVE ORDER NO. 226, THE FOLLOWING RULES ARE HEREBY PROMULGATED:

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RULE I
PRELIMINARY PROVISIONS

SECTION 1. Title. — These rules shall be referred to as the "Amended Rules and Regulations to Implement Presidential Decree No. 66, as further amended by Executive Order No. 226"

SECTION 2. Definition of Terms. — For purposes of these Rules and Regulations, the following definitions shall apply:

a. Decree — shall refer to Presidential Decree No. 66, as amended.

b. Code — shall refer to Executive Order No. 226 otherwise known as the Omnibus Investments Code of 1987.

c. Authority — shall mean the Export Processing Zone Authority.

d. Board — shall refer to the Board of Commissioners of the Authority.

e. Zone — shall refer to the area or areas fixed or delimited by Presidential Proclamation(s) or Board Resolution(s) as export processing zone(s).

f. Customs Territory — shall mean the national territory outside of the zone.

g. Zone Export Enterprise — refers to an individual firm, association, partnership or other form of business organization which has been authorized by the Board to engage in an activity inside the zone falling within the purview of Article 77 of the Code resulting in the exportation of goods or merchandise.

h. Pioneer Enterprise — shall mean a zone export enterprise (1) engaged in the manufacture, processing or production and not merely in the assembly or packaging of goods, product, 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 materials into another raw material or finished goods which is new and untried in the Philippines or (3) which produces non-conventional fuels or manufactures equipment which utilizes non-conventional sources of energy or uses or converts to coal or other non-conventional fuels or sources of energy in its production, manufacturing or processing operations; Provided, That the final product in any of the foregoing instances involves or will involve substantial use and processing or domestic raw materials, whenever available, taking into account the risk and magnitude of investment.

i. Date of official Acceptance — shall be the date stamped on complete and complying applications and recorded in appropriate books of the Authority. For incomplete and non-complying applications, the "date of official acceptance" shall be the date of full compliance with the requirements of the application.

j. Certificate of Registration — shall mean the certificate issued by the Authority to a zone export enterprise upon its registration.

k. Date of Registration — shall refer to the date appearing in the certificate of registration.

l. Registration Agreement — shall refer to final agreement executed by the Authority and the zone enterprise setting forth the terms and conditions for the latter's operation of business or engagement of economic activity within the zone.

m. Start of Commercial Operations — for purposes of the income tax holiday shall be the date specified in the Registration Agreement or the date when the particular zone export enterprise actually begins production of the registered product for commercial purposes, whichever comes first, irrespective of phrases or modules or schedule of development.

n. Expansion — shall mean installation of additional facilities/equipment that will result in increase in production capacity. It may include modernization and rehabilitation.

o. Prohibited Merchandise — shall mean those items mentioned in Section 102, Book 1 of Republic Act No. 1937, otherwise known as the Tariff and Customs Code of the Philippines, as amended by Presidential Decree No. 34, and such other items which may be prohibited by special laws.

p. Domestic Merchandise — shall mean those articles which are the growth, origin or manufacture of the Philippines.

q. Foreign Merchandise — shall mean those articles imported into the Philippines, except those previously exported therefrom and returned having been advanced in value or improved in condition by any process of manufacture or other similarly artificial means or processes and upon which no drawback or bounty has been allowed.

r. Export Product — shall mean the manufactured, processed and/or assembled products belonging to the class of products approved by the Board to be undertaken by the enterprise, including such packaging materials and containers necessary to put the product into exportable form.

s. Rejects/Seconds — shall mean finished or semifinished products or raw materials which are defective or inferior in quality, such that any further processing or manipulation thereof is not technically or economically feasible.

t. Semi-finished Products — shall mean an article, which in relation to the particular product, is intended to be used as a direct input, is unfinished or incomplete but possesses the essential character of a finished product.

u. Raw Materials — refers to nonfabricated materials directly used in processing or manufacturing, during the course of which its nature or form is changed.

v. Spare Parts — shall mean usual components of machinery and/or equipment which are subject to wear and tear arising from normal use, utilization and operation.

w. Machinery and Equipment — shall refer to capital equipment, major components thereof, nonperishable tools, machines and other mechanical, chemical and or electrical apparatus, whether fixed or movable, needed in the manufacturing operations of the zone export enterprise.

x. Packaging Materials — shall refer to wrapping materials, receptacles and containers, tags, labels, and such other materials as are necessary to put the zone export enterprise product in exportable form.

y. Construction Materials — shall refer to articles or materials that shall form part of the zone export enterprises's factory building whether built by the zone enterprise or leased from the Authority, including fixtures thereof, enclosure, driveways and other auxiliary structures.

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z. Merchandise or Goods — shall collectively refer to raw materials supplies, equipment, machineries, spare parts, packaging materials, or wares of every description to be used in connection with the registered activity of a zone export enterprise.

(aa) Assembly — shall mean the process by which semi-finished parts or materials are put together or combined to form a distinct product without substantially changing the physical or mechanical characteristics or electro-magnetic and or chemical properties.

(bb) Manufacturing/Processing/Manipulation — shall mean the process by which raw or semi-finished materials are converted into a new product through a change in their physical, mechanical or electro-magnetic characteristics and/or chemical properties.

(cc) Packaging — shall mean the process by which raw materials, semi-finished products or finished products whether locally produced or not are placed without substantial alteration in a container or receptacle or wrapped in preparation for the market. It may include weighing and/or reduction of products to standard measurements and specifications and other similar packaging processes.

(dd) Export Sales — shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, landing certificates and other commercial documents of export products exported directly by a registered export enterprise or the net selling price of the export products sold by a registered export enterprise to another export producer or to an export trader that subsequently exports the same; Provided, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by the landing certificate or similar commercial documents; Provided, further, That without actual exportation, the following shall be considered constructively exported:

1. sales to the bonded manufacturing warehouses of export-oriented manufacturers;

2. sales to export processing zones;

3. sales to registered export traders operating bonded trading warehouses supplying raw materials used in the manufacture of export products;

4. sales to foreign military bases, diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not.

(ee) Gross Income — shall mean the income of a business or an individual for a stated term before any expenses, deductions or incidental losses are deducted.

(ff) Net Taxable Income — shall mean taxable gross income less allowable deductions.

(gg) Value Added — is the difference between the selling price of merchandise and the value of the raw materials used in the manufacture, processing or manipulation thereof, which were either imported directly by a zone export enterprise or imported through the customs territory.

(hh) Net Foreign Exchange Earnings — shall mean the total foreign exchange proceeds from the export of the registered product minus the total foreign exchange expenses incurred in the production of the registered product and the depreciation of imported capital equipment.

(ii) Net Foreign Exchange Savings — shall mean the foreign exchange that would have been expended had the registered product been imported less the total foreign exchange expenses incurred in the production of the registered product and the depreciation of capital equipment.

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(jj) Fixed Assets — shall mean those assets subject to depreciation under the National Internal Revenue Code.

(kk) Training Program — shall refer to an organized activity primarily designed for the systematic development of the attitude, knowledge, skill and behavior pattern of employees required for the adequate performance of a given job or task conducted by a juridical or natural person or persons.

(ll) Labor Training Expense — refers to the direct, ordinary and necessary expenses incurred by any zone export enterprise in a training program or activity. These shall include, among others, the following expenses or any combination of them.

a. Training materials, books and supplies.

b. Cost of raw materials and non-depreciable tools actually consumed and used during the training.

c. Honoraria for resource speakers and training coordinators and other fees approved by the National Manpower and Youth Council (NMYC).

d. Travelling expenses of resource speakers and training coordinators while away from home on account of the training program.

e. Salaries of trainees and training staff for the duration of training.

f. Travelling expenses of trainees and training staff while away from home on account of the training program.

g. Tuition, registration or similar fees paid for sponsored trainees.

h. Cost of repairs of training equipment facilities and other fixed assets used in the training program, if breakdown occurs as a result of training;

i. Others (not to exceed 5% of the total training cost)

i. foods
ii. rental or venue (if held outside of the zone export enterprise' factory/office building
iii. rental of equipment
iv. work clothes for trainees and instructors
v. certificates of training
vi. group insurance of trainees

(mm) Unskilled Labor — shall refer to any person, employed or unemployed by the zone export enterprise lacking the skill, training or experience required or necessary by a particular production process in any industrial or manufacturing activity.

(nn) Direct Labor Wage — shall refer to compensation for labor directly used in the production or manufacturing process up to and including the services of the production foreman, but shall exclude labor for maintenance of production, machinery and equipment. Compensation shall cover salaries and wages, including other payments such as bonuses and cost of living allowances which form part of the laborer's or employee's taxable earnings.

(oo) Basic Skills Training — shall refer to the first stage of the learning process of a vocation or occupation aimed at developing the attitude, technical character for a given job, task, knowledge, skill and behavior pattern to specific standards.

(pp) Skills Upgrading — shall refer to training for supplementary skills and knowledge in order to increase the versatility and occupational mobility of a worker or to improve his standard of performance.

(qq) Retraining — shall refer to the acquisition of skills and knowledge required in an occupation other than the

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skills or knowledge for which the person was originally trained.

RULE II
APPLICATION AND REGISTRATION

SECTION 1. Qualification of Applicants. — Any person, firm, association, partnership, corporation, or any other form of business organization, regardless of nationality, control and/or ownership of the working capital thereof may apply for registration as a zone export enterprise.

SECTION 2. Forms. — All applications shall be made upon forms prescribed by the Authority, accomplished in three (3) copies.

SECTION 3. Supporting Documents. — The documents to be submitted by an applicant in support of the application as a zone export enterprise are:

a. Project feasibility study;

b. Copies of articles of incorporation and by-laws;

c. Resolution of the applicant's board of directors authorizing the filing of the application;

d. List of its directors, principal officers, and major stockholders, including their bio-data;

e. List of machinery and equipment to be used by the applicant with a statement of their capacity, ownership and/or mode of procurement; and

f. Company brochures and/or photographs or product(s).

The supporting documents to be submitted by an applicant for registration as a zone service enterprise shall be governed by pertinent circulars and memoranda of the Authority.

SECTION 4. Filing of Application. — The application shall be filed with the Authority upon payment of the corresponding filing fee.

SECTION 5. Board Action. — Approval of the application shall be by resolution of the Board. The action taken thereon shall be communicated in writing to the applicant.

SECTION 6. Certificate of Registration. — The Certificate of Registration shall only be issued upon the execution of the Registration Agreement by the Authority and the applicant and whenever it can be shown that applicant has:

a. Complied with all the pre-registration requirements;

b. Submitted within twenty (20) calendar days from receipt of the notice of approval of the application, a formal acceptance of the proposed terms and conditions of registration. For good cause shown, said period may be extended if the request therefor is filed before the expiration of the period sought to be extended.

c. Paid the registration fee.

RULE III
PROVISIONS COMMON TO REGISTRATION AGREEMENTS

SECTION 1. Use and Occupancy. — A zone export enterprise may lease a parcel of land within the zone, the size and location of which, as well as the terms of the lease thereof, shall be determined by the Board and subject further to the following rules:

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a. The areas to be occupied by buildings or structures within the period that may be prescribed by the Authority shall not be less than fifty (50%) per cent nor more than seventy (70%) per cent of the total leased areas;

b. All areas leased which are not actually occupied by buildings or structures shall be maintained in good and wholesome condition; and

c. A deposit in an amount prescribed by the Board shall be paid by the zone export enterprise prior to or upon the execution of the Registration Agreement.

SECTION 2. Reservation of Land and/or Building. — A zone export enterprise may reserve a parcel of land and/or office/factory building owned by the Authority subject to the following terms and conditions:

a. The reservation shall be valid for a period of six (6) months from date of payment of the reservation fee;

b. The reservation fee shall be non-refundable and non-applicable to future rentals; and

c. Should the zone export enterprise make any use of the reserved land and/or building within the reservation period, regular rentals shall immediately be applied on the land and/or building effective on the date of occupancy.

SECTION 3. Building and Other Structures. — No building, structure or other facility shall be constructed, and no improvements on buildings, structures, or facilities shall be made within the zone without the prior written approval or permit issued by the Authority pursuant to the National Building Code and its implementing rules and the payment to the Authority of all the corresponding fees and dues.

SECTION 4. Submission of Plans and Specifications — A zone export enterprise intending to construct its own factory/office building or other structures shall submit three (3) copies of the building plans and specifications within forty-five (45) days from the date of registration and shall commence construction within thirty (30) days after approval of said plans and specifications.

SECTION 5. Data Covering Manufactured Articles. — The Registration Agreement shall contain a list of all export articles intended to be manufactured by the zone export enterprise, together with the patterns, sketches or formulae and the names and quantities of estimated imported materials, as well as the local materials, if any, to be used therein including the specific names under which the manufactured articles shall be known to the trade.

SECTION 6. Non- Assignability of Rights — Except as otherwise provided herein, no machinery/equipment, building or portions thereof within the zone, and no registration agreement, contract or rights thereon shall be sold, assigned, sublet, mortgaged, transferred, leased or otherwise disposed of without the prior written consent of the Board. Any and all rights and interests accruing to third parties in violation of this provision shall not be binding against the Authority.

SECTION 7. Public Safety and Health — A zone export enterprise shall see to it that its operations during the course of manufacture or production will not endanger public safety or public health nor violate the anti-pollution requirements of the government and shall comply with the medical, dental, occupational health and safety laws, regulations and standards of the Labor Code of the Philippines, as amended.

SECTION 8. Treatment and Disposal of Waste — A zone export enterprise shall make provisions for the treatment and disposal of industrial waste and scraps in the manner acceptable to the Authority. For this purpose, clearance from the Environmental Management Bureau or from the appropriate government agency through the Authority shall be required.

SECTION 9. Period of Lease — The land areas in the zone shall be leased for a period of fifteen (15) years renewable for another period of ten (10) years at the option of the zone export enterprise subject to such terms and

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conditions as may be mutually agreed upon by the parties.

The option to renew the lease shall be exercised in writing by the zone export enterprise not later than sixty (60) days prior to the expiration of the original term.

Upon the expiration of the ten-year lease renewal period or at the end of the total twenty-five year lease period, the buildings and permanent improvements that may have been constructed on the leased premises by the lessee shall automatically belong to the Authority without cost. Thereafter, subject to such terms and conditions as may be mutually agreed upon by the parties a new lease agreement may be entered into on the building(s) and the zone area occupied by it.

However, six (6) months prior to the expiration of the ten-year lease renewal period, the zone export enterprise shall notify the Authority in writing of its intention to enter into the said new lease agreement with the Authority.

In all cases, the period of the lease shall be coterminous with the registration of the zone export enterprise with the Authority. In the event that such registration is cancelled or revoked prior to the expiration of the lease period, the lease shall be deemed automatically terminated without the need of judicial or extrajudicial demand/action: Provided, That the lease shall thereafter be treated on a month-to-month basis effective from the date of said cancellation or revocation subject to payment of rentals in accordance with the prevailing rates fixed by the Authority.

Thereafter, within two (2) months from the date of the said cancellation or revocation, unless this period is extended upon written request and written approval of the Authority based on meritorious grounds, the zone export enterprise shall have the option to:

a. sell its building(s) and permanent improvements to another zone export enterprise after giving a one-month notice to the Authority; or

b. remove the said building(s) and permanent improvements at its own expense after giving a one-month notice to the Authority.

However, both options shall be subject to the pre-emptive right of the Authority to acquire the said building(s) and permanent improvements upon payment of compensation therefor in an amount equivalent to the book value thereof less depreciation cost at the rate of five (5%) per annum. In the event the Authority decides not to exercise its pre-emptive right to acquire the said building(s) and permanent improvements, it shall communicate the same to the zone export enterprise within two (2) months from receipt of the latter's notice to sell or to remove the same.

SECTION 10. Payment of Land Rentals. — The payment of land rentals shall commence on the first day of the month immediately after the ninetieth (90th) day following the date or registration of the zone export enterprise and the first payment shall cover rentals at the end of the month. The monthly rentals shall be paid at the office of the Authority and shall be due and payable within the first five (5) days of each month without the need of demand. In case of default or delinquency in the payment of rentals, a zone export enterprise shall be liable to pay interest at the rate to be determined by the Authority computed from date of its default or delinquency.

SECTION 11. Fees. — The Board may impose such reasonable fees for services which the Authority may provide from time to time in connection with:

a. Development and maintenance of public utilities and installations;

b. Measures for maintenance of environmental sanitation and public safety;

c. Processing of applications for registration as a zone export enterprise including availment of incentives;

d. Management and administrative service fees for processing, handling, and escorting of all importations, exportations, local sales and farm-outs of zone export enterprises; and

e. Such other related services which the Authority may deem necessary.

SECTION 12. Terms of Lease of the Authority's Factory/Office Buildings and Utilities . — The terms and conditions for the lease of office and factory spaces/buildings owned by the Authority, including the supply of electricity, water and other utilities which may be provided by the Authority shall be fixed by the Board.

SECTION 13. Reportorial Requirement . — A zone export enterprise shall maintain a distinct and separate books of accounts for its operations inside the zone and shall submit financial and other reports/documents to the Authority on or before their respective due date as follows:

Reports

Due Date

A. Copies of Audited Financial Statements

- Balance Sheet
- Income Statement
- Statement of Cost of Sales
- Statement of Operating and
- Administrative Expenses

Thirty (30) calendar days from the date of filing with Bureau of Internal Revenue

B. Income Tax Return

Fifteen calendar days from filing thereof.

C. Amendment to the articles of incorporation or by-lews

Thirty (30) calendar days from the date of registration of said amendments with the Securities and Exchange Commission.

D. Replacement of any director or other
principal officer, with an indication of the nationality of each officer, and accompanied by a copy of his certificate of citizenship, if a naturalized Filipino.

Thirty (30) calendar days after said replacement.

E. Any change in equity ownership

Thirty (30) calendar days after said change.

F. Annual Reports

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- Inventory Report on
Finished Goods, Raw
Materials and Work-in-Process
- Value Added
- Net Dollar Earnings
- Dollar Cash Flow Statement
- Report on Long Term Loan
- Report on Capital Account
and Shares of Equity
- List of Stockholders
- List of Principal Officers
- List of Foreign Nationals/Technicians
- List of Training Program
- List of Machinery and Equipment

March 31 of each year.

G. Notice of the start of Commercial Operations

Seven (7) days from said date

H. Other reports which the Authority may require from time to time or which by law and regulations are submitted by the enterprise to other government agencies like Central Bank, GTEB, DOLE, BIR, SSS, etc.

Fifteen (15) calendar days from filing thereof.

SECTION 14. Examination and Inspection of Records and Premises . — A zone export enterprise shall allow duly authorized representatives of the Authority access to its premises and records during working hours for purposes of inspection, evaluation and/or examination or audit of books of accounts or financial records, operations, security and safety measures, production records, and inventories of raw materials and finished products: Provided, however, That duly authorized representatives of the Bureau of Internal Revenue or the Bureau of Customs may, in accordance with pertinent laws and regulations examine the book of accounts of a zone export enterprise.

SECTION 15. Industrial Disputes . — In case of industrial disputes, the Authority may either mediate toward the settlement of such dispute or recommend to the Secretary of Labor and Employment the application of the process of compulsory arbitration.

SECTION 16. Withdrawal or Suspension of Operations . — Whenever a zone export enterprise decides to withdraw, suspend or cease its registered operations, a thirty-day written notice thereof shall be sent to the Board before the decision is implemented.

Subject to the provisions of pertinent laws and the rights of mortgage creditors, the withdrawal or cessation from business operations for a continuous period of two (2) months, unless extended upon written request of the zone export enterprise and written approval of the Authority based on meritorious grounds, shall have the effect of automatically cancelling the certificate of registration without the need of Board action. Upon such withdrawal or cessation from operations, the zone export enterprise shall cease to be entitled to the incentives provided for in the Decree and the Code.

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RULE IV
TAX TREATMENT OF MERCHANDISE IN THE ZONE

SECTION 1. Exemptions . — Merchandise brought to the zone in accordance with the provisions of these Rules for any of the purposes mentioned in paragraph 1, Article 77 of the Code shall not be subject to all customs and internal revenue laws and regulations of the Philippines nor to local tax ordinances.

SECTION 2. Domestic Merchandise . — Merchandise which is the growth, product or manufacture of the Philippines sent from the zone to the customs territory shall, whether or not combined with or made part of other articles likewise the growth, product or manufacture of the Philippines, while in the zone, be subject to the internal revenue laws of the Philippines as domestic goods sold, transferred or disposed of for local consumption.

SECTION 3. Foreign Merchandise . — Merchandise of foreign origin brought to the zone which has not undergone any processing, manufacturing or manipulation while in the zone, shall, when sent therefrom to the customs territory, be subject to the laws and regulations governing imported merchandise: Provided, That where said foreign merchandise is combined with or made part of any domestic article, the duties and taxes to be assessed on the final product shall be based on the value of such imported merchandise (except when the final product is exempt) and internal revenue taxes on the value-added.

SECTION 4. Transfer of Merchandise . — Domestic merchandise on which all internal revenue taxes have been paid, if subject thereto, and foreign merchandise on which duty or tax have been paid, or which have been admitted free of duty and tax, may be taken into the zone from the customs territory of the Philippines and brought back thereto free of quota, duty or tax: Provided, however, That the said merchandise shall have preserved its identity at the time of transfer from the zone to the customs territory. A merchandise shall be deemed to have lost its identity when at the time of transfer there has been a change in the physical or mechanical characteristics and/or electromagnetic or chemical properties of such merchandise.

SECTION 5. Identity . — When the identity of an article entered into the zone defined in Section 4 above has been lost, such article shall, when taken from the zone to the customs territory, be treated as foreign merchandise entering the country for the first time.

SECTION 6. Subsequent Importation . — Articles produced or manufactured in the zone and exported therefrom shall, on subsequent importation into the customs territory, be subject to the import laws applicable to like articles manufactured in a foreign country.

SECTION 7. Rejects, Seconds and Recoverable Wastes . — Subject to the provisions of Section 2 of this Rule, rejects, seconds and recoverable wastes, shall, when taken from the zone to the customs territory, be taxes in accordance with the applicable provisions of the customs and internal revenue laws and regulations of the Philippines.

SECTION 8. Abandonment . — Any article or merchandise found in the zone, the ownership of which is not known, shall be declared as abandoned in favor of the Authority.

RULE V
RIGHTS OF INVESTORS IN ZONE EXPORT ENTERPRISES

SECTION 1. Repatriation and Remittance of Earnings from Investments . — For purposes of exercising the basic rights and guarantees granted to investors as provided in Article 38(a) and (b) of the Code, the repatriation of investments and remittance of earnings from investment shall be allowed in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation or remittance subject to the

provisions of Section 74 of Republic Act No. 265, as amended, and existing Central Bank rules and regulations.

RULE VI
INCENTIVES TO ZONE EXPORT ENTERPRISE

SECTION 1. Application for Availment of Incentives . — All applications for availment of incentives shall be filed with the Authority.

SECTION 2. Scope of Entitlement . — Except as otherwise provided in these Rules, all zone export enterprises registered with the Authority not earlier than August 13, 1987 shall be entitled to the rights and incentives defined under Articles 38 and 39, Book I and Articles 76, 77 and 78, Book VI of the Code and to the governing procedures herein defined for the purpose. All zone export enterprises registered under the Decree shall continue to be entitled to the incentives under the terms and conditions provided therein.

SECTION 3. Income Tax Holiday . — Only zone export enterprises registered with the Authority on or after August 13, 1987 may avail of the income tax holiday incentives. Availment shall be as follows:

a. New Registered pioneer Firms — Six (6) years from commercial operations.

b. New Registered Non-pioneer Firms — Four (4) years from commercial operations.

c. Expanding firms — Three (3) years from commercial operations of the expansion.

In exceptional cases, existing zone export enterprises registered under the Decree undertaking new projects distinct from existing operations of undertaking expansion projects or which made investments in expansion projects approved or registered by the Authority on or after December 1, 1986 but before August 13, 1987 may qualify as new or expansion projects subject to the setting up of separate books of account. In such cases, only sales of new products or only to the extent of their actual increase in production shall be entitled to income tax holiday exemption.

The Authority shall promulgate the criteria in determining new or expanded projects approved or registered by the Authority on or after December 1, 1986 but before August 13, 1987 or expansion or new projects of existing zone export enterprises registered by the Authority before or on or after the effectivity of the Code.

However, no expansion for additional capacity shall be allowed unless the applicant has attained, in general, 85% utilization of existing capacity.

Modernization or rehabilitation to be registered may or may not result in increase in capacity but the following conditions should be met:

1. Phases/stages of production sought to be modernized/rehabilitated must be identified; and

2. Must result in any of the following:

a. substantial reduction of production cost; and

b. significant increase in productive efficiency including debottlenecking; or

c. meaningful upgrading of product quality; or

d. keeping abreast with the state of the art in the production of the registered product.

SECTION 4. Additional Period for Availment . — For new registered zone export enterprises, the income tax holiday incentive may be extended for an extra year in each of the following cases but in no case to exceed the total period of eight (8) years for pioneer registered enterprises:

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a. If the ratio of the total imported and domestic capital equipment to the number of workers for the project does not exceed US$10,000.00 to one worker.

b. If the average cost of indigenous raw materials used in manufacture of the registered product is at least fifty (50%) percent of the total cost of raw materials for the preceding years prior to the extension unless the Board prescribes a higher percentage.

c. If the net foreign exchange savings or earnings amount to at least US$500,000.00 average annually during the first three (3) years operation to be determined by the Board at the end of such three-year period: Provided, That the foregoing foreign exchange savings criterion shall apply, as a general rule, to registered zone export enterprises whose products are totally imported into the country at the time of registration and duly indicated as imports substitution in the firm's approved project proposal.

For purposes of availment of this incentive, the registered zone export enterprise shall apply in writing to the Authority for the additional period and shall submit proof of compliance with the criteria abovementioned.

SECTION 5. Extent of Income Tax Holiday . —.

a. All zone export enterprises registered on or after August 13, 1987 shall be entitled to full income tax holiday incentive during the period(s) fixed under Sections 3 and 4 hereof.

b. Expanding zone export enterprises shall be entitled to the income tax holiday incentive only to the extent of their actual increase in production. The rate of exemption from income tax shall be computed as follows:

$$\text{Rate of Exemption} = \frac{\text{Incremental Sales of the Registered Product}}{\text{Total Sales of the Registered Product}}$$

The term "Sales" as indicated in the above formula shall be expressed in volume in case of homogenous products and value in case of heterogenous products.

c. In general, modernization and rehabilitation shall not be entitled to income tax holiday.

d. Where the start of commercial operation does not coincide with the first month of the zone export enterprise's taxable year, the rate of exemption from income tax holiday shall be computed in the following manner:

1. Get the total sales for the whole taxable year.

2. Deduct the base figure from the total sales (1) to get the incremental sale.

3. The rate of exemption is determined by the dividing the incremental sales (2) by the total sales (1).

4. The rate of exemption shall apply only to the total income tax due arising from sales of the registered product.

e. For this purpose, the base figure shall mean the highest attained sales in volume in case of homogenous products or value in case of heterogenous products of a zone export enterprise for any one (1) year within the last three (3) years prior to the year of expansion.

f. The rate of exemption shall be further computed proportionate to the number of months of the expanding firm's commercial operations during a given year.

g. The rate of exemption for the last taxable year of availment shall be computed in the same manner as abovementioned. Provided, however: That the rate of exemption shall be applied on the income tax due on

sales during the months that the zone export enterprise is still entitled to income tax holiday.

RULE VII
DETERMINATION OF PIONEER/NON-PIONEER STATUS

SECTION 1. Investment Priorities Plan. — As a general policy, the basis for determining whether an area of economic activity may be considered pioneer or non-pioneer shall be the investment Priorities Plan prepared yearly by the Board of Investments. In the absence thereof, the applicable criteria shall be formulated by the Authority.

SECTION 2. Non-Pioneer Status . — An area of activity shall be accorded non-pioneer status if it may be determined categorically as falling in such classification using the Investment Priorities Plan (IPP). Accordingly, the approval of the application for registration as a zone export enterprise shall indicate such status and the corresponding incentives the zone export enterprise may avail of under the Code.

SECTION 3. Pioneer Status . — Pioneer status may be extended to zone export enterprises only after the evaluation of their application for such status.

RULE VIII
ADDITIONAL INCENTIVES

SECTION 1. Zone Export Enterprises Registered on or After the Effectivity of the Code. — In addition to incentives granted under Articles 38, 76 and 77 of the Code, zone export enterprises registered on or after the effectivity of the Code shall also enjoy the following incentives:

A. Additional Deduction for Labor Expense — For the first five (5) years from registration, a zone export enterprise shall be allowed to deduct from its taxable income an amount equivalent to fifty (50%) per cent of the wages corresponding to the increment in the number of direct labor for skilled and unskilled workers subject to the following conditions:

1. That the ratio of imported and domestic capital equipment to the number of workers of the firm does not exceed US$10,000.00 to one (1) worker;

2. The registered zone export enterprise does not avail of this incentive simultaneously with the income tax holiday incentive; and

3. That in the event the registered zone export enterprise, except those engaged in mining and forestry based activities, should be located in a less-developed zone/area as defined in Title IV of the Code, it shall be allowed to deduct one hundred per cent (100%) of the wages above mentioned.

B. Tax Credit on Domestic Capital Equipment

1. Within five (5) years from date of effectivity (or from August 13, 1987) of the Code, registered export enterprises shall be entitled, on all purchases of domestically manufactured machinery, equipment and accompanying spare parts, to a tax credit equivalent to the value of the tariff duties and taxes that would have been waived had the same been imported under Article 77(1) of the Code: Provided, That the registered export enterprise did not avail exemption from value added tax on purchases of domestically manufactured machinery, equipment and spare parts under Section 3, Rule VIII of these Rules: Provided, further, That if the registered export enterprise opts to get full tax credit under this Rule, the same shall be communicated to the Bureau of Internal Revenue; Provided, finally, That the conditions in Section 1, Rule IX of these Rules shall likewise apply to local purchases of domestically manufactured machinery, equipment and spare parts.

2. To be eligible for tax credit under this Rule, the domestically manufactured equipment must have a local content and value added acceptable to the Board the extent of which will depend on the present state of the

industry.

3. The conditions governing the sale or other form of disposition of imported capital equipment prescribed under Rule X of these Rules shall also apply on the sale or disposition of domestically manufactured machinery, equipment and spare parts except that the presentation of Central Bank Release Certificate shall not be required.

C. Exemption from Contractor's Tax — The registered export enterprise shall be exempt from the payment of the contractor's tax (now equated with the value added tax), whether national or local.

D. Wharfage Dues and Export Tax Exemption — A registered zone export enterprise shall be entitled to exemption from wharfage dues and any export tax, impost, fee on the exportation of its registered export products produced by it or bought from another registered zone export enterprise.

E. Exemption from Local Taxes and Licenses — Zone export enterprises shall, to the extent of their construction, operation or production inside the zone be exempt from the payment of any and all local government impost, fees, licenses or taxes except real estate taxes which shall be collected by the Province/City/Municipality responsible for the collection thereof under the provisions of the Real Property Tax Code: Provided, That machineries owned by zone registered zone export enterprises which are actually installed and operated in the zone for manufacturing, processing or for industrial purposes shall not be subject to the payment of real estate taxes for the first three (3) years of operation of such machineries; Provided, further, That fifty percent (50%) of the proceeds of the real estate taxes collected from all real properties located in the zone and such other areas owned or administered by the Authority shall be remitted to the Authority by the province/city/municipality responsible for the collection of such taxes under the provisions of the Real Property Tax Code. All real estate taxes accruing to the Authority as herein provided shall be expended for such community facilities, utilities and/or services as the Authority may determine.

Production equipment or machineries, not attached to real estate, used directly or indirectly, in the production, assembly or manufacture of the registered product of the zone registered export enterprise shall be exempt from real property taxes.

F. Unrestricted Use of Consigned Equipment — The use of consigned machinery, equipment and spare parts which are reasonably needed in the registered operations and for the exclusive use of the registered export enterprise beyond the period permitted under other laws, rules and regulations may be authorized by the Authority.

SECTION 2. Zone Export Enterprise Registered Under the Decree Before the Effectivity of the Code. — In addition to incentives granted under Section 17 of the Decree, zone export enterprises registered before the effectivity of the Code shall continue to enjoy the following incentives:

A. Exemption from any Wharfage Dues, Export Tax, Duty, Imposts and Fee;

B. Exemption from any and all Local Government Impost, Fees, Licenses or Taxes, Except Real Estate Taxes under the Conditions Prescribed in Section 18(f) of the Decree, as amended by Section 4 of P.D. No. 1449;

C. Deduction for Labor Training Expenses;

1. Scope and Coverage — A deduction from taxable income of one-half (½) the value of labor training expenses incurred in training programs for developing or upgrading the productivity and efficiency of unskilled labor shall be granted to zone export enterprises: Provided, That such training programs have been duly evaluated, approved and certified by the National Manpower and Youth Council; Provided, further, That such deduction shall not exceed ten percent (10%) of the direct labor wage of such zone export enterprise.

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This tax incentive scheme shall be applicable to all training programs undertaken, participated in or financed by zone export enterprises whether for basic skill training, skills upgrading or retraining, and in all jobs, tasks or occupations whether or not classified as apprenticeable by the National Manpower and Youth Council.

2. Exclusive from Coverage — The following training programs shall not qualify under this tax incentive scheme:

a) Management development programs;

b) Training programs conducted abroad;

c) Training programs with less than twenty (20) training hours.

D. Net Operating Loss Carry Over: A net operating loss incurred in the first ten years of operation as a registered zone export enterprise 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 the first of 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 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 provisions of the Decree to the contrary notwithstanding, except that income not taxable either in whole or in part under the Decree or other laws shall be included in gross income.

E. Accelerated Depreciation: Fixed assets may be depreciated (1) to the extent of not more than twice the normal rate of depreciation if the expected life is ten years or less; or (2) depreciated over any number of years between five 95) years and the expected life if the latter is more than ten years; and depreciation thereon allowed as a deduction from taxable income: Provided, That the zone export enterprise shall notify the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate will be used by it.

The procedures and guidelines approved by the Board under its Resolution No. 82-156 dated November 6, 1982 and the subsequent administrative circulars or orders that may be promulgated by the Authority in connection therewith shall be complied with in the availment of deduction for labor training expenses, net operating loss carry over and accelerated depreciation referred to above.

SECTION 3. Exemption from Value Added Tax on Local Purchases. — A zone export enterprise, whether registered before or on or after the effectivity of the Code, shall be exempted from its value added tax on local purchases of merchandise, raw materials, supplies, articles, equipment, machineries, spare parts, and wares of every description to be used exclusively in its registered activity inside the zone pursuant to Article 77(1) and (2) of the Code or Section 17(1) and (2) of the Decree and Section 1 Executive Order No. 273 (Value Added Tax Law) in relation to Section 8 (b) on exempt sales of goods of the Revenue Regulations No. 5-87 of the Bureau of Internal Revenue.

RULE IX
IMPORTATION OF CAPITAL EQUIPMENT, CONSTRUCTION MATERIALS, VEHICLES, OFFICE EQUIPMENT, AND FURNITURE

SECTION 1. Tax and Duty Exemption on Imported Capital Equipment . — Pursuant to Book VI, Article 77(1) of the Code, a zone export enterprise may import machineries, equipment and spare parts exempt from the payment of any and all tariff duties and internal revenue taxes due thereon subject to the following conditions:

a. That the machinery and equipment are directly and actually needed and will be used exclusively by the Registered export enterprise in its registered activity;

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b. That the importation of spare parts shall be restricted only to component spare parts for the specific machinery and/or equipment authorized to be imported; and

c. Subject to reasonable allowances, the rated capacity of the capital equipment to be imported must be within the registered capacity of the zone export enterprise.

SECTION 2. Importation of Construction Materials . — The importation of construction materials and other articles that shall form part of the zone export enterprise self-built factory or office building, including fixtures thereof, enclosures, driveways and auxiliary structures may be allowed tax and duty free under Article 77(1) of the Code subject to the following conditions:

a. That the construction materials to be imported is not manufactured domestically in sufficient quantity, of a comparable quality and at reasonable prices. Construction materials shall not be considered available in sufficient quantity if they cannot be made available to the zone export enterprise at the time of need within a reasonable period. In determining whether quality is comparable, the test, among others, will be whether or not it will conform to the plans and specifications of the zone export enterprise as approved by the Authority. In determining reasonableness of the prices quoted by the domestic manufacturers or suppliers, the Authority may be guided by the acquisition cost of similar construction materials imported into the Philippines, if all applicable taxes and duties were paid thereon, plus fifteen (15%) mark-up;

b. That the construction materials to be imported are reasonably needed and will be used exclusively by the zone export enterprise in the construction of its factory or office building in the zone including fixtures thereof, enclosures, driveways and auxiliary structures;

c. That the approval of the Authority is obtained by the zone export enterprise before the purchase order is made or before the corresponding letters of credit are opened; and

d. That the construction materials shall be brought directly and physically inside the zone and in no instance shall it be sold, transferred, assigned, donated or be disposed of in any manner in the customs territory.

SECTION 3. Importation of Specialized Office Equipment and Furnitures . — Specialized office equipment and furnitures such as computers, antistatic chairs, tables and others of similar nature may be imported exempt from customs duties and taxes payable thereon, if the said equipment and/or furniture is not manufactured domestically in sufficient quantity, not of comparable quality and not sold at reasonable price. Otherwise, ordinary office equipment and furnitures, whenever applicable shall be procured locally.

SECTION 4. Importation of Specialized Vehicles and Other Transportation Equipment . — Specialized vehicles and other specialized transportation equipment, including necessary spare parts, directly related to the zone export enterprise' registered activity may be imported exempt from customs duties and taxes only upon prior approval of the Board and with proper clearance from appropriate government agency(ies). Otherwise, ordinary vehicles and other transportation equipment, including the necessary spare parts, whenever applicable shall be procured locally.

RULE X
SALE OR DISPOSITION OF CAPITAL EQUIPMENT

A. Any sale, transfer, assignment, donation or other form of disposition of originally imported capital equipment/machinery including spare parts within five (5) years from date of acquisition shall require prior approval of the Board. Such approval shall be granted only if the sale or other form of disposition is made:

1. To another zone export registered enterprise, to BOI registered producer/trader enjoying similar incentives under this Rule, to operators of BMW's/ BMCTW's and/or to an export enterprise with a certificate of export-orientedness from the Central Bank;

2. For the reasons of technical obsolence as determined by the Board;

3. For purposes of replacement to improve and/or expand the operations of the zone export enterprises; and

4. In cases of withdrawal or cessation from operation of the zone export enterprise, subject to requisite examination/evaluation by the Authority, the Bureau of Customs and the Bureau of Internal Revenue, presentation of CB Release Certificate, payment of duties and taxes if applicable, payment of processing and/or terminalling fee, and such other conditions as may be prescribed by the Board.

B. Any sale, transfer, assignment, donation or other form of disposition made after five (5) years from the date of acquisition shall not require Board approval but shall be governed by existing procedures of the Authority.

RULE XI
TAX AND DUTY EXEMPTION ON IMPORTED PROFESSIONAL INSTRUMENTS AND PERSONAL HOUSEHOLD EFFECTS OF FOREIGN NATIONALS

SECTION 1. Importation of Professional Instruments and Household Effects . — The professional instruments and implements, tools of trade, occupation or employment, wearing apparel and personal household effects of foreign nationals who shall settle in the Philippines in connection with their registered activity in the zone, may be imported exempt from the payment of import duties: Provided, That the above-mentioned materials shall neither be in commercial quantities nor for hire (Section 105(h), Tariff and Customs Code): Provided, further. That the approval of the Authority is obtained by the zone export enterprise before the purchase order is made or before the corresponding letters of credit are opened.

RULE XII
CONDITIONS FOR AVAILMENT OF INCENTIVES AND OTHER PRIVILEGES

SECTION 1. Compliance with Obligations . — The zone export enterprise shall observe and abide by the provisions of the Decree and/or the Code and these implementing Rules and Regulations, and take adequate measures to ensure that its obligations thereunder as well as those of its officers, employees and stockholders are faithfully discharged.

SECTION 2. Compliance with Directives . — The zone export enterprise shall comply with the directives and circulars which the Authority may issue from time to time in pursuance of its powers under the law.

SECTION 3. Compliance with the Pre-Registration/Registration Conditions . — The zone export enterprise shall comply with all the pre-registration and registration conditions as required by the Board and/or as stipulated in its registration agreement with the Authority at specified periods therein defined.

SECTION 4. Compliance with Reportorial Requirements . — The zone export enterprise shall comply with the reporting requirements of the Authority.

SECTION 5. Delinquent Enterprises . — Availment of incentives by a zone export enterprise under these Rules shall be allowed only if said enterprise is not delinquent in the payment of its accounts with the Authority, if any, or in compliance with any of the obligations, terms and conditions abovedefined, including submission of such reports and statistical data which may be required by the Authority.

RULE XIII
DURATION OF INCENTIVES AND OTHER PRIVILEGES

SECTION 1. Extent . — The incentives granted by the Authority to all zone export enterprises apply to the extent in which the enterprise is engaged in its registered operations and only during the period of its registration with

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the Authority.

SECTION 2. Duration . — All incentives in favor of registered zone export enterprises, as long as they remain in good standing and commit no violation of the Decree/Code, these Rules and Regulations, pertinent circulars and directives promulgated thereunder, or the terms and condition of their registration agreement with the Authority shall continue unless otherwise provided for in the Decree/Code, Rules and/or registration agreement.

RULE XIV
EMPLOYMENT OF FOREIGN NATIONALS

SECTION 1. Application Where Filed . — A zone export enterprise may avail of the incentive to employ foreign nationals under Article 76 of the Code by filing a sworn application therefor with the Department of Justice upon indorsement by the Authority.

SECTION 2. Documents to be Submitted. — The application shall be under the oath in the form prescribed by the Department of Justice and shall be accompanied by the following documents:

1. Certified copy of any written contract or agreement entered into by the zone export enterprise engaging the services of the foreign national, indicating among others, the willingness to train at least two (2) Filipino understudies to whom the alien will impart his skills in as short a time as possible and not longer than his authorized stay;

2. Statements under oath of the requisite number of Filipino employees stating their qualifications and manifesting their willingness to train as understudies of the foreign national; and

3. Curriculum vitae of the foreign national with supporting documents duly authenticated by a Philippine consular officer.

SECTION 3. Time of Filing . — The application shall be filed with the Department of Justice at any time within five (5) years from registration.

SECTION 4. Length of Employment . — In accordance with Article 76 of the Code, a zone export enterprise may employ foreign nationals in supervisory, technical or advisory positions not exceeding five (5) years from its registration, extendible for limited periods upon recommendation of the Authority to the Department of Justice depending upon the necessity of the zone export enterprise: Provided, however, That when the majority of the capital stock of a zone export enterprise is owned by foreign nationals, the positions of president, treasurer and general manager or their equivalents may be retained by foreign nationals beyond five (5) years regardless of the length of employment in a zone export enterprise.

SECTION 5. Training Program, Annual Reports . — A zone export enterprise employing foreign nationals exercising supervisory, technical or advisory functions shall provide a training program for Filipinos to be conducted by said foreign nationals each in his own specialized line: Provided, That every foreign national shall have at least two Filipino understudies and such training shall be done regularly during regular office hours: Provided, further, That the zone export enterprise shall submit its program for training Filipinos in the functions of the foreign national within thirty (30) calendar days from arrival or from the day he reports for duty or from the date of registration in case the foreign national was employed before registratio; and Provided, finally, That it shall submit an annual progress report to the Authority on such training program within the month of June each year containing the following data:

a. Name of the foreign national and his field of specialization as prescribed in the program;

b. Name and address of Filipino understudies under him;

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c. Number of hours of actual training for each understudy and specific subject(s) covered; and

d. Reasons why Filipino understudies cannot yet take over the work of the foreign national, if such be the case.

SECTION 6. Spouse and Unmarried Minor Children . — Foreign nationals, their respective spouses and unmarried children under twenty one years of age shall be issued a multiple entry visa, valid for a period of three years, to enter and leave the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports. The validity of the multiple entry special visa shall be extendible yearly upon expiration of the said three-year period. Likewise, they shall be exempted from obtaining alien certificates of registration and emigration clearance certificates and all types of clearances required by any government department or agency.

SECTION 7. Registration . — A foreign national employed under the provisions of Article 76 of the Code shall personally register with the Department of Justice upon indorsement of the Authority within twenty (20) days from his arrival in the country or within ten (10) days after commencement of employment. For this purpose, the foreign national shall present his passport and other travel documents.

SECTION 8. Processing of Application . — If the application is deemed meritorious, the Authority shall authorize the employment of the subject foreign national and recommend to the Department of Justice that he be admitted as a non-immigrant under Section 47(a) of the Philippine Immigration Act of 1940, as amended, and Letter of Instruction No. 63 of the President of the Philippines.

RULE XV
BUILDING PERMIT AND INSPECTION

SECTION 1. Building Code and Relevant Regulations of the Authority. — In accordance with Section 6 of Presidential Decree No. 1786, the administration and enforcement of the provisions of Presidential Decree No. 1096, otherwise known as the National Building Code of the Philippines and its implementing Rules and Regulations and the relevant regulations of the Authority in all zones and areas owned and administered by it shall be vested in the Administrator or his duly appointed personnel who shall act as Building Official with the duty of issuing building, fencing, electrical, mechanical and other permits, conducting the necessary inspections and in general, performing all acts for the effective enforcement of the said Building Code, its rules and relevant regulations of the Authority.

SECTION 2. Fees. — The Authority Building Official shall assess and collect all building permit fees for original constructions, for additions, renovation, repair or alteration of buildings or ancillary structures, fencing, electrical, mechanical permit fees including inspection fees in accordance with the rates prescribed under the National Building Code of the Philippines. All fees and dues collected by the Building Official shall accrue to the Authority.

SECTION 3. Use of Structures/Roads. — If the use of any structure or road inside the zone or the excavation of the same is required by a zone export enterprise to meet its building construction requirements, an application of such purpose must first be submitted to the Authority. The public grounds or structures or roads shall be restored to their original shape and condition immediately after completion of the engineering construction work at the expense of the zone export enterprise.

SECTION 4. Plant Inspection . — A completed plant and newly installed equipment and machinery shall be inspected by the Authority to determine whether it has complied with the approved building specifications and plant layout. If the inspection indicates that the building was constructed in accordance with the approved building specifications and plant layout, and satisfies safety and anti-pollution requirements, the Authority shall

issue a permit to the zone export enterprise to start operation.

If the inspection shows that safety and anti-pollution requirements have not been met or that there have been deviations from the approved plans and plant layout, the Authority shall withhold the granting of a permit to operate until the necessary adjustments shall have been made within a reasonable period of time as determined by the Authority.

SECTION 5. Temporary Permit to Operate . — If the deficiencies noted during the inspection do not endanger life and property, a temporary permission to start operation may be granted: Provided, That the Authority shall furnish the zone export enterprise with a detailed listing of the improvements required and shall set a deadline for the enterprise to carry out such improvements: Provided further, That the zone export enterprise shall report to the Authority within the prescribed deadline the results of adjustment made and shall request the Authority to recheck the plant for final approval.

SECTION 6. Periodic Inspection . — The Authority shall conduct periodic inspection of plants within the zone to check on health, medical, occupational and safety standards and the general conditions and maintenance of the plant. Zone export enterprises shall correct any deficiency or violation of pertinent regulations noted in such inspection within a reasonable period of time to be determined by the Authority.

SECTION 7. Exclusion . — The Authority may at any time, order, the exclusion from the zone of such goods, chemicals, materials, processes or operations that in its judgment is detrimental to the public interest, health or safety.

RULE XVI
SECURITY AND SAFETY

SECTION 1. Zone Security . — The security of the zone together with its complementary housing area and the maintenance of peace and order therein shall be the responsibility of the Authority. However, the Authority may allow a zone export enterprise to hire security guards to oversee the safety of its office and plant but such security guards shall be supervised by the Authority and may be allowed to carry firearms within the premises of the particular zone enterprise and under such rules and regulations which the Authority may promulgate from time to time.

SECTION 2. Restricted Area . — The zone and all other areas owned and administered by the Authority are hereby classified as restricted areas. All persons and vehicles entering and existing therefrom shall be subject to search and inspection. They shall be required to register and/or secure appropriate zone pass/clearance or permit from the Authority. Their movements inside the zone shall be governed by the security rules of the Authority.

SECTION 3. Registration and Clearance . — All zone workers and office personnel shall be subject to registration and clearance procedures of the Authority. They shall wear the prescribed zone identification cards/passes at all times while inside the zone except as may be provided otherwise by the Authority. The Authority reserves the right to deny to any person access to the zone for reasons of security, violation of these Rules and/or when the person sought to be excluded is a hindrance or affects the orderly, peaceful and lawful operations of the Authority or of a zone export enterprise.

RULE XVII
ENTRY AND EXIT OF GOODS

SECTION 1. Prior Approval . — Merchandise or articles of every description, except prohibited merchandise, may be brought to the zone, upon prior approval of the Authority in a prescribed form, which shall be obtained before

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placing the order for the importation or before entry of said merchandise or articles into the territorial jurisdiction of the Philippines.

SECTION 2. Importation of Samples . — The importation of samples for reference and/or research purposes, of such kind and in such quantity, dimensions or constructions as may be determined by the Authority shall be allowed and the same shall be considered as imports of raw materials.

SECTION 3. Permits . — Merchandise or goods may be taken into or brought out of the zone only upon prior approval or permit by the Authority in accordance with its documentation and security procedures. Permits to bring out of the zone said merchandise or goods must be secured by the zone export enterprise from the Authority prior to loading or before the release of said merchandise or goods from the factory premises or warehouse of the zone export enterprise. Merchandise or goods brought out of the factory premises or warehouse of the zone export enterprise without the prior permit from the Authority shall be considered as a prima facie evidence of an attempt to illegally bring out of the zone said merchandise or goods although the latter are still within or inside the boundaries of the zone.

SECTION 4. Prescribed Forms . — The application for the entry or exit permit of goods shall be filed by the zone export enterprise or entity concerned in the form prescribed by Authority. The Authority may require the submission of shipping, commercial and other pertinent documents relative to the importation, exportation, or entry into the customs territory of the said goods.

SECTION 5. Marking . — Imported goods destined for the zone shall be clearly marked in bold letters indicating its destination, thus:

> "DESTINED FOR (NAME OF ZONE ENTERPRISE/NAME OF ZONE)"

SECTION 6. Labelling . — All outward-bound goods manufactured, assembled, processed, packaged or manipulated within the zone shall likewise be marked in such manner as would clearly indicate that such goods originated from the zone, thus:

> "MADE IN THE PHILIPPINES" (NAME OF THE ZONE)

SECTION 7. Loading and Unloading. — A zone export enterprise shall, whenever practicable, unload and load its importations into and exportations from the zone at the port of entry nearest to such zone. In case the loading or unloading is done elsewhere, the dates of arrival or departure shall be conveyed to the Authority well in advance so that arrangements can be made with custom's authorities for the expeditious handling of the cargo and escort service can be provided and scheduled.

In all cases involving the movements of foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spareparts, wares and goods of every description from the customs territory into the zone or vice-versa, the procedures and requirements provided under the Revised Memorandum of Agreement dated March 19, 1984 and Supplemental Agreement dated March 19, 1984 and Supplemental Agreement dated February 16, 1988 between the Authority and the Bureau of Customs, including BOC-EPZA Joint Memorandum Order No. CMC 134-89 dated September 5, 1989 and subsequent memorandum orders, circulars or memoranda of agreement, shall be complied with by the zone export enterprise.

SECTION 8. Local Sale . — Consistent with the objectives of the Decree and the Code, a zone export enterprise engaged in the production, processing, packaging, or manipulation of export products shall export its entire output or production. However, the Authority may allow a portion of the yearly production or output of a zone export enterprise to enter the customs territory and be sold locally in any of the following instances:

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a. The finished product is not produced in the Philippines and the only source is through importation;

b. In case of cessation and closure of operations of zone export enterprise; and

c. In other meritorious cases, if the study of domestic industry situation rules out adverse effects as determined by the Board.

Provided, That the applicant zone export enterprise must have attained a reasonable percentage of its projected export sales for the year or period immediately preceding the date the application is filed: Provided further, That the corresponding taxes and duties shall be paid therefor: Provided, finally, That all other conditions as may be imposed by the Board are complied with.

SECTION 9. Written Permission . — Products made in the zone, samples thereof and/or imported raw materials shall not be given nor sold by a zone export enterprise to its visitors, workers, or employees without prior written permission from the Authority.

SECTION 10. Quality Standards . — All exports from the zone shall satisfy duty established quality standards and regulation pertinent thereto.

RULE XVIII
INVENTORY OF FINISHED PRODUCTS AND RAW MATERIALS

SECTION 1. Inventory . — The Authority may, at any time, conduct an inventory of the machineries, equipment, stocks of finished or semi-finished products, work-in-process, raw materials, supplies and other assets of the zone export enterprise.

SECTION 2. Shortage and Overage . — Should there exist a discrepancy between the inventory and the reports required in Section 14, Rule III of these Rules including other pertinent records of the Authority, the following standard shall be applied:

a. Unless the contrary is shown, a shortage of the stock shall be taken as proof that the missing merchandise has been illegally sent to the customs territory and such merchandise shall be taxed in accordance with the applicable customs and internal revenue laws of the Philippines.

b. An overage on the other hand, shall be presumed to have been illegally introduced in the zone, in which case, it shall be subject to forfeiture under the Tariff and Customs Code.

In both cases, however, the Authority shall take into account the reasonable percentage of allowance based on established material usage formula and other relevant factors applicable to specific industry groups.

RULE XIX
PENALTIES

SECTION 1. Administrative Fines . — The following schedule of fines and/or administrative sanctions shall apply to all zone export enterprise and/or to any person or group of persons who have committed infractions of these Rules and pertinent circulars/memoranda issued thereunder:

I. For the late filing of financial statements, income tax returns, performance reports, annual reports and all other reports/documents as specifically enumerated under Section 14, Rule III, or required under existing circulars of the Authority —

Basic Fine Daily Fine

1st violation P25.00 P5.00

2nd violation 50.00 10.00
3rd violation 100.00 20.00

II. For failure to wear or display openly the prescribed zone identification cards/zone passes in violation of Section 2 and 3, Rule XVI of the Rules —

1st violation Reprimand

2nd violation Confiscation of identification cards/zone passes with denial of access in the zone for a period of five (5) days.

3rd violation Permanent confiscation of identification cards/zone passes with total denial of access in the zone.

III. For violation of Rule XI and Rule XVII (Entry and Exit of Goods) of these Rules — a minimum fine equivalent to 150% of the value of the goods or merchandise based on the average valuation appearing in the invoices, commercial documents or records on file with the Authority for the same or similar goods or merchandise for the last three (3) years reckoned from the date of violation or in the absence thereof, the latest CIF valuation of the Bureau of Customs on the subject goods or merchandise up to a maximum fine equivalent to 200% of the applicable valuation without prejudice to the imposition and collection of customs duties and taxes by the Bureau of Customs and/or forfeiture under the Tariff and Customs Code, if applicable, cancellation of registration or the imposition of penalties under Section 28 of the Decree.

The administrative fine under this paragraph shall, likewise, be applicable in appropriate cases to any person, whether or not he is an officer or employee of the zone export enterprise, who may have committed the abovestated violation without prejudice to the imposition of the penalties under Section 28 of the Decree.

IV. For failure to liquidate farm-outs within the period granted by the Authority — a basic fine of P1 ,000.00 plus P100.00 for every day of delay.

V. For other late filings or submission of other requirements not mentioned herein but otherwise required in connection with the registration or registered operations of a zone export enterprise — a reasonable fine shall be imposed by the Authority.

SECTION 2. Suspension of Permits . — The Authority may suspend, withhold, disapproved or revoke import or export permits, authority to engage in local sale, authority to farm-out, to avail of any incentives or privileges being administered by the Authority for failure to comply with these Rules, any provision of the Registration Agreement between the Authority and the zone export enterprise and/or for violation of the Decree and the pertinent provisions of the Code within a stipulated or reasonable period of time.

SECTION 3. Cancellation of Registration . — Registration of a zone export enterprise may be cancelled for any of the following grounds:

a. Failure to maintain the qualifications for registration as required by the Decree and/or the Code

b. Violation of any pertinent provision of the Code and/or Decree; and

c. Violation of any of these Rules and Regulations, the corresponding implementing memoranda or circulars or any of the general and specific terms and conditions of the Registration Agreement between the Authority and the zone exports enterprise.

However, delay as set by the Board for a period of one (1) year by the zone export enterprise in the implementation of the timetable of its project shall result in the automatic cancellation of the certificate of registration unless reinstated as a registered zone export enterprise by the Board.

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RULE XX
MISCELLANEOUS PROVISIONS

SECTION 1. Transitory Provisions . — Pending the effectivity of these Rules, the implementing Rules and Regulations of the Decree and the pertinent memoranda, orders, circulars and Board Resolutions issued thereunder by the Authority shall apply unless inconsistent with the provisions of the Code.

SECTION 2. Investigations and Hearings . — The Authority shall promulgate rules and procedures governing the conduct of investigations and hearings involving violations of the provisions of the Decree, the pertinent provisions of the Code, these Rules and Regulations, the corresponding implementing memoranda or circulars and terms and conditions of the Registration Agreement between the Authority and the zone export enterprise. Pending the promulgation of the said rules of procedures, the Authority may continue to conduct said investigations and hearings provided that the basic requirements of due process of law are met.

SECTION 3. Penalties . — The imposition of administrative penalties under Rule XIX of these Rules shall be without prejudice to the imposition of penalties under Section 28 of the Decree.

SECTION 4. Circulars . — The Authority shall, from time to time, issue memoranda and circulars to implement the provisions of these Rules and Regulations.

SECTION 5. Amendments . — The Authority may amend, supplement, suspend or revoke these Rules as may be necessary: Provided, however, That any amendment or any decision taken by the Authority in connection therewith shall take effect thirty (30) days following the date of publication in two newspapers of general circulation.

SECTION 6. Effectivity . — These Rules shall take effect thirty (30) days following the date of publication in two (2) newspapers of general circulation.

Adopted: 4 Sept. 1991

Approved by the EPZA Board of Commissioners under its Resolution No. 90-152.

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