NATIONAL ADMINISTRATIVE REGISTER · JUNE 29, 2005

REDUCTION OF THE RATES OF IMPORT DUTY ON CRUDE PETROLEUM OILS AND REFINED PETROLEUM PRODUCTS UNDER EXECUTIVE ORDER 336, SERIES OF 2004, “MODIFYING THE RATES OF IMPORT DUTY ON CR...

EXECUTIVE ORDER NO. 440, June 29, 2005

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WHEREAS, Section 6 (Tariff Treatment) of RA 8479, otherwise known as the "Downstream Oil Industry Deregulation Act of 1998", provides: "Any law to the contrary notwithstanding and starting with the effectivity of this Act, a single and uniform tariff duty shall be imposed and collected both on imported crude oil and imported refined petroleum products at the rate of three percent (3%): Provided, however, that the President of the Philippines may, in the exercise of his powers, reduce such tariff rate when in his judgment such reduction is warranted, pursuant to Republic Act No. 1937, as amended, otherwise known as the "Tariff and Customs Code": Provided, further, That beginning January 1, 2004 or upon implementation of the Uniform Tariff Program under the World Trade Organization and ASEAN Free Trade commitments, the tariff rate shall be automatically adjusted to the appropriate level notwithstanding the provisions under this Section."

WHEREAS, Section 401 and 402 of the Tariff and Customs Code of 1978 (Presidential Decree No. 1464), as amended, empower the President of the Republic of the Philippine to increase, reduce, or remove existing rates of import duty, as well as to modify the form of duty and the tariff nomenclature, under Section 104 of the Code;

WHEREAS, the adjustment in import duty per Executive Order No. 336 is only an interim revenue measure until Congress enacts new laws on taxes for petroleum products;

WHEREAS, the Government has a commitment with the Association of Southeast Asian Nations (ASEAN) Free Trade Area Council to adjust the levels of duty when new laws on taxes for petroleum products are passed;

WHEREAS, the recently-passed Republic Act No. 9337 (RA 9337), expanding the base of the value-added tax (VAT), will result in increased Government revenue by imposing, among others, VAT on petroleum products;

WHEREAS, the implementation of RA 9337 will result to an increase in retail prices of LPG of over P40.00 per 11 kg cylinder and average of about P1.70/liter for petroleum products despite the rationalization of excise taxes/reduction to zero of the excise tax on socially-sensitive products (kerosene, diesel and fuel oil);

NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. The articles specifically listed in Annex "A[*]" hereof, as classified under Section 104 of the Tariff and Customs Code of 1978, as amended, whose duties were adjusted from three percent (3%) to five percent (5%) by virtue of Executive Order 336, shall be subject to its original rates of import duty [Most-Favored-Nation (MFN) and ASEAN Free Trade Area (AFTA) - Common Effective Preferential Tariff (CEPT)] indicated in Columns 4 and 5 opposite each article.

SEC. 2. The AFTA-CEPT rates so indicated in Annex "A" shall be accorded to imports coming from ASEAN

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Member States applying CEPT concession to the same product pursuant to Article 4 of the Agreement on the CEPT Scheme for the ASEAN Free Trade Area (CEPT Agreement), signed on 28 January 1992, and its Interpretative Notes.

SEC. 3. The rates of import duty on tariff headings not enumerated and those listed but represented by the symbol "X X X" shall remain in force and in effect.

SEC. 4. Upon the effectivity of this Executive Order, all articles listed in Annex "A" which are entered and withdrawn from warehouses in the Philippine for consumption shall be levied the MFN rates of duty therein prescribed.

SEC. 5. Upon the effectivity of this Executive Order, all articles listed in Annex "A" which are entered and withdrawn from warehouses in the Philippines for consumption shall be imposed the AFTA-CEPT rates of duty therein prescribed subject to qualification under the Rules of Origin as provided for in the CEPT Agreement.

SEC. 6. All presidential issuances, administrative rules and regulations or parts thereof, which are contrary to or inconsistent with this Executive Order are hereby revoked or modified accordingly.

SEC. 7. This Executive Order shall be published in two (2) newspapers of general circulation in the Philippines and shall take effect on date of effectivity of RA 9337 or the VAT Reform Law.

Adopted: 29 June 2005

(SGD.) GLORIA ARROYO

By the President:

(SGD.) EDUARDO R. ERMITA
Executive Secretary

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[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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