RULES AND REGULATIONS FOR THE IMPLEMENTATION OF EXECUTIVE ORDER NO. 313 AND RELATED ORDERS

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1.0

OBJECTIVES

1.1 GENERAL OBJECTIVES

1.1.1 To promulgate the necessary rules and regulations for the effective and orderly implementation of Executive Order (EO) No. 313 and related Orders.

1.1.2 To insure the application of proper Harmonized System (HS) Codes and rates of duties on articles listed in EO313.

1 2 SPECIFIC OBJECTIVES

1.2.1 To provide a clear procedure in the transmittal and reception of documents necessary to qualify a shipment for in-quota tariff heading.

1.2.2 To provide a procedure by which Customs offices concerned can authenticate the qualifying documents from the issuing and/or transmitting office.

1.2.3 To provide feedback mechanism to the Department of Agriculture or other office concerned on the reconciliation process between the qualifying documents issued and received.

2.0

COVERAGE

This Order shall apply to articles covered by EO 313 and its amendatory orders.

3.0

GENERAL PROVISIONS

3.1 Under EO 313 for certain articles listed therein, a Minimum Access Volume (MAV) and two rates of duties are provided: the in-quota tariff rate and the out-quota tariff rate. The MAV refers to the volume of a specific agricultural product that is allowed to be imported with a lower rate of duty. The in-quota tariff rate of duty shall apply for importations that are within the MAV provided for an agricultural product. The in-quota tariff rate of duty shall apply when the importation is in excess of the MAV specified for an agricultural product.

3.2 The MAV is implemented by a Cabinet Committee called as MAV Management Committee (MMC) chaired by the Secretary of Agriculture and assisted by the MAV Secretariat headed by the MAV Executive Director for the day-to-day administration of the MAV.

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3.3 The MMC Chairman issues the MAV license which is the official permit entitling the MAV licensee to import a given quantity of a specific MAV product at the in-quota tariff rate for a given MAV year which is from January 1 to December 31 of a given year.

3.4 For every importation, the MAV licensee secures from the MAV Secretariat the MAV Import Certificate (MAVIC) which is the official certificate issued by the MAV Executive Director in favor of the MAV licensee specifying the quantity of MAV product for a particular shipment to be imported under the in-quota tariff rate. MAVIC is issued in five (5) copies: the white or the original copy, the green or the return copy, the blue or the MMC's copy, the yellow or the MAV licensee's copy, and the pink or the file copy of the Tax Exempt Division (TED) of the Bureau of Customs (BOC). The white and green copies are integral parts of the import documents covering the MAV importation.

3.5 Unless the white and green copies of MAVIC are officially transmitted to the BOC's Assessment Units, the articles falling under EO 313 shall be assessed the out-quota tariff rates.

3.6 The TED shall be the central reception office for all MAVICs issued by the MAV Executive Director. The TED shall insure that only duly issued MAVICs are received and given due course pursuant to the provisions of this Order. The TED shall put up and maintain a computer system containing the data file of ail MAVICs received from the MAV Secretariat. The same computer system shall be utilized for the transmittal of MAVICs received to the concerned offices in the BOC. The same system shall be used as basis for responding to query on the authenticity of MAVIC by the processing offices and for feedback mechanism.

3.7 Only the MAV licensee whose name appears in the MAVIC can import the MAV products, unless the MAVIC has been properly endorsed by the MAV licensee to the MAV Import Consolidator duly accredited by the MMC at the back of all copies of the MAVIC.

4.0

OPERATIONAL PROVISIONS

4.1 SOURCING OF MAV LISTS

4.1.1 The Central Records Management Division (CRMD) Chief shall network with the MAV Secretariat for the latest and updated copies of the following;

> 4.1.1.1 MAV Master List showing all the MAV accounts opened for the MAV year, the names of the MAV licensees, the total quantity of MAV products that the respective MAV licenses can be applied, the HS Code, the MAV account number, and the validity period of the account.
>
> 4.1.1.2 List of MAV Import Consoiidators accredited by the MMC.
>
> 4 1.1.3 MAV for each agricultural product under a specific HS Code for a given MAV year.

4 1.2 Upon receipt of the said copies, the CRMD Chief shall send the same to the TED Chief for reference and cross-checking purposes.

4.1.3 The CRMD Chief shall likewise cause the issuance of the appropriate Customs Memorandum Circular addressed to ail Collectors of Customs, Chief of the Formal Entry Division (FED) or other Assessment Units on the MAV Master List and the List of MAV Import Consoiidators which shall be used by them for reference and crosschecking purposes.

4 1.4 The said Circular shall be properly disseminated to all Ports and all others concerned by the CRMD Chief.

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4 2 PROCEDURE IN THE IMPORTATION OF MAV PRODUCTS

4.2.1 Upon the opening of the letter of credit, the opening bank shall collect the estimated duties for the MAV products using the out-quota tariff rates unless the importer has presented to the bank along with other required documents his MAV licensee's copy authorizing him to import such MAV products with in-quota tariff rate during the current MAV year.

4.2.2 Prior to the arrival of his shipment, the importer shall secure from the MAV Executive Director the MAVIC by filling up the MAV Withdrawal Form and submitting the copies of his invoice and Bill of Lading.

4.2.3 The white, green and pink copies of the MAVIC shall be officially transmitted by the MAV Secretariat to the Bureau of Customs (Attn: The Chief, Tax Exempt Division)

4.2.4 Upon receipt of the said copies of the MAVIC, the TED receiving clerk shall record the same in a separate logbook for the purpose.

4.2.5 Thereafter, the TED verifier shall check the said copies against the MAV Master List and the List of MAV Import Consolidators if the MAVIC has been endorsed by the MAV Licensee at the back of all copies of the MAVIC. In case of doubt, the verifier shall check with the MAV Secretariat by the fastest means of communication available the authenticity of the MAVIC.

4 2.6 After the authenticity of the MAVIC is verified, the TED processor shall input in the computer system and record in the appropriate running ledger for the purpose, the volume or quantity of the MAV product subject of the MAVIC to come out with the provisional balance for such particular MAV license. The processor shall also cause the preparation of the necessary indorsement for the signature of the TED Chief.

4 2.7 The TED Chief shall cause the filling of the pink copy with the TED and forward the white and green copies of the MAVIC to the proper port of entry.

4.2 8 The said copies upon receipt by the proper port of entry shall be immediately referred to the Chief. FED or other Assessment Units which shall check the same against the MAV Master List and the List of MAV Import Consolidators. In case of doubt, the Assessment Unit shall verify the authenticity of the MAVIC with the TED Chief by the fastest means of communication available.

4.2.9 Unless the shipment is not subject to examination in those ports with operational Asycuda ++Selectivity System, the concerned FED or other Assessment Units shall conduct proper examination of the shipment to insure that the actual description of the articles and the volume thereof match with those stated in the MAVIC. In case of excess volume, shortshipment and the existence of other articles not covered by the MAVIC, Section 4.3 hereof shall apply.

4.2.10 Thereafter the Assessment Unit shall cause the stamping of the word "USED" on both the white and green copies of the MAVIC before forwarding the papers to the Collection Division in order to void the MAVIC for any subsequent importation of the MAVIC licensee. The white copy shall be part of the working copy of the entry while the green copy shall be detached and returned by the Assessment Unit to the TED Chief along with the report for this purpose.

4 2.11 If the Importer is presenting the MAV licensee's copy of the MAVIC or the MAV license itself but the import entry is not supported by the white and green copies of the MAVIC transmitted by the TED Chief, the importer may secure the release of its shipment provided it pays the out-quota rate. However, in case the shipment is highly perishable and there is only a delay in the transmittal of the required copies of MAVIC and the importer is a reputable company with a good track record, a traditional importer of the subject commodity and a legitimate

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member of the industry's association, the Collector may allow the tentative release of the shipment at the in-quota tariff rate provided the importer issues a post-dated check secured by a bank guarantee equivalent to the difference between the revenues accruing to the BOC on the out-quota tariff rate and those based on the in-quota tariff rate of the affected imported agricultural product.

4.2.12 For consolidated shipments, the MAV import consolidator shall see to it that the respective shipments i every MAV licensee are covered by the appropriate MAVIC otherwise, those without MAVIC shall be assessed trout-quota tariff rate or released pursuant to paragraph 4.2.1 hereof.

4.3 PROCEDURE IN CERTAIN SPECIAL CASES

4.3.1 Excess Volume/Quantity

4.3.1.1 If after the examination of the shipment, it has been found that there is excess in the volume/quantity as composed to that stated in the MAVIC, the excess volume/quantity of those articles falling under the first four (4) digits of the HS Code stated in the MAVIC shall be assessed the out-quota tariff rates unless the same are covered by another MAVIC officially transmitted as provided above. This is, however, without prejudice to the laws and regulation on seizure and surcharge depending on the percentage discrepancy of over quantity and/or the extent of misdeclaration.

4.3.1.2 The MAVIC shall be stamped with the word "USED" and placed with a notation by the Customs Examiner concerned, stating the excess volume/quantity of the shipment with the proper description and the HS Code and also the phrase "subject to seizure or surcharge " as the case may be.

4.3.2 Shortshipment

4.3.2.1 If after examination of the shipment it has been found that there is shortshipment, the, importer or his representative shall file a request with the Port Collector for the issuance of a certification of shortshipment so that the MAVIC can be adjusted accordingly.

4.3.2.2 Upon receipt of such request, the Port Collector shall verify the validity of the claim of shortshipment. If found to be meritorious, he shall issue a certification of shortshipment indicating therein the actual volume/quantity of the shipment covered by the MAVIC.

4.3.2.3 The Port Collectors shall thereafter forward such request to the TED along with the original copy of such certification and the Xerox copy of the working copy of the entry which reflects the Customs Examiner's findings.

4.3.2.4 The TED Chief shall in turn refer such request along with the supporting documents to the MAV Secretariat for the issuance of an amended MAVIC.

4.3.2.5 If given due course, an amended MAVIC is issued by the MAV Executive Director which shall be transmitted to the BOC pursuant to Sections 4.2.3 to 4.2.8 hereof.

4.3.3 Other articles not covered by the MAVIC

4.3.3 1 If after examination of the shipment it has been found that there are other articles not covered by the MAVIC, i.e. they do not belong to the first four (4) digits of the HS Code stated in the MAVIC and they are not declared in the entry, the same shall be governed by the appropriate laws and regulations on misdeclaration.

4.3.3.2 The MAVIC shall be stamped with the word "USED" and placed with a notation by the Customs Examiner concerned stating the actual volume/quantity of the shipment, the description of the articles imported with the HS Code including those articles not covered by the MAVIC as well as the phrase "subject to seizure"

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if that is the case.

5.0

ADMINISTRATIVE PROVISIONS

5.1 ORGANIZATION OF A BOC COMMITTEE MAV

There is hereby organized a BOC Committee on MAV to be composed of the following:

TED Chief - Chairman

CRMD Chief - Vice-Chairman

FED Chiefs of POM, MICP & NAIA-Members

5.2 RESPONSIBILITIES OF BOC COMMITTEE ON MAV

The BOC Committee on MAV shall have the following responsibilities:

5.2.1 To develop and design the computer system stated in paragraph 3.6 hereof.

5.2.2 To further develop and improve the information and control system as well as the feedback mechanism for the accomplishment of the objectives of this Order which shall include but are not limited to the following areas of concern:

5.2.2.1 Dissemination and distribution system of related rules, memoranda and circulars to all ports and all offices concerned.

5.2.2.2 The procedure for monitoring compliance of the Assessment Unit with E.O. 313 and related rules, memoranda and circulars.

5.2.2.3 The reporting system on shipments granted the in-quota tariff rates, e.g. the contents and appearance of the prescribed report forms.

5.2.3 To coordinate with the MAV Secretariat in further enhancing the security and control of the MAVICs from their issuance, transmittal to various BOC offices and until their return to MMC which shall include but are not limited to the following areas of concern:

5.2.3.1 The identification process of documents necessary to be presented to the BOC to qualify a shipment for in-quota tariff rates.

5.2.3.2 The procedures for receiving and authenticating the qualifying documents from the issuing office.

5.2.3.3 The evaluation procedure for determining whether or not to classify the shipment under in-quota or out-quota tariff rates.

5.2.4 To coordinate with the Human Resources Management Division on the training program for the efficient and effective implementation of this Order.

5.2.5 To conduct meeting at least once a month to monitor and discuss any problems and difficulties encountered in implementing this Order with the end in view of recommending possible amendments to this Order.

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5.3 FORMS

For the purpose of this Order, the following forms are hereby prescribed, the contents and appearance of which will be disseminated in a subsequent Order:

5.3.1 Consolidated Monthly MAV Report to be signed by the TED Chief.

5.3.2 MAV Monthly Report to be signed by the Chief of the FED or other Assessment Units and duly noted by the Port Collector.

5.3.3 Consolidated Semestral MAV Report to be signed by the TED Chief.

5.4 MONITORING AND REPORTING

5.4.1 All concerned Collectors of Customs shall submit not later than the 3rd working day of the month to the Commissioner of Customs (Attention: The Chief, Tax Exempt Division) Monthly MAV Report along with the green copies of the MAVICs which are stamped with the word "USED" and with the appropriate notations pursuant to Sections 4.3 hereof.

5.4.2 Upon receipt of the report, the TED processor shall input in the computer system and record in the aforesaid running ledger, the actual volume or quantity of the MAV product subject of a particular MAVIC to come out with the latest actual balance for a particular MAV license.

5.4.3 The TED processor shall also prepare the consolidated reports to the MMC for the signature of the TED Chief. The TED shall exert its best efforts to submit on the following target dates the consolidated reports to the MMC as provided in Administrative Order No. 9, series of 1996 issued by the Secretary of Agriculture:

> 5.4.3.1 For the Consolidated Monthly MAV Report - no later than a week from the start of the month.
>
> 5.4.3.2 For the Consolidated Semestral MAV Report - no later than two weeks from the start of January or July of a given MAV year.

5.4.4 The Commissioner of Customs shall be furnished with copies of such reports to the MMC.

6.0

TRANSITORY PROVISIONS

6.1 During the transition period, i.e. between 1 July 1996 and the time in which the MAV licenses are issued to implement the catching up provision provided in Section 1, H. TRANSITORY AND OTHER PROVISIONS of Administrative Order No. 9, Series of 1996 issued by the Secretary of Agriculture with the subject: "RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE AGRICULTURAL MINIMUM ACCESS VOLUMES (MAVs), "a provisional MAVIC will be issued by the MAV Executive Director in favor of the importer after the latter has submitted, among others, a duly notarized bank certification that on MAV trust fund account had been opened by him in the designated bank.

6 2 The amount of the trust fund should be at least equal to the difference between the revenues accruing to the BOC on the basis of the out-quota tariff rate and those based on the in-quota tariff rate of the affected imported agricultural product. However, if the amount of the trust fund is found to be insufficient by the BOC during the processing of import entry, the concerned BOC Collection Unit shall collect the deficiency as a cash bond for which an official receipt shall be issued and keep the same in trust until the Secretary of Agriculture shall have decided to whom the MAV trust fund account should go, i.e. to the BOC or the importer.

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6.3 The MAV trust fund account will go to the importer if a regular MAVIC issued by the MAV Executive Director to replace the provisional MAVIC is received by the BOC; otherwise, it will go to the BOC if the importer fails to get MAV license under the catching up provision abovestated.

6 4 The TED and the concerned Assessment Units shall also be the BOC offices to receive the provisional and regular MAVIC covered by these transitory provisions and shall make the necessary verification of their authenticity by the fastest means of communication available.

6.5 The import entries covered by a provisional MAVIC shall be stamped "UNDER TENTATIVE LIQUIDATION" and shall be finally liquidated until the receipt of regular MAVIC from the MAV Executive Director or the official letter of the Secretary of Agriculture to the designated bank identifying the BOC as the beneficiary of the MAV trust fund account, as the case may be, either of which shall be coursed through the TED which shall transmit the same to the proper port of entry. However, in the latter case the final liquidation shall not be made until the said account is actually credited in favor of the BOC and/or remitted to the National Treasury and an official receipt has been issued therefor.

6 6 In case the regular MAVIC issued by the MAV Executive Director to replace the provisional MAVIC is found to be authentic, the TED Chief on behalf of the Commissioner should write a letter to the Secretary of Agriculture relinguishing BOC's claim on that particular MAV trust fund account. The TED Chief shall furnish the proper port of entry with a copy of the said letter so that the cash bond or trust deposit collected pursuant to paragraph 6.2 hereof, if any, can be returned to the importer.

6.7 The provisional and regular MAVIC issued under these transitory provisions shall also be stamped "USED" to avoid the MAVIC for any subsequent importation of the importer.

6.8 All other provisions of this Order provided to cover the situation that the regular MAV mechanism is already in place, especially those intended for information, control, security and monitoring, shall be observed as tar as practicable and applicable.

7.0

EFFECTIVITY

This Order shall take effect on 01 July 1996 and shall last until revoked.

Adopted: 01 July 1996

(SGD.) GUILLERMO L. PARAYNO, JR.
Commissioner

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