TENTATIVE RELEASE OF IMPORTED FROZEN BEEF, FROZEN PORK AND FROZEN POULTRY PRODUCTS

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In response to the hereto attached letter dated 21 June 1997 of the Philippine Association of Meat Processors, Inc. (PAMP) requesting for the tentative release of its shipments under the in-quota tariff rate in view of the suspension of the issuance of Minimum Access Volume Import Certificate (MAVIC) as a result of the preliminary injunction against the implementation of the Department of Agriculture (DA) Administrative Order No. 9 and finding the reasons in support of the request to be meritorious namely (1) to minimize unnecessary demurrage, electrical and storage costs while ensuring the Bureau of Customs collection of the proper duties should the case be decided against the Department of Agriculture; and (2) to allow the government to comply with its obligation and commitments to the World Trade Organization while the case is pending, please be informed of the following temporary measures:

1.0Administrative Provisions

1.1 The Offices of the Bureau involved in the processing of tentative release of PAMPI shipments covered by this Memorandum are the Tax Exempt Division, the Formal Entry Division and the Collection of the concerned port of entry.

1.2 The documents required to support the processing of tentative release subject of this Memorandum are the following:

1.2.1 Copy of the Minimum Access volume (MAV) License

1.2.2 Bill of Lading

1.2.3 Certification of the DA stating the following:

> 1.2.3.1 That the DA has no objection to the release because MAVIC for the shipment covered by the bill of lading should have been issued were it not for the injunction issued.
>
> 1.2.3.2 That based on the records the subject company would have been issued a MAVIC because to date, the remaining balance of the MAV for therein product is as follows:
>
> Total MAV for this year
> Less MAVIC issued
> Less Tentative Release
> Balance

1.2.4 Affidavit by the importer-PAMPI member as described below.

1.2.5 Post-dated check in the amount equivalent to the difference between the duties and taxes due on in-quota and out-quota.

1.2.6 Board Resolution by PAMPI that it is solidarily liable for the payment of the amount indicated in the check case of default or non-encashment of the check.

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2.0

Operational Provisions

2.1 The Importer-PAMPI member shall present to the Chief, Tax Exempt Division its own copy of the MAV License together with an affidavit stating, among others, the following:

2.1.1 The allocated volume given by the DA under the said license.

2.1.2 The volume of importations so far imported under the said license.

2.1.3 The actual volume of importations for its next shipment as indicated in the bill of lading attached to the affidavit.

2.1.4 The documentary deficiency, if any, for being authorized to pay the in-quota tariff rate is the lack of MAVIC but attached to the affidavit is the Certification by the DA referred to in Section 1.2.3 hereof.

2.1.5 For such deficiency, it is ready to comply with the following conditions:

> 2.1.5.1 Payment of in-quota tariff rates, taxes and other charges as due under in-quota importations
>
> 2.1.5.2 Issuance of a post-dated check in the amount representing the duties, taxes and other charges due under the out-quota importations and those due under in-quota importations
>
> 2.1.5.3 The deposit/encashment by the Collection Division of the post-dated check, without the need of further demand, on 1 December 1997 if no MAVIC is presented for the shipment covered by tentative release on or before 30 November 1997; provided that the deposit encashment may be done earlier if the injunction case is finally resolved against the DA earlier than 30 November 1997.

2.2 The Chief, Tax Exempt Division, shall cause the recording of the request including the details of the next shipment subject of the request in its logbook for the purpose. If the allocation indicated in the MAV License is not yet fully utilized by adding the volume of the next shipment to the volume past importations subject of the same license, he shall issue the covering indorsement to the appropriate port of entry stating, among others, that the next shipment of that particular PAMPI member shall be subject to tentative release under the following conditions:

2.2.1 Payment of in-quota tariff rates, taxes and other charges due under in-quota importations.

2.2.2 Issuance of a post-dated check in the amount representing the duties, taxes and other charges due under out-quota importations and those due under in-quota importations.

2.2.3 The deposit/encashment by the Collection Division of the post-dated check, without the need of further demand, on 1 December 1997 if no MAVIC is presented for the shipment covered by tentative release on or before 30 November 1997; provided that the deposit/encashment may be done earlier if the injunction case is finally resolved against the DA earlier than 30 November 1997.

2.3 The Formal Entry Division shall not authorize the release of shipments covered by this Memorandum under tentative release unless the foregoing indorsement is officially received from the Tax Exempt Division.

2.4 The Collection Division shall take protective custody of the post-dated check issued pursuant to this memorandum and immediately deposit/encash the same on 1 December 1997, without any need of further notice or demand, upon the importer's failure to present the MAVIC on or before 30 November 1997.

2.5 The Collection Division shall submit a weekly report on the shipments released under tentative release pursuant to this Memorandum in accordance with the format attached hereto as Annex A. For this purpose, a

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week shall start on a Monday 8:00 a.m. and the report shall be submitted to the Chief, Tax Exempt Division not later that 12:00 noon every Wednesday for proper monitoring.

2.6 The Tax Exempt Division shall make an accounting of all tentative releases under this Memorandum which shall be regularly reported to the Commissioner on a monthly basis.

2.7 The companies which avail of tentative release under this memorandum shall cause the submission of MAVIC for the shipment subject of the tentative release to the Tax Exempt Division on or before 30 November 1997, which MAVIC shall be endorsed to the port concerned for return of the post-dated checks to the concerned companies and for the final liquidation of the concerned import entries.

This is only a temporary measure which shall take effect immediately and shall last until 30 November 1997 or until earlier revoked; however, the concerned offices of the Bureau shall continue to implement the provisions herein provided even after such date to protect government revenues.

Adopted: 08 July 1997

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

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