

MODIFYING THE RATES OF DUTY ON CAPITAL EQUIPMENT, SPARE PARTS AND ACCESSORIES IMPORTED BY BOARD OF INVESTMENTS (BOI) REGISTERED NEW AND EXPANDING ENTERPRISES

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WHEREAS, the Government is committed to encouraging investments in preferred areas of activity;

WHEREAS, enterprises located within economic zones and freeports are currently enjoying duty exemption on the importation of machinery and equipment, spare parts and accessories, which is not available to BOI-registered enterprises;

WHEREAS, one of the major cost items of business enterprises in their start up operations is the cost of imported machinery and equipment, spare parts and accessories;

WHEREAS, reducing the duties on the importation thereof will make the Philippines more attractive to investors in the face of an increasing competitive Asian market for foreign direct investments;

WHEREAS, Section 401 of the Tariff and Customs Code of the Philippines empowers the President of the Philippines, on the recommendation of the National Economic and Development Authority, to increase, reduce or remove existing protective rates of import duty;

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

SECTION 1. Any importation of machinery and equipment, spare parts and accessories by enterprises registered with the BOI, except those covered under the Motor Vehicle Development Program, shall be subjected to zero and one percent (1%) duty, as indicated in Section 2 hereof.

SECTION 2. The zero and one percent (1%) duty on article, equipment, spare parts and accessories classified under Chapters 40, 59, 68, 69, 70, 73, 76, 82, 83, 84, 85, 87, 89, 90, 91 and 96 of the Tariff and Customs Code of the Philippines shall be granted to BOI-registered new and expanding export-and domestic-oriented enterprises, respectively, upon the issuance by the BOI of a Certificate of Authority; provided that the importation of machinery and equipment, spare parts and accessories shall comply with the following conditions:

- a) They are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;
- b) They are reasonably needed and will be used exclusively by the enterprise in its registered activity, unless prior approval of the BOI is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof or the proportionate taxes and duties are paid on the specific machinery and equipment being permanently used for non-registered activities; and
- c) The approval of the BOI was obtained by the registered enterprise for the importation of such machinery and equipment, spare parts and accessories.

SECTION 3. The registered enterprise cannot sell, transfer or dispose the aforementioned machinery and

equipment, spare parts, and accessories without prior BOI approval within five (5) years from date of importation. Otherwise, the registered enterprise will be solidarily liable with the buyer or any other transferee to pay twice the amount of the duty exemption without prejudice to other applicable penalties under Executive Order (EO) No. 226.

SECTION 4. The Board of Investments, in coordination with the Department of Finance, the National Economic and Development Authority, and the Bureau of Customs shall promulgate the implementing rules and regulations governing the implementation of this EO.

SECTION 5. All presidential issuances, administrative rules and regulations or parts thereof, which are inconsistent with this EO are hereby revoked or modified accordingly.

SECTION 6. This EO shall take effect thirty (30) days following its complete publication in two (2) newspaper of general circulation in the Philippines and shall be availed of for a period of two (2) years from the date of effectivity.

Adopted: 01 May 2004

By the President:

(SGD.) ALBERTO G. ROMULO
Executive Secretary

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