

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
PHILIPPINES AND THE UNITED STATES REGARDING THE
IMPLEMENTATION OF MINIMUM ACCESS COMMITMENTS BY THE
PHILIPPINES**

The Philippines and the United States of America ("the Parties") have concluded bilateral negotiations and have reached a mutually-acceptable resolution respecting matters which have been the subject of consultations pursuant to World Trade Organization (WTO) notifications WT/DS74/1 and WT/DS102/1 regarding administration by the Government of the Philippines of the tariff rate quotas affecting fresh/chilled/frozen pork (HS 0203) and fresh/chilled/frozen poultry (HS 0207) (hereinafter "the specified agricultural products")- The Philippines and the United States agree as follows:

**ARTICLE I
PURPOSE AND OBJECTIVES**

In entering into this Agreement the United States and the Philippines commit to achieve the following objectives:

To further reinforce strict adherence with World Trade Organization commitments negotiated during the Uruguay Round, including the provisions of the Agreement on Import Licensing Procedures;

To further ensure that the Philippine licensing mechanism for agriculture imports is in conformity with the Agreement on Import Licensing Procedures and does not have trade-restrictive or -distorting effects on imports additional to those caused by the implementation of the minimum access commitments and tariff rates established in the Philippines' Uruguay Round Schedule of Concessions; and

To modify Administrative Order No. 8 Series of 1997 (and its predecessor Administrative Order No. 9 Series of 1996) and to further promote transparency, fair trade and full access to Minimum Access Volume (MAV) quotas.

**ARTICLE II
ADMINISTRATIVE ORDER NO. 8**

Administrative Order No. 8 Series of 1997 ("the Administrative Order" or "AO 8") was issued by the Philippines on September 2, 1997, amending the rules and regulations for the implementation of the agricultural minimum access volumes (MAVs) contained in Department of Agriculture Administrative Order No. 9 series of 1996. The Government of the Philippines shall implement a modified Administrative Order No. 8, consistent with the terms of the provisions below, by no later than March 5, 1998.

**ARTICLE III
MODIFICATIONS TO ADMINISTRATIVE ORDER NO. 8**

The Philippines and the United States agree to the modifications to Administrative Order No. 8 described below. Administrative Order No. 8 as issued on September 2,

1997 (including the erratum of September 24, 1997), and as modified consistent with this Agreement, shall govern and control the implementation of the MAV Mechanism and MAV Plus Mechanism with respect to the specified agricultural products. As so modified, with respect to the specified agricultural products, the Administrative Order shall apply to all licenses, Minimum Access Volume Import Certificates (MAVICs), and provisional MAVICs issued or pools allocated on or after January 1, 1998. In addition, all specified agricultural products entered under MAVIC, provisional MAVIC, or otherwise from and including January 1, 1998, through the effective date of the Administrative Order No. 8, as modified consistent with this Agreement, shall be subject to all of the provisions thereof and shall be deemed entered during the TRQ year commencing February 1, 1998, and ending on January 31, 1999. The Philippines shall notify the United States when undertaking procedures to modify further Administrative Order No. 8 beyond those modifications provided for in this Agreement.

The Tariff-Rate Quota Year and MAVIC duration

1. Section I.B.(15) of AO 8 shall be amended to provide that the tariff-rate quota (TRQ) year shall be a 12-month period commencing on February 1 and ending on January 31 of the following year. All other provisions of the Administrative Order shall be amended to conform with this definition of the TRQ year; in particular, the date for voluntary surrender of quota allocation shall be by the last working day in May, the Mid-Year Pool (MYP) allocations shall be made available not later than July 1, and the date for reckoning quota utilization rates for determining the subsequent TRQ Year's Beginning Year Pool (BYP) shall be December 15.

2. Section I.K.(15) of AO 8 shall be amended to provide that the validity of the MAVICs shall be lengthened from 2 to 3 months from the date of issuance, provided that no MAVIC issued within a TRQ year shall be valid beyond the end of February of the following TRQ year. All other provisions of AO 8 shall be conformed to reflect a 3 month duration for the MAVICs.

Application Requirements and MAVICs Issuance

3. Section I.D.(2)(c) of AO 8 shall be amended to provide that applicants may submit copies of their income tax returns or the appropriate Bureau of Internal Revenue (BIR) form for exempt organizations for the latest fiscal year instead of the BIR tax clearance certificates. The submission of Import and Entry Revenue Declarations (IERDs) will no longer be required, except for MAV entrants, as further described in paragraph 11 of this Agreement.

4. Section I.F.(2) of AO 8 shall be amended to provide that regular licensees in a TRQ year who do not apply for regular allocations in the succeeding year shall not receive a regular allocation, shall be removed from the TRQ system, and their prior license allocations shall be added to the BYP. If any such licensee re-applies in a subsequent year, he/she shall be treated as a MAV entrant.

5. Section I.D.(2)(c) of AO S shall be amended to provide that in establishing import performance to qualify for import licenses, a MAV entrant importing specified agricultural products, determined at the four digit HS code level, must have imported at least nine metric tons of the specified agricultural product within the four digit HS code, which amount is one-half the Economic Size Lot for such product.