

[DA ADMINISTRATIVE ORDER NO. 9, July 01, 1996]

RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE AGRICULTURAL MINIMUM ACCESS VOLUMES (MAV)

IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT 8178

In accordance with Republic Act 8178 issued on March 28, 1996 directing, among others, the Cabinet Committee created by Memorandum Order No. 245 dated December 13, 1994 to submit, in consultation with all concerned agricultural farmer/producer/processor/importer groups, to Congress within a period of sixty (60) days from the effectivity of (he said Act, an equitable and transparent mechanism for the implementation of the minimum access volumes (MAVs) having the least government intervention, addressing the requirements of each geographical region, and without entailing any cost to importers/users of these products to the detriment of local consumers and other end-users, as well as creating the Competitiveness Enhancement Fund (CEF), the following guidelines are hereby promulgated.

SECTION 1. *The MAV Mechanism* -

A

General Principles

1. The implementation of the agricultural minimum access volumes or MAVs should conform with the general principles of transparency, equity, market-consistency, and GATT-consistency, and address the development requirements of the economy in general and the agriculture sector in particular.

2. a) *Transparency* -The implementing rules and regulations governing the agricultural MAVs should be stable and the information thereof should be conveniently available to a concerned parties.

b) *Equity*-The mechanism should be fair in that it addresses the requirements of all concerned parties in each geographical area and that, without sacrificing the objectives of promoting economic efficiency, it implementation would result in all concerned parties being at least as well off as before such implementation.

c. *Market-consistency* - The mechanism should entail the least government intervention and the resulting allocation of the MAVs should approximate to the closest extent possible the competitive import shares of importers in the absence of the tariff quota or MAV.

d. *GATT-consistency* - The implementation procedure should conform with the

relevant commitments of the government under GATT 1994, particularly Section 1-8 of the country's schedule of Uruguay Round Final Act commitments, as well as the Agreement on import License Procedures.

e. *Economic Development* -The mechanism should address the economic development requirements of the country ease the adjustments of the industries affected by the lifting of the non-tariff import restrictions in agriculture, and contribute to stabilizing agricultural prices at affordable levels.

B

Definition of Terms

1. An agricultural product is any product that the government classifies under Chapters 1 to 24 of the Harmonize System of tariff nomenclature as used in the country's Tariff and Customs Code.
2. Minimum Access Volume (MAV) refers to the quantities of a given imported agricultural product that the government allows entry into, the Philippines at the lower in-quota tariff rate. There are two sets of MAVs. One set constitutes those which the government committed in the Uruguay Round treaty. The other set are those which the government introduced unilaterally as part of its trade policy. For purposes of this Order, the phrase tariff rate quota is used synonymously as minimum access volume.
3. An in-quota tariff rate refers to the lower rate of custom duty applied to an agricultural product as provided for in the country's tariff and customs code and applicable to MAV product. There are two sets of in-quota tariff rate: One set constitutes those which the government committed in the Uruguay Round Treaty. The other set are those which the government introduced unilaterally as part of its trade policy.
4. An out-quota tariff rate refers to the higher rate of custom duty applied to an agricultural product as provided for in the country's tariff and customs code.
5. A MAV product refers to an agricultural product that has a MAV.
6. Representative period refers to the three year immediately preceding a given MAV year.
7. A MAV license is the official permit issued by the Chairperson of the MAV Management Committee (MMC) entitling the MAV licensee to import a given quantity of specific MAV product at the in-quota tariff rate in a given MAV year.
8. A MAV licensee refers to a firm, cooperative, non-governmental organization (NGO), agency, institution, or person who is granted rights to import MAV products.
9. A MAV entrant refers to a firm, agency, organization, or person who becomes a MAV licensee for the first time in any given MAV year.
10. A MAV year is from January 1 to December 31 of a given year.

11. A MAV Product Category is a group of specific MAV products, whose first four or more digits of their respective Harmonized System codes match and which the MAV Management Committee grouped as such for the purposes of allocating MAV licenses.

12. Harmonized System (HS) is a nomenclature of tradable goods, articles and items as used by the government in its Tariff and Customs Code.

13. The Agricultural Competitiveness Enhancement Fund (ACEF) is a fund created by Republic Act 8178. The fund is earmarked by Congress for irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, other marketing infrastructure, provision of market information, retraining, extension services, and other forms of assistance and support to the agricultural sector in so far as these measures improve the competitiveness of the agriculture sector.

C

MAV Management Committee, Secretariat, and Advisory Council

1. There is hereby created a MAV Management Committee (MMC) which should be composed of the following:

- Secretary of Agriculture	Chairperson
- Secretary of Trade and Industry	Member
- Secretary of Finance	Member
- Secretary of Agrarian Reform	Member
- Secretary of Science and Technology	Member
- Director-General, NEDA	Member

2. The MMC should oversee and regulate the implementation of the MAVs and dispose of the competitiveness enhancement fund following the provisions under RA 8178. It should set the rules and regulations pertinent to the administration of the tariff rate quota, the competitiveness enhancement fund, and other related matters.

3. A MAV Secretariat and a private-sector advisory body should assist the MMC. The MAV Secretariat carries out the day-to-day administration of the MAVs and is accountable to the MMC. The MAV Executive Director heads the MAV Secretariat.

4. The MAV Secretariat should be composed of employees of the Department of Agriculture assigned on a full-time basis to fulfill their respective functions in the said body.

5. Among its other functions, the MAV Secretariat would collect from the MAV applicants and licensees the appropriate MAV fees that the MMC determines and approves. In approving these, the MMC shall ensure that the fees are kept down to

the levels strictly necessary for the efficient administration of the MAC mechanism and do not unduly raise local prices to the detriment of users or consumers of the MAV products.

6. The private sector advisory body is called the MAV Advisory Council (MAC). The MMC should organize the MAC which would be tasked with advising it on matters about the MAV implementation and the disposition of the Competitiveness Enhancement Fund.

7. a) The MAC should be comprised of seven members, six of whom should be from the national farmer organizations/ federations and other private entities, including at least one representing the users of MAV products. The seventh member of the MAC should be the Secretary of Agriculture or his duly appointed representative who must be a senior official of the Department of Agriculture. The MMC should appoint the private sector members who will serve voluntarily for a term of three years. It shall also define the terms of reference of the private sector advisory body.

b) The Chairperson of the MAC should be the Secretary of Agriculture or his duly appointed representative.

D

Registration and Eligibility of MAV Applicants

1. The MMC should publish notices asking for the submission of applications for MAV licenses in at least two national news dailies, in the last week of November of a given MAV year. The notice contains at least the following information: the list and respective quantities of MAV products to be allocated, the opening and closing dates of the application, and the time period when the MAV licenses to be issued out are to be valid, and the address of the government office where the application forms can be obtained and submitted.

2. The application period should be the last month of the existing MAV year, i.e. from 1 to 31 December of the year. Applications received after the application period will not be processed for the incoming MAV year.

3. The application for MAV licenses should be open to all concerned firms, cooperatives, NGOs, agencies, institutions and persons who may have a legitimate reason to use or sell MAV products. A MAV applicant should be entitled to one application per MAV product category.

4. In cases where the associations or federations apply for MAV licenses in behalf of their members, these applicants must submit to the MMC a certified list of their members. These organizations must also show that their respective competent authorities has so decided and has accordingly instructed their respective members not to apply for the MAV licenses that their associations or federations are applying for. If, however, the members of said associations or federations apply for the same set of MAV licenses as their organizations, the MMC should reject the individual applications on the ground that these represent a duplication of MAV application.

Furthermore, a member of two or more associations or federations would be deemed to have forfeited the privilege of applying for a MAV license for a specific

product if one association or federation to which he belongs applies for the same MAV license for and in his behalf, even if the other associations or federations to which he belongs do not so apply for the same MAV license.

5. The MAV applicants should fill out an application form for the MAV licenses (see attached Form No. 1^{*}) These application forms should contain the necessary information required for the proper implementation of the MAVs. In addition to the information requested in MAV Form No. 1, supporting documents may be required by the MMC from the applicant to validate the information reflected in the application. Failure to properly fill out the application forms, submit supporting documents, and/or falsification of supporting documents submitted in the application, with intent to mislead the MMC, should be considered grounds for rejecting the current or subsequent applications of the MAV applicant for MAV licenses.

6. The MMC should process the applications for MAV licenses during the first month of the incoming MAV year, i.e. from 1 to 31 January of a given year.

7. As a general rule, only those applicants for MAV licenses who have demonstrated valid reason to use or sell a MAV product should be eligible to get MAV licenses for the agricultural product.

- a. Unless it fails to submit its application for whatever reason, a MAV applicant that has been in the business for at least the representative period as an importer or a user of a MAV product or its substitute should be automatically eligible to get MAV licenses in the first year of the MAV implementation.
- b) The MMC should require that the MAV entrants must operate their respective businesses that use or supply MAV products for at least one year without the benefit of a MAV access before it considers their respective MAV applications.

8. The MMC should require that an existing MAV licensee reapplies for MAV licenses in any subsequent MAV year. It should approve the application, unless it has a valid reason to act otherwise. All existing MAV licensees should be provided, besides the notification, through the national news dailies, a written letter about the opening of the current MAVs no later than the last working day of November of any given MAV year.

9. The decision of the MMC on the MAV applications would be final. Where the MMC rejects an application, it should inform the concerned applicant of the reason for rejecting the application. These reasons may include the fact that the applicant is not a user or supplier of the MAV product; had falsified the supporting documents in its application; had committed technical smuggling; or had consistently failed to use its allocated MAV licenses for reasons unrelated to preferences of buyers or for any other reason that, in the judgement of the MMC, causes a waste of the MAV licenses.

E

MAV Licenses, Withdrawal Forms and Import Certificates