

**[ BOC MEMORANDUM CIRCULAR NO. 211-95, June 19, 1995 ]**

**RULES AND REGULATIONS TO IMPLEMENT THE EXPORT DEVELOPMENT ACT OF 1994 (R.A. 7844)**

Attached is the implementing rules and regulations for R.A. 7844 issued jointly by the Secretary of Finance and the Secretary of Trade and Industry, for information and guidance of all Customs Personnel.

Note that the rules and regulations have retro-active effect to 30 December 1994. Among the incentives granted to exporters registered under the Export Development Act are the exemption from PD 1853, or the Advance Payment of customs duties and the duty-free importation of Machinery and equipment and accompanying spare parts until December 31, 1997.

Adopted: 19 June 1995

(SGD.) CESAR Z. DARIO  
*Deputy Commissioner*  
*Internal Administration Group*

"Annex"

Rules and Regulations to Implement The Export Development Act of 1994 (R.A. 7844)

PART I  
General Provisions

Pursuant to the provisions of Republic Act No. 7844, otherwise known as the "Export Development Act of 1994", the following rules and regulations are hereby adopted:

Rule I  
Declaration of Policy

*SECTION 1.* It is declared the policy of the State to evolve export development into a national effort. The Government shall champion exports as a focal strategy for a sustainable agri-industrial development to achieve Philippine NIChood towards the year 2000. The private sector shall take the lead in the collective effort to promote exports through discipline and hard work, as it confronts the challenge of winning international markets.

*SECTION 2.* The Government and the private sector shall jointly transform the Philippines into an exporting nation. The State shall instill in the Filipino people that exporting is not just a sectoral concern but the key to national survival and the means through which the economic goals of increased employment and enhanced incomes can most expeditiously be achieved.

Rule II  
Basic Principles, Policies and Objectives

*SECTION 1.* It is the goal and objective of the Export Development Act, hereinafter referred to as the Act, to private a macroeconomic policy framework that supports export development, especially in the following key areas of concern:

- a) Monetary and foreign exchange policies shall establish and maintain a competitive exchange rate, supported by measures to provide safety nets for various sectors that may be adversely affected by the implementation of such policies. Such policies shall be consistent with the responsibility and primary objectives of the Bangko Sentral ng Pilipinas pursuant to Section 3 of Republic Act No. 7653.
- b) Fiscal and credit policies shall provide adequate funds for public and private investments and business expansion for export purposes, while keeping the cost of credit comparable to international levels and ensuring access to loanable funds for SMEs as well as highly technical export enterprises, especially those in the countryside;
- c) Agricultural policies shall build up viability and competitiveness of the country's agricultural sectors and facilitate their linkage with industry to strengthen the agri-industrial base of the country's export thrust;
- d) Trade, tariff and customs policies shall engender competitiveness of domestic industries and facilitate their participation in international trade;
- e) Technical support policies to improve the quality of export products shall be adopted, particularly those relating to technology transfers, R & D, technical training and related activities. As such, the Department of Science and Technology (DOST) and the Department of Agriculture shall be supported by state colleges and universities in the diffusion of technology, information and training to the countryside for agri-industrial and export development;
- f) Urgent attention shall be given to policies affecting infrastructure in order to ensure the adequate supply and quality of power, water (e.g. for irrigation); transportation (e.g. air, shipping and cargo handling); communication, and environmental, sanitary and phyto-sanitary, health and security measures to support the flow of sufficient and suitable goods and services in the context of the national export drive;
- g) The link between export growth and countryside development must be strengthened through policies favorable to SMEs, regional industrial centers, and export processing zones to boost rural and farm-based entrepreneurship in identified geographic economic growth areas of the country;
- h) Labor and industrial relations policies must recognize the inevitable industrial shifts that will occur in the effort to achieve international competitiveness. Focus shall be given to the formulation of accords between labor and management which shall provide for sustained increase in productivity and competitiveness. In line with this, dual training schemes shall be integrated as a basic component to the country's primary and secondary education program to ensure that the manpower needs of agriculture and industry will be matched by the skills generated by the educational

system. Reasonable price and income policies shall likewise be adopted in order to safeguard the interests of the labor sector;

i) All government agencies whose action affect exporters, such as the Board of Investments (BOI), Bureau of Customs (BOC) and the Bureau of Internal Revenue (BIR) shall simplify procedures to minimize bureaucratic red tape, and

j) Provisions of existing laws deemed detrimental to the export sector shall be repealed in subsequent acts.

### Rule III Definition of Terms

*SECTION 1.* For purposes of these Rules, the terms used herein shall be construed to have the following meanings:

a) "Exporter" shall mean any person, natural or juridical licensed to do business in the Philippines, engaged directly or indirectly in the production, manufacture or trade of products or services which earns at least fifty per cent (50%) of its normal operating revenues from the sale of its products or services abroad for foreign currency. In the case of indirect exporters, the requirement that products or services be sold "abroad for foreign currency" shall not apply as, by the very nature of their business, the sale of their products or services takes place in the Philippines, and such indirect exporters are usually paid in Philippine currency;

b) "Services" shall refer to the supply of service for export, in the following areas only: information technology services, construction services, consultancy and professional services and other services, as defined jointly by the Department of Finance (DOF) and the Department of Trade and Industry (DTI). The aforementioned areas may be likewise expanded jointly by the DOF and DTI. Services rendered by overseas contract workers are not covered by this definition. As provided in the immediately preceding section, these need not be rendered abroad as, by the nature of some services, the sale of the same takes place in the Philippines;

c) "Export Promotion" shall refer to a range of export activities which the public and the private sectors undertake. These activities include, but shall not be limited to, networking, especially in export support services and trade/market information provision; organization of trade fairs and missions; advisory services; conduct of export-related seminars, lectures, workshops, conferences and trainings; publication of export-related documents; handling of quality standards, product design and related activities aimed at promoting existing exports to improve the position of Philippine products in specific foreign markets, and other activities necessary to implement the Philippine Export Development Plan (PEDP);

d) "Export Incentives" shall refer to the support measures provided by the government to exporters to encourage investment in the export sector, create a freer trade environment and motivate exporters to increase export sales as well as perform competitively in the export market. These export incentives include the incentives provided for in the ACT and the incentives being granted by the Board of Investments (BOI) and local government units (LGUs);

e) "Accredited Organization" shall refer to the organization of exporters granted accreditation by the Export Development Council (EDC). Such accreditation shall be granted only to the dominant one among the existing export organizations taking

into consideration some of the following guidelines: it should be non-stock and non-profit must champion, as its primary objective, the interests of the private sector exporters, have multi-sectoral coverage, regional representation, the biggest number of active membership of direct, indirect and service exporters, a track record of conducting promotional activities for exporters, and such other requisites as may be required by the Council to ensure that the organization is representative of the exporter's sector;

f) "Export sale or export revenue" shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, lading certificates and other commercial documents, of export products, exported directly or indirectly by an export producer or the net selling price of export products sold by an export producer to another export producer, or to an export trader that subsequently exports the same: *Provided*, That such sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported as certified by the latter: *Provided, further*, That without actual exportation, the following shall be considered constructively exported for purposes of this provision: (1) sales to export oriented manufacturers through the bonded manufacturing warehouses or common bonded warehouses; (2) sales to export processing zones; (3) sales to export traders operating bonded warehouses supplying raw materials used in the manufacture of export products under the guidelines already set by the Board of Investments (BOI), the Bureau of Customs (BOC) and the Bureau of Internal Revenue (BIR); (4) sales to foreign military bases, diplomatic missions, duty-free shops, and other agencies and/or instrumentalities granted tax immunities, of locally-manufactured, assembled or repacked products, whether paid for in foreign currencies or not: *Provided further*, That export sales of registered export traders may include commission income: and *Provided, finally*, That exportation of goods on consignment shall not be deemed export sales until the export products consigned are, in fact, sold by the consignee;

Sales of locally manufactured or assembled goods for household and personal use of Filipinos abroad and other non-residents of the Philippines as well as returning Overseas Filipinos under the Internal Export Program of the government and paid for in convertible currency inwardly remitted through the Philippine banking systems shall also be considered export sales;

g) "Small and Medium-Scale Enterprises (SMEs)", for purposes of this Act, shall mean those enterprises in export activities with assets up to Sixty Million Pesos (P60,000,000.00) which is relevant to a minimum size competitive economic activity vis-a-vis the East Asian Region;

h) "Eximbank" shall refer to the institution which will be established to deal primarily or exclusively with export financing guarantee and insurance as well as other financing services that will support the operations of exporters of manufactured products and services and indirect exporters, particularly the SMEs, and

i) "Negotiability" shall mean that tax credits granted are negotiable in accordance with Rule VII, Sec. 4 of these Rules.

## PART II

### The Philippine Export Development Plan (PEDP)

#### Rule IV

#### Formulation and Approval

*SECTION 1.* The President of the Philippines shall approve a rolling three-year Philippine Export Development Plan (PEDP) prepared by the Department of Trade and Industry (DTI) which shall form part of the Medium-Term Philippine Development Plan (MTPDP). It shall be formulated in consultation with the private sector, validated and updated semestrally.

*SECTION 2.* The PEDP shall define the country's annual and medium-term export thrusts, strategies, programs and projects and shall be jointly implemented by the government, exporters and other concerned sectors.

### PART III Institutional Structures

#### Rule V The Export Development Council (EDC)

*SECTION 1. Structure* - The existing Export Development Council, hereinafter referred to as the Council, which was created by Executive Order No. 98 (1993) as modified by Executive Order No. 110 (1993), and Executive Order No. 180 (1994), shall be strengthened and institutionalized for the purpose of overseeing the implementation of the PEDP and coordinating the formulation and implementation of policy reforms to support the said Plan.

*SECTION 2. Powers and Functions* - The Council shall have the following powers and functions:

- a) Approve the PEDP for its submission to and approval by the President and its integration into the Medium-Term Philippine Development Plan (MTPDP), coordinate, monitor and assess the implementation thereof, and when necessary, institute appropriate adjustments thereon in the light of changing conditions in both the domestic and international environment;
- b) Periodically review and assess the country's export performance, problems and prospects;
- c) Identify the main bottleneck, problem areas and constraints in all areas, sectors and activities which influence the development of exports, including, but not limited to, such matters as policy framework, physical infrastructure, foreign exchange, financing, technology, production, promotion and marketing;
- d) Mandate specific departments and agencies to attend to the bottlenecks and problems constraining the development of exports in any of the areas mentioned in paragraph (c) above, and require the concerned Secretaries to deliver a progress report(s) on the actions or initiatives taken to resolve these areas of concern at the next meeting(s);
- e) Ensure export quality control by overseeing the formulation and implementation of quality control guidelines by appropriate agencies to make Philippine exports at par with world-class products;
- f) Impose sanctions on any government agency or officer or employee thereof, or private sector entity that impedes efficient exportation of Philippine goods;
- g) Recommend to Congress any proposed legislation that would contribute to the development of exports;