

MALACAÑANG
RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES
ADMINISTRATIVE ORDER NO. 122

DIRECTING ALL DEPARTMENTS, BUREAUS, COMMISSIONS, OFFICES AND OTHER AGENCIES AND INSTRUMENTALITIES OF THE GOVERNMENT, INCLUDING ALL LOCAL GOVERNMENTS AND FINANCIAL INSTITUTIONS AND CORPORATIONS OWNED OR CONTROLLED BY THE GOVERNMENT, TO HELP ENSURE THE IMPLEMENTATION OF THE FIRST AND SUBSEQUENT INVESTMENTS PRIORITIES PLANS AND AMENDMENTS THERETO UNDER THE INVESTMENT INCENTIVES ACT.

1. All departments, bureaus, commissions, offices and other agencies and instrumentalities of the government, including all local governments and financial institutions and corporations owned or controlled by the government, are hereby directed to extend the maximum cooperation and assistance to the Board of Investments and other government agencies involved in the implementation of the Investment Incentives Act in order to ensure the implementation of the first and subsequent Investments Priorities Plans, and amendments thereto, in a synchronized and integrated manner. No government body shall adopt any policy or take any course of action contrary to or inconsistent with said Plans.

2. The above government offices, agencies and instrumentalities and all officers and employees thereof are particularly enjoined to observe punctiliously the following provisions of the Investment Incentives Act and the Rules and Regulations issued by the Board of Investments:

*“Protection from Government Competition.—*No agency or instrumentality of the government shall import, or allow the importation tax and duty free of products of items that are being produced or manufactured by registered enterprises, except when the President determines that the national interest so requires or when international commitments require international competitive bidding. Republic Act 5186, Section 7(j)

“Nothing in this Section shall be construed to exclude any non-registered enterprises from freely engaging, within existing constitutional and statutory limitations, and without enjoying the incentives benefits provided in this Act, in any line of economic activity or endeavor that has been declared a preferred area of investment: Provided, That a non-Philippine National may engage, without incentives, in preferred areas of investment where Philippine Nationals are already engaged only after three (3) years from the date of declaration of the area as preferred if the measured capacity has

not been filled within the said period, except where such non-Philippine National shall engage, without incentives, in the manufacture of finished products primarily for export. The Board shall fix the percentage of production that must be exported by a non-Philippine National in order to be deemed to be engaged in manufacture primarily for export, which percentage shall not be less than seventy per cent (70%) of its total production. (Ibid., Section 20, 3rd paragraph)

"Within the three-year waiting period prescribed in the third paragraph of Section 20 of the Act, no non-Philippine National shall enter into and engage in a preferred non-pioneer area of investment, even without incentives, in the absence of a certificate issued by the Board stating that no Philippine national is already engaged therein; or if there be any Philippine national so engaged, a certificate that the said non-Philippine national shall engage in the manufacture of finished products primarily for export. To be deemed engaged in manufacture primarily for export, a non-Philippine national must export no less than seventy per cent of its "total production." (BOI Basic Rules and Regulations, Rule XII, Section 1)

3. Under Section 16(d) of the Investment Incentives Act, the Board of Investments is authorized—

"After due hearing, (to) decide controversies concerning the implementation of this Act they may arise between registered enterprises or investors therein and government agencies :
Provided, That the investor or the registered enterprise may appeal from the decision of the Board within fifteen (15) days from receipt thereof to the Court of First Instance"

Under the foregoing provision, the decisions of the Board of Investments on the matters referred to are binding and conclusive upon government agencies without recourse to the courts. In line therewith, all government agencies are enjoined to recognize the jurisdiction of the Board of Investments over controversies concerning the implementation of the Investment Incentives Act and abide by its decisions.

Done in the City of Manila, this 1st day of June, in the year of Our Lord, nineteen hundred and sixty-eight.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) RAFAEL M. SALAS
Executive Secretary