

Annex “A”

IMPLEMENTING RULES AND REGULATIONS GOVERNING THE GRANTING OF TARIFF EXEMPTIONS ON THE IMPORTATION OF AGRICULTURE AND FISHERIES INPUTS, MACHINERY AND EQUIPMENT

RULE I DEFINITION OF TERMS

The terms used in this set of implementing rules and regulations (IRRs) are defined as follows:

- (a) *Agriculture enterprise* refers to any single proprietorship, partnership, cooperative, corporation, farmer’s organization/association, or juridical entity engaged in the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock or poultry, the harvesting, and marketing of such farm products, and other farm activities and practices.
- (b) *Agriculture inputs, machinery and equipment* refer to goods that are used or employed in cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock or poultry, the harvesting and marketing of such farm products, and in the conduct of farm activities and practices.
- (c) *Agriculture sector* refers to the sector engaged in the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock or poultry, whether for food or non food purposes, including the harvesting and marketing of such farm products, and other farm activities and practices.
- (d) *Bill of lading* refers to a document issued by a carrier to a shipper, signed by a captain, agent, or owner of a vessel, furnishing written evidence regarding receipt of articles (cargo), the conditions on which transportation is made (contract of carriage), and the engagement to deliver goods at the prescribed port of destination to a lawful holder of the bill of lading.
- (e) *CIF value of articles* refer to the cost of the commodity at the point of delivery including costs of freight and insurance.
- (f) *Commercial Invoice* refers to a document issued by the seller upon completion of the transaction for sale of a commodity which include the date of invoice, name and address of buyer, order or contract number, description of the commodity for sale, unit price, quantity/ volume/ weight and total value of the projected sale, terms of delivery and payment, shipping marks and numbers, and shipping details.
- (g) *Consolidated purchase orders* refer to the consolidation of purchases of participating agriculture/fisheries enterprise/s to foreign supplier or import consolidator.
- (h) *Cooperatives* refer to duly registered associations of persons with the Cooperative Development Authority (CDA), which may be considered as agriculture and

fisheries enterprises, with a common bond of interest who have voluntarily joined together to achieve a lawful common social and economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

- (i) *Exclusive use of imported agriculture and fisheries inputs, machinery and equipment* refers to the employment, application, use or consumption by a certified agriculture and fisheries enterprise of an imported agriculture and fisheries input, machinery and/or equipment.
- (j) *Farmers and fisherfolk* refer to natural persons with agriculture and fisheries activities as their primary source of income.
- (k) *Farmers' and fisherfolk's organizations or associations* refer to entities duly accredited or registered by appropriate government agencies and which are composed primarily of agricultural producers, farmers, farm workers, agrarian reform beneficiaries, fisherfolk who voluntarily join together to engage in agriculture or fisheries activities which they themselves own control and patronize.
- (l) *Fish and fisheries/aquatic products* refer to fin fish, mollusks, crustaceans, echinoderms, marine mammals, and all other species of aquatic flora and fauna and all other products of aquatic living resources in any form.
- (m) *Fisheries enterprise* refers to any single proprietorship, partnership, cooperative, corporation, fisherfolk's organization/association and other juridical entity that is engaged in producing, harvesting, processing, marketing of fish or fisheries/aquatic products and developing and conserving aquatic resources and fisheries areas.
- (n) *Fisheries inputs, machinery and equipment* refer to goods for use as an ingredient, or component part of a finished fisheries product, or employed in producing, harvesting, processing, marketing of fish or fisheries/ aquatic products and developing aquatic resources and fisheries areas.
- (o) *Fisheries sector* refers to the sector engaged in producing, harvesting, processing, marketing of fish or fisheries/aquatic products and developing and conserving aquatic resources and fisheries areas.
- (p) *Imports* refer to all articles or commodities brought into the Philippines from any foreign country.
- (q) *Import consolidator* refers to any juridical person authorized/accredited by the Department of Agriculture Regional Field Unit (DA-RFU) by issuing a Certificate of Accreditation to import agriculture and fisheries inputs, machinery and equipment on behalf of eligible agriculture and/or fisheries enterprises.
- (r) *Micro-agricultural processor* refers to any single proprietorship, partnership, cooperative, farmer's organization/association, or corporation, engaged in the processing of raw agricultural and fishery products into semi-processed or finished products which include materials for the manufacture of food and/or non-food

products, pharmaceuticals and other industrial products, whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value of not more than Three Million Pesos (P3, 000,000.00).

- (s) *Purchase order* refers to a purchaser's (agriculture/fisheries enterprise) written offer to a supplier formally stating all terms and conditions of a proposed transaction.
- (t) *Small agriculture and fisheries enterprise* refers to any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value of not more than Fifteen Million Pesos (P15, 000,000).
- (u) *Total allowable peso value of import transaction* refers to the cumulative peso value of articles imported within the validity of the CE, which should not exceed the declared assets of an agriculture and fisheries enterprise. In the case of the import consolidator, the CIF value of articles should not exceed the sum of unused total allowable peso value reflected in Section 4 (c) of Rule IV.

Rule II COVERED ARTICLES

All articles under Annex "B" imported by qualified agriculture and fisheries enterprises and micro-agricultural processors shall be duty-exempt, and shall be subject to all existing import rules, regulations and requirements.

Rule III COVERED ENTERPRISES

Only those agriculture and fisheries enterprises, and micro-agricultural processors as defined in Rule I (a), (m), and (r) shall be eligible for exemption from the payment of tariffs on imported inputs, machinery and equipment listed in Annex "B" that are for their exclusive use and shall be subject to the provisions of the IRRs; Provided that small agriculture and fisheries enterprises as defined in Rule I (t) shall be subject to "simplified certification" procedures under Section 3, Rule IV of this IRR; Provided further that agriculture and fisheries enterprises not falling within Rule I (t) shall be subject to the "regular certification" procedures under Section 4, Rule IV of this IRR; Provided finally that micro-agricultural processors defined in Rule I (r) shall be subject to the "regular certification" procedures under Section 4, Rule IV of this IRR.

Rule IV
APPLICATION/CERTIFICATION PROCEDURES FOR
AGRICULTURE AND FISHERIES ENTERPRISES AND
MICRO-AGRICULTURAL PROCESSORS

- Section 1. Agriculture and fisheries enterprises availing of duty-exempt importation shall apply for a Certificate of Eligibility (CE) with any of the deputized agencies enumerated in the subsequent section. The CE entitles an enterprise for duty-free importation of agriculture and fisheries inputs, machinery, equipment listed in Annex "B".
- Section 2. The Head of any of the following government agencies is deputized to issue the CE:
- (a) The DA's Regional Field Units (RFUs) (for agriculture enterprises);
 - (b) The Bureau of Fisheries and Aquatic Resources (BFAR) or its regional offices (for fisheries enterprises); or
 - (c) The DTI's regional and provincial offices, or DTI-BOI.
- Section 3. Small agriculture and fisheries enterprises applying for a CE shall be subject to the simplified certification procedures by submitting the following documents:
- (a) Duly accomplished application form;
 - (b) A certified copy of certificate of registration issued by:
 - (b.1) the SEC, in the case of corporation and partnership;
 - (b.2) the DTI, in the case of single proprietorship; or a certified copy of Business/Mayor's Permit, as the case may be;
 - (b.3) the CDA, in the case of a cooperative; or
 - (b.4) by the SEC or an accreditation by appropriate government agency in the case of farmers'/fisherfolk's organizations and associations; and
 - (c) Declared assets of the previous year or the latest available declaration of assets, which will be the basis of the total allowable peso value of import transaction/s in a year.
- Section 4. All agriculture and fisheries enterprises not falling within the definition under Rule I (t), and micro-agricultural processors defined under Rule I (r) shall be subject to the regular certification procedures by submitting the following requirements:
- (a) Duly accomplished application form;
 - (b) A certified copy of certificate of registration issued by:
 - (b.1) the SEC, in the case of corporation and partnership;
 - (b.2) the DTI, in the case of single proprietorship,
 - (b.3) the CDA, in the case of a cooperative; or
 - (b.4) by the SEC or an accreditation by appropriate government agency in the case of farmers'/fisherfolk's organizations and associations;
 - (c) Duly "audited" assets of the previous year or the latest available declaration of assets, which will be the basis of the total allowable peso value of import transaction/s in a year;
 - (d) Notarized statement indicating the following:

- i. That the enterprise has no pending application from other issuing agency/ies under the incentives provided in Section 109 of RA 8435 as amended by RA 9281; and
 - ii. That the enterprise has not availed of similar incentives provided under existing laws for the same articles to be imported; and
- (e) An indicative list of regularly used inputs, equipment and machinery for the year.

Section 5. The application for and receipt of a CE shall only be undertaken by the eligible enterprise or through its authorized representative/s. Such authorization shall define the extent and nature of the representative's authority through the issuance of the following:

- (a) A board resolution and a corporate secretary's certificate in the case of a corporation;
- (b) A secretary's/partner's certificate in the case of a partnership; or
- (c) A special power of attorney (SPA) in the case of a sole proprietorship.

Section 6. The DA or any of its deputized agencies shall issue a CE within three (3) working days from submission of the application form with complete supporting documents. The issuing agency shall conduct an ocular inspection before the issuance of CE for all new applicants to ascertain the capacity and requirements of the applicant.

Section 7. The CE shall contain the following information:

- (a) Name of the agriculture or fisheries enterprise;
- (b) Type of agricultural or fishery activity engaged in;
- (c) CE Control number;
- (d) Date of issuance and expiration of the CE;
- (e) Total allowable peso value of import transaction/s within the validity of the CE referred to in Sections 3 (c) and 4 (c) of this Rule; and
- (f) A table for recording the following information as a result of tariff-exempt import transactions made by an enterprise:
 - (f.1) Commodity code and description;
 - (f.2) CIF peso value and volume/quantity;
 - (f.3) Available balance/unused allowable peso value of imports;
 - (f.4) Name and signature of DA Officer and BOC Collector; and
 - (f.5) Date recorded.

Section 8. The issuing agency shall indicate the amount of the total allowable peso value of import transaction/s in a year in the space provided in the CE.

Section 9. An eligible enterprise securing more than one valid CE shall constitute a violation of this EO and shall be subject to the penalties outlined in Rule IX.

Section 10. The CE is non-transferable and shall be valid for a year from the date of issuance, unless invalidated or revoked under Rule IX. An enterprise with an expired CE and wishing to continue to avail of the duty-exempt importation may re-apply for another CE by following the procedures on

application outlined in this Rule; Provided, that the enterprise shall surrender the expired CE to the same issuing agency.

Rule V
IMPORT CONSOLIDATORS

Section 1. An import consolidator as defined in Rule I (q) may represent and assist an/those eligible agriculture and/or fisheries enterprise/s, that are unable to undertake direct importation of articles listed in Annex “B”.

Section 2. The DA-RFUs shall, within sixty (60) days from the effectivity of these IRRs, invite application from interested entities to serve as import consolidators by submitting a letter of intent. The letter of intent should include the range of articles that the entity wishes to import. The DA-RFU shall make available the list of interested import consolidators.

Section 3. Before an import consolidator can undertake import services for eligible agriculture and fisheries enterprises, it must apply in writing for a Certificate of Accreditation (CA) form and must submit the following documents to any of the DA-RFUs:

(a) Certificate of registration from the CDA, SEC, or DTI, as the case may be;

(b) Notarized statement indicating the following:

i. That the import consolidator will only use the CA for purposes of providing import services to eligible agriculture and/or fisheries enterprise/s and shall not undertake any of the activities referred to in Section 9 of this Rule; and

ii. A letter of endorsement duly signed by all participating eligible agriculture and fisheries enterprises, attached with their individual valid original CE, allowing the import consolidator to import agriculture and fishery inputs, machinery and equipment on their behalf; and

(c) Consolidated purchase orders of participating agriculture and/or fisheries enterprise/s.

Section 4. For CEs being consolidated, DA-RFUs shall indicate in the space provided in each CE of this/these enterprise/s the required information referred to in Section 7(f) of Rule IV based on the information contained in the purchase order/s of participating agriculture and/or fisheries enterprise/s. The peso value of articles contained in each purchase order of this/these enterprise/s shall be considered as the actual CIF peso value of articles to be imported and shall automatically be deducted from its/their unused total allowable peso value of import transaction/s reflected in the valid CE.

The purchase order as used in this section refers to the purchase order of each of the eligible agriculture and fisheries enterprise.

- Section 5. The DA-RFUs shall issue the CA within three (3) working days upon acceptance of application form with complete supporting documents referred to in Section 3 of this Rule.
- Section 6. The CA authorizes an import consolidator to import articles for agriculture and/or fisheries enterprise/s with valid CE. The CA shall contain the following information:
- (a) Registered business name of import consolidator;
 - (b) Main business activity;
 - (c) CA control number;
 - (d) Date of issuance and expiration;
 - (e) Total allowable peso value of an import transaction; and
 - (f) Registered business name/s of each participating agriculture and/or fisheries enterprise/s referred to in Section 3 of Rule IV including:
 - (f.1) CE Serial Number/s;
 - (f.2) Peso value of articles to be imported as reflected in the enterprise purchase order
 - (f.3) Unused total allowable peso value of import transaction;
 - (g) A table for recording the following information:
 - (g.1) Commodity code and description;
 - (g.2) CIF peso value and volume/quantity;
 - (g.3) Name and signature of BOC collector/officer; and
 - (g.4) Date recorded.
- Section 7. The CA is non-transferable and only good for a single import transaction. It shall remain valid for three (3) months from the date of its issuance. A valid CA that is about to expire on the date of the arrival of the articles imported may be extended for a non-extendible period of 30 days; Provided, That, the goods are in transit. The import consolidator shall surrender the original copy of the CA immediately after its use to the DA central office within thirty (30) days.
- Section 8. The DA-RFU shall require the submission of a copy of the delivery receipt from each enterprise represented by the consolidator within seven (7) days on the date of delivery of items.
- Section 9. An import consolidator shall be prohibited from diverting for its benefit or use, selling, bartering, exchanging, leasing or transferring to third persons, the imported agriculture and fisheries inputs, machinery and equipment. Circumvention of this provision by the import consolidator shall be subject to the penalty provisions under Rule IX.

Rule VI
IMPORT REQUIREMENTS

Section 1. In order to avail of the duty-free importation incentive for every importation, an eligible agriculture and fisheries enterprise shall apply for an endorsement with the issuing agency by submitting the following documents:

- (a) Valid CE (original);
- (b) Bill of Lading or Airway Bill (copy);
- (c) Commercial Invoice (copy);
- (d) Notarized statement stating that the inputs, equipment and/or machinery to be imported tariff-exempt will be for the exclusive use of the importing agriculture and fisheries enterprise.

In endorsing the request for tariff-free importation, the issuing agency shall fill-up the table of the CE with the required information based on the submitted documents above. The peso value of the articles shall be deducted from the total allowable value. The name and signature of the authorized official of the issuing agencies shall constitute the endorsement for the tariff-exempt importation. The accomplished CE shall be returned to the enterprise.

Section 2. In the case of import consolidators, the procedures outlined in Rule V shall apply.

Rule VII
IMPORT PROCEDURES FOR TARIFF EXEMPTION

Section 1. Upon arrival of the imported agricultural and fisheries inputs, machinery and equipment listed in Annex "B" at the point of entry into the Philippines, the importing agriculture or fisheries enterprise or import consolidator shall present the following documents to the Custom Collector/Officer to facilitate the exemption from duty of the imports:

- (a) In the case of agriculture and/or fisheries enterprise, original plus two copies of valid CE;
- (b) A sworn statement that the input, machinery, and/or equipment to be imported tariff-exempt will be for the exclusive use of the importing agriculture or fisheries enterprise;
- (c) Commercial invoice;
- (d) Bill of Lading/Airway Bill; and
- (e) In the case of an import consolidator, original plus a copy of valid CA.

Section 2. In addition to the requirements of these IRRs, the importing enterprise or import consolidator shall comply with all other existing laws, and rules and regulations by BOC and other government agencies.

- Section 3. The final release of said inputs, machinery, or equipment from the BOC shall be subject to compliance with the requirements referred in Rule II, as the case maybe.
- Section 4. In processing the import transaction, the Custom Collector shall countersign on the space provided in the CE and CA provided that:
- (a) In the case of agriculture and/or fisheries enterprise, the CIF value of each import transaction shall not exceed the available balance of the total allowable peso value reflected in the valid CE; or
 - (b) In the case of an import consolidator, the CIF quantity of an import transaction shall not exceed the total allowable peso value reflected in the CA referred to in Rule 1 (g).
- Section 5. The BOC shall retain a copy of the CE; a second copy shall be forwarded by the BOC to the DA central office, while the original copy of the CE shall be returned to the agriculture and fisheries enterprise for future use-
- Section 6. A valid CE that is about to expire on the date of the arrival of the articles imported may be extended by the issuing agency for a non-extendible period of 30 days; Provided that the goods are in transit.

**RULE VIII
MONITORING AND REPORTING**

- Section 1. The DA and its deputized agencies, in coordination with the BOC shall monitor the importation and utilization of articles under Annex “B” to safeguard against possible abuse of the duty-exempt importation privilege granted to agriculture and fisheries enterprises. In case of suspected violations, these agencies shall initiate investigation and forward their initial findings to the DA for endorsement to the appropriate agency.
- Section 2. DA-RFUs and the deputized agencies shall submit to the DA Central Office and BOC a list of all agriculture and fisheries enterprises eligible to avail of the duty exemption. The DA shall maintain a database of these eligible agriculture and fishery enterprises.
- Section 3. Agencies authorized to issue CE for eligible agriculture and fisheries enterprises shall submit to the DA central office the list of all approved CEs with control numbers not later than the second week of every month. The DA RFUs shall likewise submit to the DA central office the lists of approved CEs and CAs with control numbers on the same period.
- Section 4. The DA shall maintain a databank of the information contained in the CEs and CAs and shall provide the DTI, DTI-BOI and DOF with a report on monthly basis.
- Section 5. The DA shall provide the BOC with updated lists of agriculture and fisheries enterprises that were issued with CEs and import consolidators issued with CAs, every third (3rd) week of the month. In case the updated

list of enterprise is still in transit and not yet received by the BOC, the certified enterprise could request the issuing DA-RFU to clear the issue with BOC.

Section 6. The DA shall prepare a monthly report on the volume and the value of importation of tariff-exempt inputs, machinery and equipment based on used CEs and CAs submitted by BOC and import data from the National Statistics Office (NSO). The report shall follow the formats below:

- (a) Trend analysis of CE and CA by commodity, issuing agency, type of enterprise;
- (b) Trend analysis of use of CE by commodity, type of enterprise, importer;
- (c) Trend analysis of use of CA by commodity, type of enterprise; and
- (d) Trend analysis of share of CE and CA imports to total imports by commodity.

The DA-Agribusiness and Marketing Assistance Service (DA-AMAS) shall monitor and report to the Task Force on Tariff-Exemption for Agriculture and Fisheries Modernization (TF-TEFAM) on a monthly basis or as frequent as necessary. The TEFAM shall report to the Tariff and Related Matters (TRM) Committee on a quarterly basis.

Section 7. The DA shall conduct periodic inspection/visit of agriculture and fisheries enterprises or import consolidators to ensure the exclusive utilization of the import products by agriculture and fisheries enterprises. Refusal of an enterprise to cooperate with the inspection/visit, including the refusal to submit relevant documents, shall be subject to the administrative sanctions provided for in Rule IX.

RULE IX PENALTIES

Section 1. Any person, partnership, corporation, association and other juridical entity found circumventing any provision of these IRRs shall suffer the penalty of imprisonment for a period of not less than six (6) months but not more than one (1) year, or a fine equivalent to two hundred percent (200%) of the value of the imported materials, or both, at the discretion of the court, and the accessory penalties of confiscation of the imported goods in favor of the government and revocation of the privileges given under this title.

In cases where the violator is a juridical entity, the officers responsible in the violation of these IRRs shall suffer the penalty of imprisonment prescribed in this section.

Section 2. The importation of goods exceeding the declared assets of the single proprietorship, partnership, or farmers/fisherfolk organizations and associations or the authorized capital stock in case of corporations and cooperatives, or the resale of imported goods shall be *prima facie* evidence of the violation of these IRRs.

- Section 3. Based on the investigations by the appropriate offices, and on the results of the import monitoring mechanism established in these IRRs, information on actions by any entity considered to be in violation of these IRRs shall be endorsed to the DA for proper legal action.
- Section 4. Any commodity under the custody of the BOC which is determined to have been imported in violation of any of the provisions of these IRRs shall be confiscated in favor of the government of the Republic of the Philippines and disposed of according to the usual procedures of the BOC.
- Section 5. The DA may also impose administrative sanctions such as cancellation or withdrawal of the CE or CA; automatic disapproval of pending and subsequent application for CE or CA; or blacklisting, against these enterprises, after determining in an administrative proceeding that a violation of these IRRs has been committed.
- Section 6. In appropriate cases, the DA shall recommend legal action against the enterprise or the import consolidator found to have violated the terms and conditions specified under these IRRs.
- Section 7. Public officials/employees who shall knowingly issue a CE or a CA to an enterprise which is not eligible under these IRRs or who shall directly or indirectly participate in the commission of an offense shall be penalized under existing laws.

In addition, the DA may impose administrative sanctions on these officials/employees after determining in an administrative proceeding, that a violation of this EO and its IRRs has been committed.