MALACAÑANG
MANILA

## BY THE PRESIDENT OF THE PHILIPPINES

## EXECUTIVE ORDER NO. 312

**PROVIDING AMENDMENTS TO EXECUTIVE ORDER 244, S. 2003, "MODIFYING THE RATES OF DUTY ON MOTOR VEHICLES, AS PROVIDED FOR UNDER THE TARIFF AND CUSTOMS CODE OF 1978 (PRESIDENTIAL DECREE NO. 1464, AS AMENDED), IN ORDER TO IMPLEMENT PREFERENTIAL RATES THEREON UNDER THE AUTOMOTIVE EXPORT PROGRAM."**

**WHEREAS,** the government issued Executive Order No. (E.O.) 156, series of 2002, establishing a Comprehensive Industrial Policy and Directions for the Motor Vehicle Development Program to develop the Philippines as the manufacturing hub in ASEAN for certain motor vehicles, parts and components;

**WHEREAS,** an integral component of the Comprehensive Motor Vehicle Development Program under E.O. 156 is the provision of special export incentives to the automotive sector;

**WHEREAS,** Pursuant to E.O. 156, E.O. 244, series of 2003, was issued providing special incentives for the export of certain completely built-up units (CBUs) of motor vehicles;

**WHEREAS,** the expansion of exports of motor vehicles translates to improved economies of scale leading to increased global competitiveness of the automotive industry;

**WHEREAS,** the recent and on-going developments on regional integration of the automotive sector, especially in the ASEAN, create an environment opportune for the manufacture of other CBUs of motor vehicles in the country primarily for export, provided incentives under E.O. 244 are extended to these types of activities;

**NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO,** President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby amend E.O. 244 and order the following:

**SECTION 1.** The whole of Annex "B" (Conditions for the Automotive Export Program) is hereby amended as follows:

**Definitions**

Categories of CBU exports are hereby defined as follows:

1. Regular CBU exports – direct CBU exports of high volume vehicles at a minimum total yearly volume of 10,000 units at minimum FOB value of US$5,000 per unit.

2. Developmental CBU exports – direct CBU export of developmental vehicles, which vehicles are completely new basic models designed to be produced in the Philippines primarily for exclusive export at least to ASEAN at a minimum total yearly volume of 5,000 units at minimum FOB value of US$5,000 per unit.

3. Niche CBU exports – direct CBU export of low volume niche vehicles, which vehicles are existing basic and/or variant models currently not assembled in the country, the existing facilities of which are to be relocated for exclusive assembly in the country at a minimum total yearly volume of 2,500 units at minimum FOB value of US$10,000 per unit. Niche CBU exports will only be granted incentives from the time that the models or variant becomes exclusively assembled in the Philippines.

4. High-value, low volume CBU exports – direct CBU export of high-end motor vehicles at a minimum volume of 2,500 units at a minimum FOB value of US$20,000 per unit.

**General**

1. The Program is open to all participants of the Motor Vehicle Development Program.

2. The participant may engage in any or all of the categories of CBU exports as herein defined.

3. The Program calls for the availment of preferential tariff rates by participants in their importation of CBUs on the basis of equivalent foreign exchange earnings from their exports of CBUs.

4. The imported CBUs must not be locally assembled (model and/or variant importations are less than 1,000 units per year in Year 2003) and the participating company owns the brands.

5. The availment of preferential tariff rates is contingent upon export performance on a yearly basis. A Program participant's export performance in a specific category shall be evaluated independent of its performance in other categories. A Program participant will thus not be allowed to compensate for its failure to meet the minimum export volume or value in one category by applying exports of models or variants in another category.

6. A qualified participant will be allowed to import CBUs under the Program at an annual volume equal to or less than the sum of 1,000 units per model and/or variant that it seeks to import. A Program participant shall be allowed to import a combination of models and variant provided the annual volume does not exceed the aforementioned limit. The net foreign exchange earning (NFEE) chargeable against imports (CIF basis) on a per unit basis shall continue until the credit is exhausted after which the Program participant shall pay the normal tariff rates on its imports.

7. The NFEE per unit is phased down over a period of 5 years as shown below.

### Qualified Export Products

1. Direct CBU exports in accordance with the category of registration.

2. The Department of Trade and Industry (DTI)/Board of Investments (BOI) during the effectivity of the Program may modify the minimum volume and FOB value per unit as the need arises upon consultation with industry and concerned government agencies.

### Net Foreign Exchange Earnings (NFEE) Schedule

| | Years 1-2 | Year 3 | Year 4 | Year 5 | Year 6 |
|---|---|---|---|---|---|
| CBU Export/Unit | US $ 400 | US$300 | US$200 | US$100 | US$0 |

### Mechanism

1. The Program will be made available to qualified MVDP participants on an annualized basis for a period of 5 years on a moving basis.

2. Qualified MVDP participants may register with the Program any time within the Program period.

3. An equivalent NFEE (shown in the schedule above) will be credited to the Program participant for every unit of CBU exported according to category. For CBU export with FOB value of less than the minimum value according to the category, no NFEE will be credited.

4. Importation at preferential tariff rate under Program will require the following corresponding NFEE:

| | NFEE Requirement |
|---|---|
| For HS Heading with regular MFN rate of 30% | Equivalent to 20% of the CIF value of importation |
| For HS Heading with regular MFN rate of 20% | Equivalent to 10% of the CIF value of importation |
| For HS Heading with regular CEPT rate of 5% | Equivalent to 4% of the CIF value of importation |

5. An import Authority will be issued to a Program participant by BOI. Once the NFEE is exhausted, no Import Authority will be issued to the participant, hence, should the participant decide to import the same, the corresponding regular tariff rate is applied to such importation.

**Other Conditions**

1. The NFEE per CBU unit exported is independent of the FOB value if higher than the minimum FOB value specified in the category.

2. No NFEE is given to a unit exported at less than FOB value specified in the category.

3. The NFEE shall only be used against import duties.

4. Failure to meet the minimum yearly export volumes and value per CBU unit required in the category on any given year shall subject the participant to the payment of normal MFN and/or CEPT tariff rates including adjustments in VAT plus penalties under existing Customs and Revenue rules and regulations from the time of entry into Customs territories for that particular year.

5. Unutilized NFEE may be carried forward until the end of the Program. At the end of the Program (end of year 5), participants shall be given two (2) years to use the unutilized NFEE, after which the NFEE would be invalidated (no monetary value). No unutilized NFEE can be converted to cash or to be used for other payments to government.

6. Once the NFEE is exhausted at any time within the year, the participant shall pay the normal MFN and/or CEPT tariff rates.

7. The NFEE of the participant may only be transferred only to an affiliate/subsidiary company duly designated by the participating company to undertake the importation; Provided, the affiliate/subsidiary company must be accredited by the BOI and is majority owned (at least 50%+ 1 share) by the Program participant.

   In cases where the Program participant and the affiliate/subsidiary company is ultimately owned by the same mother company, the affiliate/subsidiary will likewise be allowed to undertake the importation.

**SECTION 2.** The Department of Trade and Industry, in consultation with the National Economic and Development Authority and the Department of Finance, shall issue appropriate guidelines to implement the preferential tariff privilege granted under the Program in accordance with the amendments under Section 1 of this E.O.

**SECTION 3.** All Presidential issuances, administrative rules and regulations, or parts thereof, which are inconsistent with this Executive Order are hereby revoked or modified accordingly;

**SECTION 4.** This Executive Order shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation in the Philippines.

Done in the City of Manila, Philippines, this 1st day of May, in the year of Our Lord, Two Thousand and Four.

Gloria Arroyo

By the President:

Alberto G. Romulo

**ALBERTO G. ROMULO**
Executive Secretary

PGMA Hologram # 26175