

**[DA ADMINISTRATIVE ORDER NO. 8, SERIES OF
1997, September 02, 1997]**

**ADMINISTRATIVE ORDER AMENDING RULES AND REGULATIONS
FOR THE IMPLEMENTATION OF THE AGRICULTURAL MINIMUM
ACCESS VOLUMES (MAVS) CONTAINED IN DEPARTMENT OF
AGRICULTURE ADMINISTRATIVE ORDER NO. 9, SERIES OF 1996**

WHEREAS, Congress has enacted Republic Act (RA) No. 8178 to implement, among others, the Philippines' Minimum Access Volume (MAV) commitments under the Agriculture Agreement, which form an integral part of the GATT Uruguay Round Final Act;

WHEREAS, Department of Agriculture (DA) Administrative Order No. 9 (AO 9) series of 1996, was issued in July 1996 to lay down the rules and regulations governing the implementation of the country's MAV commitments;

WHEREAS, in compliance with Paragraph 7 of Section I of Book II of the Administrative Code of 1987, which mandates that the right of the people and their organizations to effective and reasonable participation in economic decision-making, among others, shall not be abridged, the DA conducted a series of consultations with the sectors affected by the MAV to review AO 9 and endeavor to make this issuance more responsive to the needs of its constituents and the country's economic development goals;

WHEREAS, the said review of AO 9 and its implementation has indicated that certain provisions of AO 9 could be improved to enhance the implementation of the MAV mechanism;

NOW, THEREFORE, these rules and regulations are issued to amend AO 9 which shall read as follows:

SECTION I

The MAV Mechanism

A. General Principles

1. The implementation of the MAV mechanism shall conform with the following principles:

a. Transparency

These rules and regulations should be implemented in a predictable manner. Information thereon should be accessible to all parties concerned.

b. Equity

The mechanism should be fair in that it addresses the requirements of each geographical area. Without sacrificing the objective of promoting economic efficiency, the mechanism's implementation should allow all parties concerned to maintain, and enhance to the extent possible, their economic and social well-being.

c. Market-consistency

The mechanism should entail the least government intervention; and the resulting allocations of the MAVs over time should approximate, to the extent possible, the competitive import shares of importers.

d. Responsiveness to Economic Development

The mechanism should address the economic development requirements of the country, facilitate the adjustment of industries to higher levels of competitiveness, and contribute to stabilizing agricultural prices.

B. Definition of Terms

1. *Agricultural Competitiveness Enhancement Fund (ACEF)* — the fund created by Republic Act No. 8178 out of the proceeds of the MAV importations to help the agricultural sector become viable, efficient, and globally competitive.

2. *Agricultural product* — any product classified under Chapters I to 24 of the Harmonized System of tariff nomenclature in the Tariff and Customs Code of the Philippine (TCCP), as amended.

3. *Beginning-Year Pool (BYP)* — the sum of the incremental MAV for a particular MAV allotment year, the recalled and cancelled allocations of the prior MAV year effected under pertinent provisions of this Order, as well as any MAVs not availed of in the prior MAV year.

4. *Commercial food service provider* — a person, firm, cooperative, or any other legal entity, such as a hotel or a restaurant, that processes an agricultural product into prepared food.

5. *Economic size lot* — a minimum quantity of an MAV product which would be financially viable to import, as reflected in Annex II of this Order.

6. *Harmonized System (HS) Code* — a nomenclature which is used in the TCCP, as amended, to classify products for the purpose of levying tariffs.

7. *Incremental MAV* — the difference between the MAV in any particular MAV allotment year and that in the prior MAV year for a particular MAV product.

8. *In-quota tariff rate* — the lower rate of customs duty reflected in the TCCP, as amended, that is applicable to an agricultural product which is imported under the MAV mechanism.

9. *MAV allotment year* — in relation to a particular MAV product, any particular

MAV year after the first year of implementation which is the subject of the subsequent year allocation procedure described in Section I.F of this Order.

10. *MAV entrant* — a person, firm, cooperative, or any other legal entity which is granted an MAV license for the first time in any given MAV allotment year.

11. *MAV Import Certificate (MAVIC)* — a form issued by the MAV Secretariat authorizing the release by the Bureau of Customs (BOC) of a portion or all of an MAV license at any one time within an MAV allotment year.

12. *MAV license* — the allocation issued by the MAV Management Committee (MMC) which entitles the licensee to import a specified quantity of an MAV product at the in-quota tariff rate within a given MAV allotment year.

13. *MAV licensee* — a person, firm, cooperative, or any other legal entity which is issued an MAV license and is, therefore, granted a right to import an MAV product.

14. *MAV product* — an agricultural product classified under any of the four-digit TCCP HS Code headings covered by the MAV mechanism.

15. *MAV year* — the annual MAV implementation cycle which starts on January 1 and ends on December 31 of a given year.

16. *Mid-Year Pool (MYP)* — the total volume of allocations temporarily surrendered by MAV licensees to the MAV Secretariat on or before the last working day of April of the MAV allotment year.

17. *Minimum Access Volume (MAV)* — the quantity of an agricultural product that may be imported in an MAV allotment year at the in-quota tariff rate provided for in the TCCP, as amended. For the purposes of this Order, the phrase "minimum access volume" is used synonymously with the phrase "tariff rate quota". The schedule of MAVs for specific agricultural products is provided in Annex I* of this Order.

18. *Out-quota tariff rate* — the higher rate of customs duty reflected in the TCCP, as amended, that is levied on the quantities of an imported agricultural product in excess of the MAV for that particular product.

19. *Prior MAV year* — the MAV year preceding a particular MAV allotment year.

20. *Processor* — a person, firm, cooperative, or any other legal entity that adds to the value of an agricultural product.

21. *Producer* — a person, firm, cooperative, or any other legal entity that grows, raises or produces an agricultural product.

22. *Regular allocation* — the volume allocated to an MAV licensee which the licensee retains from the previous MAV allotment years allocation.

23. *Representative period* - the three (3) years immediately preceding the initial year of implementation of the MAV mechanism for a particular product

24. *Trader* — a person, firm, cooperative, or any other legal entity that buys and sells an agricultural product.

25. *Volume request* — the quantity of a specific MAV product which an applicant wishes to import.

C. MAV Mechanism Organizational Structure

1. MAV Management Committee (MMC)

a. Composition

The MAV Management Committee (MMC) shall be composed of the Secretary of Agriculture as Chairperson, and the Secretaries of Agrarian Reform, Finance, Science and Technology, and Trade and Industry, and the Director-General of the National Economic and Development Authority, as members.

The Chairperson and members of the MMC may designate their respective alternates, who shall be officials of their respective Departments with the rank of at least an Assistant Secretary or equivalent, and who shall have full authorization to vote and act on their behalf; provided, that all MMC resolutions shall be signed by the principals themselves.

b. Functions

The MMC shall perform the following functions:

- i. implement this Order by ensuring that the MAV mechanism is administered in a manner consistent with the principles laid down in Section I.A(1) of this Order;
- ii. formulate guidelines to enhance the implementation of this Order;
- iii. issue MAV licenses, which shall be signed by the Chairperson in its behalf;
- iv. recall and/or cancel MAV licenses, where warranted;
- v. cause the conduct of an annual audit of the implementation of the MAV mechanism; and
- vi. submit annual reports to the President on the status of the implementation of the MAV mechanism.

c. Meetings

The MMC shall meet at least twice a year to discuss the allocation of MAVS, and other related matters. Additional meetings may be convened when deemed necessary.

2. MAV Advisory Council (MAC)

a. Composition

The MAV Advisory Council (MAC) shall be composed of thirteen (13) members from the private sector who shall be appointed by the MMC for a term of one (1) year. The MAC shall be chaired by a DA official with the rank of at least an Assistant Secretary or equivalent and shall be composed of the following:

- i. one (1) representative from the cattle, goat, beef, and goat meat producing sector;
- ii. one (1) representative from the hog and pork producing sector;
- iii. one (1) representative from the poultry and poultry meat producing sector;
- iv. one (1) representative from the grains producing sector;
- v. one (1) representative from the sugar producing sector;
- vi. one (1) representative from the sector producing other MAV products;
- vii. one (1) representative from the meat processing sector;
- viii. one (1) representative from the non-meat processing sector;
- ix. one (1) representative from the trading and commercial food service sectors;
- x. one (1) representative from the consumers' sector;
- xi. one (1) representative of the agriculture and fishery councils (AFCs) in Luzon;
- xii. one (1) representative of the AFCs in the Visayas; and
- xiii. one (1) representative of the AFCs in Mindanao.

A Vice-Chairperson from the private sector shall be elected by the MAC from among its members. The Vice-Chairperson shall act in behalf of the Chairperson in the latter's absence.

b. Functions

The MAC shall:

- i. advise the MMC on all matters relating to the allocation of the MAVs; and
- ii. review the results of the annual audit of the implementation of the MAV mechanism.

3. MAV Secretariat