

EXECUTIVE ORDER NO.156

EXECUTIVE ORDER NO. 156 - PROVIDING FOR A COMPREHENSIVE INDUSTRIAL POLICY AND DIRECTIONS FOR THE MOTOR VEHICLE DEVELOPMENT PROGRAM AND ITS IMPLEMENTING GUIDELINES

WHEREAS, Executive Order No. 226 empowers the Board of Investments (BOI) to formulate and implement rationalization programs for certain industries;

WHEREAS, Executive Order No. 248, issued on July 24, 1987, amending Executive Order No. 906, issued on August 4, 1983, directed the review by the BOI of the Progressive Car Manufacturing Program (PCMP) and the Progressive Truck Manufacturing Program (PTMP), in order that the Government may adopt fundamental reforms;

WHEREAS, Memorandum Order No. 346 series of 1996, as amended by Memorandum Order No. 473, series of 1998, promulgated the Guidelines on the Car Development Program (CDP), Commercial Vehicle Development Program (CVDP) and the Motorcycle Development Program (MDP), collectively known as the Motor Vehicle Development Program (MVDP);

WHEREAS, the ASEAN Industrial Cooperation Agreement commonly known as the AICO Agreement was signed on April 27, 1996 by ASEAN Member Countries, that would enhance ASEAN Industries' competitiveness and effectiveness through, among others, closer collaboration between companies in ASEAN to bring about increase in the volume and value of intra-ASEAN trade;

WHEREAS, Republic Act No. 8749 otherwise known as the Philippine Clean Air Act (CAA) of 1999 was promulgated to promote and protect the environment including its air sheds against pollution from mobile sources, among others;

WHEREAS, Memorandum Order No. 51 was issued on January 22, 2002, as amended by M.O. 73 issued on September 12, 2002, further amending M.O. 346 providing compliance with the Philippines' commitment to the TRIMS Agreement under the World Trade Organization (WTO) for the motor vehicle sector;

WHEREAS, the motor vehicle industry is a significant contributor to the country's economic output, employment, investments, exports and the development of small and medium scale parts and component manufacturing establishments;

WHEREAS, the motor vehicle industry is a major component of the government's continuing industrial development program, which is tasked to enhance the capabilities of the Philippine motor vehicle manufacturing firms to be globally competitive producers of completely build-up units (CBUs) and their parts and components for the local and export markets;

WHEREAS, there is a need to restructure the MVDP for the primary purposes of the establishment and/or expansion of production facilities by global vehicle manufacturers to allow export of CBUs, and the increase of exports of motor vehicle parts and components;

WHEREAS, there is a need to rationalize the importation of used motor vehicles taking into consideration the needs of local government units, small and medium enterprises and the public transport sector;

WHEREAS, it is necessary to adopt a clear and stable industrial policy framework consistent with core requirements of the above-mentioned issuances and taking into account recent global developments in the industry, thereby creating a clear and level-playing field both within and outside among competitors and encourage proactive participation among players and ensure success of the MVDP;

WHEREAS, the President, as Chief Executive, is vested with the power of control over all Executive Departments and Agencies;

WHEREAS, to accelerate the sound development of the motor vehicle industry in the Philippines,

the government has declared the following policies:

Prohibition of Used Vehicles Importation — To ban importation of all types of used motor vehicles and parts and components, except those that may be allowed under certain conditions.

Restructuring of Most Favoured Nation (MFN) Tariff Rates — To restructure MFN tariff rates for motor vehicles and their raw materials and parts and components at such rates that will encourage the development of the Philippine motor vehicle industry.

Rationalization of Excise Taxes — To restructure the current excise tax system for motor vehicles with the end view of creating a simple, fair and stable tax structure.

Regional Complementation under the AICO Scheme — To advocate the continued application of AICO scheme as may be adopted by the Association of Southeast Asian Nations (ASEAN) consistent with the implementation of the ASEAN Free-Trade Agreement — Common Effective Preferential Tariff (AFTACEPT).

Provision of Export Incentives — To the extent allowed by law and international commitments to grant incentives to assemblers and parts and components makers for the export of CBUs and parts and components.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, do hereby order:

ARTICLE 1.
Restructuring of the Motor Vehicle Development Program

Section 1. Coverage

1.1 The Program shall cover the manufacture and assembly of the following motor vehicles:

1.1.1. Classification I – Passenger Cars

Passenger cars shall refer to any four-wheeled motor vehicle, which is propelled by gasoline, diesel, electricity or any other motive power and principally designed to transport persons and not primarily to transport goods.

1.1.2. Classification II – Commercial Vehicles

Commercial Vehicles — shall refer to any four or more wheeled motor vehicle, which is propelled by gasoline, diesel, electricity and any other motive power and principally designed to transport persons and/or goods/cargoes, such as light commercial vehicles, buses, trucks, and special purpose vehicles (for example, ambulances, fire trucks, and the like).

Light Commercial Vehicles shall refer to vehicles whether 4-wheeled drive or not, which may be classified under but not limited to the following: utility vehicles, sports utility vehicles, Asian utility vehicles, commuter vans, pick-ups, which are designed to carry both passengers and goods/cargoes.

1.1.3. Classification III – Motorcycles

Motorcycles shall refer to any two or three-wheeler vehicle fitted with an auxiliary motor, with or without sidecars.

1.2 The assembly of motor vehicles covered in the MVDP shall be in completely knocked down (CKD) condition only. CKD shall refer to completely knocked-down parts and components that are either locally produced or imported for assembly purposes by registered participant of the MVDP. The imported CKDs refer to sub-parts/parts and sub-assemblies/assemblies/components minus local parts and components, as may be determined by the Board of Investments. The definition of CKD shall be anchored on the following premises:

1.2.1. Promotion and development of efficient and competitive local motor vehicle industries;

1.2.2. Increase in value-added of motor vehicle products to the economy; and

1.2.3. Retention and creation of jobs, transfer of skills and technology.

Sub-assemblies/assemblies/components — shall refer to major parts and components such as engines, transmissions, axle assemblies, chassis, body assemblies and the like.

Sub-parts/parts - shall refer to parts that are necessary for producing sub-assemblies/assemblies/components and/or other parts forming part of the CKD pack.

1.3 Only brand-new Original Equipment Manufacturer (OEM) CKD parts and components for assembly purposes shall be allowed for importation under the Program.

Sec. 2. Participants

2.1 Any foreign-owned or Filipino-owned companies organized under the Philippine laws that will engage in the manufacture/assembly of motor vehicles shall qualify as participant under the MVDP. The participant shall:

2.1.1 Obtain a technical licensing agreement with the foreign OEM that will supply the CKD and provide technology transfer/technical assistance, adequate parts and support services;

2.1.2 Establish new assembly facility or utilize an existing assembly facility, which is either idle or in operation; and,

2.1.3 Assemble/manufacture brand new quality motor vehicles.

The assembly operation shall involve at least the basic assembly processes, i.e., welding, painting, trimmings and quality testing/inspection.

2.2. A new participant of the MVDP refers to a local assembler/manufacturer, which is neither registered under any of previously issued Memorandum Orders on MVDP and its predecessor programs.

2.3 As a major commitment under the MVDP, each new participant, over a period of one (1) year, shall invest and/or bring in investments in the manufacture of motor vehicle parts and components for both export and domestic markets, equivalent to US\$10 million for passenger car assembler, or US\$8 million for commercial vehicle assembler or US\$2 million for motorcycle assembler.

2.4 The investments in the manufacture of motor vehicle parts and components shall be in any of the following schemes:

2.4.1 Equity investment, either minor or major stockholdings in new or existing motor vehicle parts manufacturing company; or

2.4.2 Investments in in-house motor vehicle parts manufacturing; or

2.4.3 Cost sharing schemes with existing motor vehicle parts manufacturing companies in terms of toolings and/or modernization/upgrade of facilities; or

2.4.4 Participation under the Department of Industry's (DTI) SME Assistance Program (Center Satellite Company for SME Guarantee and Facility); or

2.4.5 Other investments that BOI may consider for the development of the motor vehicle industry.

2.5 Existing participants registered under previous MOs shall continue to be member of the MVDP and continue to avail of the privilege hereof, provided that they are in good standing.

2.6 Application for registration as participant in the MVDP shall be submitted to BOI, together with commitment/s and undertaking to invest/bring in investments for the manufacture of motor vehicle parts. The BOI shall decide on the accepted application within sixty (60) working days from the date of official application thereto.

2.7 Approved participant shall be issued a Certificate of Registration by the BOI and shall comply with the terms and conditions specified therein. The Certificate of Registration shall include the commitments made by the participant in the proposal. The participant shall present to BOI proof of investments in motor vehicle parts manufacturing in accordance with its commitment submitted to

BOI, within one (1) year from date of registration; otherwise the BOI shall automatically cancel after due process the Certificate of Registration, subject to imposition of penalties, such as refund of duty differential between the CBU and CKD on all importations and other government incentives, if any.

Sec. 3. Models and Variants

3.1 There shall be no limitation in the number of models that participant may assemble/manufacture provided the same are registered with the BOI. A participant may register multi-brands of motor vehicles.

3.2 The BOI shall not register the same models under two (2) participants.

Sec. 4. Local Content Requirement

4.1 The local content requirement under M.O. 346, as amended, shall be phased-out in accordance with the provisions of M.O. 73.

4.2 New and existing participants shall continue to comply with the local content requirement as provided for under M.O. 73 until this requirement is phased-out, after which their registration shall be classified accordingly consistent with this E.O.

Sec. 5. Foreign Exchange Requirement

5.1 The foreign exchange requirement under M.O. 346, as amended, shall be phased-out in accordance with the provisions of M.O. 73.

5.2 New and existing participants shall continue to comply with foreign exchange requirement as provided for under M.O. 73 until this requirement is phased-out, after which, their registration shall be classified accordingly consistent with this E.O.

Sec. 6. Privileges

6.1 The participants shall continue to avail of CKD tariff rate under the CKD tariff lines as may be determined by BOI. The CKD tariff rate shall be established taking into consideration the availability of local parts and components pursuant to Article 3 hereof.

6.2 The BOI shall continue to issue Certificates of Authority (CA) to import to allow the participant to import CKD at CKD tariff rate.

Sec. 7. Implementing Agency

7.1 The DTI, through the BOI, shall continue to implement the guidelines for the MVDP.

Sec. 8. Review Committee

8.1 A Review Committee shall be formed to serve as the consultative body to recommend measures that will enhance competitiveness of the motor vehicle industry. It shall be composed of government and private sector representatives. The Secretary of DTI shall approve the Terms of Reference.

ARTICLE 2. Prohibition of Used Vehicles Importation

Section 1. Definition of Terms

1.1 For purposes of determining the type of motor vehicles that are allowed for importation, the following descriptions shall be used:

1.1.1 Vehicle imported under the no dollar import program — a motor vehicle personally owned by a returning resident or immigrant with GVW not exceeding 3 tons in accordance with the Program's guidelines.

1.1.2 Truck — any motor vehicle whose body configuration is designed to carry heavy loads, general freight, or for special purpose regardless of gross vehicle weight, provided that pick-ups are not considered as trucks.

1.1.3 Bus — a motor vehicle intended for mass transport or carrying of passengers.

1.1.4 Special Purpose Vehicles — a range of motor vehicles specially constructed or adapted, equipped with various devices that enable them to perform certain non-transport functions (i.e. fire trucks, crane lorries, mobile radiological units, mobile drilling derricks, concrete mixer lorries etc.) or a specialized type of motor vehicles used for the transport of persons or goods. (i.e. ambulance, hearses)

1.1.5 Fire truck — fire fighting vehicle with pump, usually driven by the vehicle's engine.

1.1.6 Crane lorry — an equipment consisting of a motor vehicle chassis on which a cab and a rotating crane are permanently mounted.

1.1.7 Mobile drilling derrick — a lorry fitted with a derrick assembly, winches and other appliances for drilling.

1.1.8 Ambulance — a vehicle equipped with medical equipment or facilities and used for transportation the injured or sick.

1.1.9 Hearse — a vehicle for conveying the dead.

1.1.10 Truck tractor/tractor head — a vehicle constructed essentially for hauling or pushing another vehicle, appliance or load.

1.1.11 Concrete-mixer lorry — a vehicle consisting of a cab and a chassis, on which is permanently mounted a concrete mixer, capable of use for both making and transporting concrete.

1.1.12 Mobile radiological unit — a vehicle fitted with an examination room, dark room and complete radiological equipment.

1.1.13 Pickup truck — a light truck having an enclosed cab and an open body with low sides and tailgate. For purposes of this EO, pickup truck is a vehicle with gross weight of up to 3 tons.

Sec. 2. Brand new vehicles

2.1 The importation of brand new motor vehicles shall be allowed pursuant to Executive Order No. 264, series of 1995 and Monetary Board Circular No. 92, series of 1995. To be considered brand new, the motor vehicle shall be (a) of current or advance year model in the country of origin and/or manufacture, or (b) of year model immediately preceding year in the country of origin and/or manufacture provided that:

2.1.1 The motor vehicle has a mileage of not more than 200 kilometers; and

2.1.2 The motor vehicle has been acquired by the importer from the dealer as first owner.

Sec. 3. Used motor vehicles.

3.1 The importation into the country, inclusive of the Freeport, of all types of used motor vehicles is prohibited, except for the following.

3.1.1 A vehicle that is owned and for the personal use of a returning resident or immigrant and covered by an authority to import issued under the No-Dollar Importation Program. Such vehicles cannot be resold for at least three (3) years;

3.1.2 A vehicle for the use of an official of the Diplomatic Corps and authorized to be imported by the Department of Foreign Affairs;

3.1.3 Trucks excluding pick-up trucks;

1. with GVW of 2.5–6.0 tons covered by an authority to import issued by DTI.
2. With GVW above 6.0 tons.

3.1.4 Buses:

1. with GVW of 6–12 tons covered by an authority to import issued by DTI;
2. with GVW above 12 tons.

3.1.5 Special purpose vehicles:

1. fire trucks
2. ambulances
3. funeral hearses/coaches
4. crane lorries
5. tractor heads or truck tractors
6. boom trucks
7. tanker trucks
8. tank lorries with high pressure spray gun
9. reefers or refrigerated trucks
10. mobile drilling derricks
11. transit/concrete mixers
12. mobile radiological units
13. wreckers or two trucks
14. concrete pump trucks
15. aerial/bucket flat-form trucks
16. street sweepers
17. vacuum trucks
18. garbage compactors
19. self-loader trucks
20. man lift trucks
21. lighting trucks
22. trucks mounted with special purpose equipment
23. all other types of vehicles designed for a specific use.

Sec. 4. Monitoring of Importation of Used Motor Vehicles

4.1 To effectively implement the provisions of Article 2 of this EO, the following shall be carried out:

4.1.1 The DTI shall monitor all importations of used motor vehicles. A monthly report on the result of its monitoring and the impact of imports shall be submitted to the DTI Secretary. The DTI Secretary may, upon review when necessary, issue an order suspending or restricting the entry of certain types of motor vehicles without prior approval from the President.

4.1.2 The Bureau of Customs (BOC) is hereby directed to submit the following information pertaining to the importation of motor vehicles to the DTI:

- Name of importer;
- Importer's address;
- Quantity and invoice values of vehicles;
- Make, model and identification numbers of vehicles;
- Date of importation;
- Assessed values of the vehicles;
- Tariff classification and rate of duty per vehicle;
- Total amount of taxes and duties paid on the shipment; and

- Other relevant information on the importation of the vehicles.

4.1.3 The Land Transportation Office (LTO) is hereby directed to submit the following information pertaining to the registration of imported motor vehicles to the DTI:

- Name of registrant;
- Registrant's address;
- Quantity and invoice values of vehicles;
- Make, model and identification numbers of vehicles;
- Date of registration; and
- Other relevant information on the registration of the vehicles.

Such information shall be submitted every month not later than fifteen (15) days after the end of the reference month. The DTI, in coordination with the BOC and LTO, may issue additional guidelines, if necessary, to effectively implement this directive.

4.1.4 Consistent with the provisions of RA 8749, the Clean Air Act (CAA), all imported motor vehicles shall not be sold nor allowed to operate unless it has complied with emission standards. The LTO shall only register imported used motor vehicles upon compliance with emission standards.

4.1.5 The Department of Finance (DOF) and the Department of Transportation and Communication (DOTC), including the Bureau of Customs (BOC), Bureau of Internal Revenue (BIR), Land Transportation Office (LTO), and other agencies such as the Freeport Authorities, shall perform their duties and responsibilities consistent with this Order.

4.1.6 All agencies instructed under the provisions of this Order are directed to issue additional directives, circulars, or orders, if necessary to implement the provisions hereof within fifteen (15) days from the effectivity of this EO.

Sec. 5. Penalty

5.1 All imported vehicles found to be in violation of any provision in this EO shall be subject to seizure without redemption by the BOC and will not be subject to registration by the LTO unless disposed of in accordance with the Tariff and Customs Code.

5.2 Any person, entity, government instrumentality or institution, found to be violating or grossly negligent in executing the mandates of this EO shall result in the expulsion from office of any or all of the following personnel: the chief execution, responsible directors, responsible rank and file and other responsible operating officers. Notwithstanding any provision of law to be contrary, they shall likewise be prohibited from holding any government position for at least two (2) years.

ARTICLE 3. Restructuring of Most Favoured Nations (MFN) Tariff Rates

Section 1. Consistent with the objective of the MVDP, the tariffs for motor vehicle products shall be restructured at such rates comparable to neighbouring countries with similar development programs.

Sec. 2. The DTI shall recommend to the Committee on Tariff Related Matters (CTRM) the appropriate MFN tariff rates for motor vehicles, its basic raw materials and parts and components taking into consideration the following: (a) promotion and development of efficient and competitive local motor vehicle industries; (b) increase in the value-added of motor vehicle products to the economy; and, (c) retention and creation of jobs, transfer of skills and technology.

ARTICLE 4. Rationalization of Excise Tax

Section 1. Consistent with objective of the MVDP, the current excise taxes system on automobiles

shall be restructured to shift to purely value-based tax system to create a fair, simple, transparent and stable taxation system.

ARTICLE 5.
Regional Complementation under the AICO Scheme

Section 1. Consistent with the objective of the MVDP, the DTI shall aggressively pursue the continued application of AICO Scheme in the ASEAN.

Sec. 2. The DTI, subject to the approval of the President shall prepare the measures to accelerate processing of AICO applications.

ARTICLE 6.
Provision of Export Incentives

Section 1. Consistent with the objective of the MVDP, the DTI and the DOF shall implement a special incentives package for the motor vehicle industry in accordance with existing laws and international commitments.

ARTICLE 7.
General Provisions

Section 1. Amendments. — The DTI; after consultation with the industry, may recommend to the President further amendments to this EO, taking into account the attainment of Program objectives, economic conditions and local manufacturing capabilities.

Sec. 2. Repealing Clause. — All other orders, rules and regulations or parts thereof, which are inconsistent with the provisions of this Executive Order, are hereby repealed, amended or modified accordingly.

Sec. 3. Separability Clause. — The provisions of this Executive Order are hereby declared separable and in the event any of such provisions is declared unconstitutional, the other provisions, which are not affected, thereby shall remain in force and effect.

Sec. 4. Effectivity. — This Executive Order shall take effect immediately upon publication in at least two (2) national newspapers of general circulation in the Philippines.

Done in the City of Manila, this 12th day of December, in the year of Our Lord, Two Thousand and Two.