

EXECUTIVE ORDER NO. 280

EXPANDING THE INCENTIVE FEATURES OF LETTER OF INSTRUCTIONS (LOI) NO. 1352 DATED SEPTEMBER 8, 1983 TO ENCOURAGE CRUDE OIL EXPORT PROCESSING ACTIVITIES IN THE COUNTRY BY INCLUDING THEREIN INTERMEDIATE PRODUCTS FOR FEED-STOCKS AND AUTHORIZING THE SWAP OR EXCHANGE OF PETROLEUM PRODUCTS, THEREBY AMENDING LOI NO. 1352, AND FOR OTHER PURPOSES.

WHEREAS, there is a recognized need and a definite advantage to the national economy to promote and facilitate the export processing of foreign-owned crude oil, as well as the processing of own-imported crude oil for export by local oil refineries, so as to increase foreign exchange earnings from unused refinery capacity and make the local refineries more competitive with those of other countries in the region;

WHEREAS, the tax incentives under Letter of Instructions (LOI) No. 1352 dated September 8, 1983 have proven to be inadequate, and there is, therefore, a need to revise and improve the existing tax incentive scheme for foreign-owned crude oil export processing in the country;

WHEREAS, to attract foreign crude oil owners to enter into processing arrangement with local refineries and to improve the viability of such processing arrangements, as well as the export sales of petroleum products, it is necessary to include intermediate products for feedstocks within the contemplation of crude oil export processing activities, and to authorize petroleum product swap or exchange arrangements;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:

SECTION 1. Feedstocks inclusion. - Item-section No. 1 of Letter of Instructions (LOI) No. 1352 dated September 8, 1983 is hereby amended to read as follows:

"1. Any foreign entity/third party offshore may bring into the Philippines crude oil, and other feedstocks/intermediate products for further processing into finished petroleum products, over which it shall retain ownership, to be processed by a local oil company under a processing agreement,

in consideration for a processing fee payable in foreign currency, into refined petroleum products which the foreign entity/affiliate shall ship out of the Philippines. It is understood that all references herein to foreign-owned crude oil shall also include such intermediate products for feedstocks.

"Local oil companies may process additional volumes of their own-imported crude to exploit export opportunities for petroleum products as they occur."

SECTION 2. Swaps/exchanges. - Item-section No. 5 of LOI No. 1352 is also hereby amended by inserting an additional subsection No. 5-A at the end thereof, to read as follows:

"5-A. Swaps/exchanges. Any arrangements for the swap/exchange of petroleum products (on the one part) processed by a local oil company refinery out of the foreign-owned crude oil under an export processing agreement, as herein contemplated, and originally intended for export by the foreign entity/affiliate, with petroleum products (on the other part) refined by and belonging to a local oil company, on a value-for-value basis using internationally recognized reference prices as may be specified hereafter by the Energy Regulatory Board (e.g., prices at Singapore, USA, North West Europe, etc.) shall be allowed; in which case, such foreign entity/affiliate shall continue to enjoy all the benefits and incentives under this Letter of Instructions, provided, that the petroleum products received in swap/exchange from the local oil company are actually exported by the foreign entity/affiliate. Such foreign entity/affiliate shall not be deemed howsoever to have engaged in trade or business in the Philippines, and, therefore, no taxes, duties, fees, charges and other imposts, including income taxes, shall be due and collected on account of such swap/exchange of petroleum products.

"For purposes of such product swaps/exchanges, the petroleum products to be actually exported by the foreign entity/affiliate after the swap/exchange shall be deemed to be the processing yield, results for the crude oil brought into the country by the foreign entity/affiliate, as certified to **by** the Energy Regulatory Board.

"The petroleum products received in swap/exchange by the local oil company, if these are intended for local sale, shall be subject to applicable excise taxes, fees, charges and other imposts, except customs duties and other import charges and fees since they have already been paid by the local oil company on their products given in swap/exchange. However, the subsequent export of said swapped/exchanged petroleum products by the local oil company shall continue to be given the same tax/duty treatment accorded to other petroleum product exports, thereby allowing recovery by the local oil company of the import duties, charges, imposts and other fees paid on its products given in swap/exchange. The local oil companies shall be allowed to recover the excise taxes, including taxes on refinery fuel and loss volumes, that may have been paid in the case of products given in swap/exchange which were taken or lifted from tax-paid stocks."

SECTION 3.- Continuity of export processing incentives. -

Nothing in this Order or in any prior and existing other laws, presidential decrees, executive orders, letters of instructions, including administrative orders, rules and regulations, since the enactment of LOI No. 1352, shall operate or be construed as an interruption, disruption, diminution or impairment whatsoever of the privileges, benefits and incentives available under LOI No. 1352, previous to the effectivity of this Order.

SECTION 4. Implementation. - The Department of Finance,

the Bureau of Internal Revenue, the Bureau of Customs, the Energy Regulatory Board, the Central Bank of the Philippines, the Philippine Ports Authority and such other government offices, agencies and instrumentalities as may be responsible for the observance, application and implementation of LOI No. 1352, are hereby enjoined to facilitate the immediate implementation of this Order.

SECTION 5. Repealing clause. - All laws, particularly

the Tariff and Customs Code of the Philippines and the National Internal Revenue Code, as amended, decrees, executive orders, letters of instructions, letters of implementation, proclamations, memoranda and rules and regulations inconsistent with any or all of the provisions of this Order are hereby repealed, modified, amended and/or superseded accordingly.

SECTION 6. Separability clause. - The provisions of this Executive Order are declared to be separable, and if any provision or the application thereof is held invalid or unconstitutional, the validity of other provisions shall not be affected thereby.

SECTION 7. Effectivity. - This Executive Order shall take effect immediately upon completion of its publication in the Official Gazette.

DONE in the City of Manila, this 25th day of July in the year of our Lord, Nineteen Hundred and Eighty-Seven.

Ernest B. Aquino

By the President:

J. P. Arroyo
JOSER P. ARROYO
Executive Secretary