

August 19, 1993

**EXECUTIVE ORDER NO. 120**

**DIRECTING THE NATIONAL GOVERNMENT, ITS DEPARTMENTS, BUREAUS, AGENCIES AND OFFICES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, TO ADOPT COUNTER-TRADE AS A SUPPLEMENTAL TRADE TOOL WITH RESPECT TO THE IMPORTATION OR PROCUREMENT OF FOREIGN CAPITAL EQUIPMENT, MACHINERY, PRODUCTS, GOODS AND SERVICES**

WHEREAS, under Section 13, Article XII of the 1987 Constitution, the State is mandated to pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity;

WHEREAS, the adoption of a policy on countertrade is aimed at compensating the foreign exchange expended for the importation or procurement of foreign capital equipment, machinery, products, goods and services by the national government, its agencies or offices including government-owned or controlled corporations, as well as to reciprocate for such importation or procurement through arranged counter exports of Philippines traditional or non-traditional products to the country of the supplier or any third country, or through product buy back, offsets or investments.

WHEREAS, countertrade arrangements are expected to result in the opening of new markets for Philippine products and services, overcome quota and trade restrictions of other countries, and provide for technology transfer and industrial growth, particularly in strategic industries, such as energy, transport, infrastructure, telecommunications, and defense, as well as those listed under the Investments Priorities Plan and the Industrialization Modernization Program; and

WHEREAS, the adoption of a policy on countertrade by the public sector will spur economic development and help the country achieve "newly-industrialized country" status by the year 2000.

NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Republic of the Philippines by virtue of the powers vested in me by law do hereby order:

SECTION 1. *Coverage.* — All departments, bureaus, agencies, offices and instrumentalities, including government-owned or controlled corporations, are hereby directed to adopt countertrade as a supplemental trade tool in connection with transactions involving the importation or procurement of foreign capital equipment, machinery, products, goods, and services entailing the payment of at least United States Dollars: One Million (US\$1,000,000.00) or its equivalent in other foreign currency, and to negotiate and conclude, on a best-efforts basis, agreements or arrangements on countertrade with respect to such importation.

SECTION 2. *Definition of Terms.* — For purposes of the Executive Order, "Countertrade shall refer to any of the following arrangements:

- (a) *Counterpurchase* — also known as counter exports, parallel transactions or reciprocal trade, whereby the foreign supplier, reciprocally commits to purchase Philippine goods or services, to be exported to the supplier's country or a third country:
- (b) *Product Buy Back* — whereby the foreign supplier of the equipment or machinery is paid for with the resultant product (s) or good (s) made or manufactured by such equipment or machinery;

- (c) *Offset* — whereby the foreign supplier commits to introduce investments or technology transfer in the Philippines, or assist in establishing new industries or improving existing industries to generate or save foreign exchange or create increased employment, which may or may not be related to the machinery, equipment, products or goods so imported or services procured;
- (d) *Trade-for-Debt Swap* — whereby a loan or credit accommodation obtained by a government agency or government-owned or controlled corporation from a foreign government or creditor which has remained outstanding and unpaid is arranged to be settled in full or partially by way of sales of products, goods or services to be provided by a third party rather than by payment in foreign currency; or
- (e) Any form of combination or variation of the above arrangements that results in the inflow to the country of foreign exchange, or savings thereof, investments, training and technology transfer, grants for educational, scientific, technological, environmental and related research programs or projects, which will enhance Philippine industrial or export competitiveness or contribute to the creation of new competitive industries, enhance existing industries or utilization of Philippine services or expertise by foreign clients, or result in the reduction of public debt.

SECTION 3. *Implementing Agency.* — The Department of Trade and Industry, through the Philippine International Trading Corporation, is hereby directed to coordinate with all government agencies and government-owned or controlled corporations in formulating and implementing particular strategies on countertrade or similar arrangements for any planned importation or procurement of foreign capital goods, equipment, machinery, products, goods and services, with appropriate consultations to be made with the private sector.

SECTION 4. *Coordination by Government Agencies.* — The government agency or government-owned or controlled corporation concerned shall closely coordinate with, and provide information on any planned importation or procurement as well as countertrade efforts already undertaken to the Department of Trade and Industry and the Philippine International Trading Corporation prior to actual importation or procurement in order to assure the efficient implementation of this Executive Order.

SECTION 5. *Supply Base and Trading Network.* — To achieve maximum implementation and dispersion of the benefits of countertrade arrangements which may be concluded by government agencies or government-owned or controlled corporations, the Philippine International Trading Corporation shall maintain and enhance its supply base and trading network through constant and close coordination with various industry and export sectors to ensure the availability of adequate and acceptable products, goods and services which may be required under such countertrade arrangements.

SECTION 6. *Implementing Rules and Regulations.* — The Department of Trade and Industry, National Economic Development Authority, Department of Finance, and the Philippine International Trading Corporation shall jointly promulgate the appropriate guidelines, rules and regulations to implement this Executive Order.

SECTION 7. *Repealing Clause.* — The provisions of executive or administrative orders, rules, regulations and parts thereof inconsistent with this Executive Order are hereby repealed, amended or modified accordingly.

SECTION 8. *Effectivity.* — This Executive Order shall take effect immediately.

DONE in the City of Manila, this 19th day of August, in the year of Our Lord, nineteen Hundred and Ninety-Three.