



NOTICE

Notice is hereby given that the Board, in its meeting of 23 May 2003, approved the following General Policies and Specific Guidelines to Implement the 2003 Investments Priorities Plan (IPP) which further amends the 2002 General Policies and Specific Guidelines:

Part II GENERAL POLICIES

I. EQUITY OWNERSHIP

As a general rule, there are no restrictions on the extent of foreign ownership of export-oriented enterprises. For domestic-oriented enterprise, foreigners can invest as much as 100% of total equity except in those areas specified in the negative list* provided the paid-up capital is at least \$200,000.

II. REGIONAL DISPERSAL OF INDUSTRIES

To influence industry and encourage enterprises to locate outside the National Capital Region (NCR), the BOI uses the incentive package of E.O. 226 to encourage registered enterprises to locate in other regions of the country.

Registered projects locating in **Less Developed Areas (LDAs)** listed below, may enjoy a six (6) year income tax holiday regardless of status (pioneer or non-pioneer) or type of project (new or expansion) as well as additional deductions from taxable income equivalent to expenses incurred in the development of necessary and major infrastructure facilities.

LESS DEVELOPED AREAS

REGION	PROVINCE
CAR	Abra Apayao Ifugao Kalinga Mt. Province
II	Quirino Nueva Vizcaya
IV	Aurora Marinduque
V	Masbate
VI	Guimaras
VII	Siquijor
VIII	Biliran Eastern Samar Southern Leyte

* The Foreign Investment Negative List (FINL) is updated every two (2) years by an Inter-Agency Working Group led by National Economic Development Authority (NEDA)).

ARMM

Basilan
Maguindanao
Sulu
Tawi-Tawi

Complementary to the provision of the law granting maximum incentives to registered enterprises in LDAs, the BOI limits incentives to firms that locate in congested urban centers. Initially, the locational restriction applies to the National Capital Region (NCR) wherein projects are not entitled to ITH.

III. EXEMPTION FROM THE LOCATIONAL RESTRICTION

1. Projects locating in the following government industrial estates declared as such by national law or by presidential proclamation prior to 1 January 1989.
 - a. Dagat-Dagatan (P.D. 569 dated 30 October 1974)
 - b. Vitas Industrial Estate, Tondo (E.O. 1086 dated 31 January 1986, as amended/expanded through Presidential Proclamation No. 39 dated 9 September 1992 and Proclamation No. 465 dated 1 August 1994) (Vitas Industrial Estate/Smokey Mountain)
 - c. Bagong Silang Industrial Estate, Caloocan City (Presidential Proclamation No. 843 dated 26 July 1971)
 - d. FTI, Taguig (LOI 900 dated 25 July 1979)
 - e. Navotas Fishing Port Complex (E.O. 772 dated 8 February 1982)
2. Service-type projects with no manufacturing facilities, such as, but not limited to, software development, data encoding, film reproduction/animation, editorial services, design and pattern-making for export oriented industries, gemstone cutting and polishing, dentures/prosthetics, and cold storage facilities for agricultural products.
3. Environmental, public utility and infrastructure projects except industrial communities, mass housing development projects and industrial estates projects.
4. Expansion projects for export: Expansion projects for export-oriented enterprises within Metro Manila are eligible for registration and incentives.

For projects earlier registered as New / Existing with a first time expansion, these shall be exempt from industrial location policy provided that in addition to the usual guidelines for registration of expansion projects, all of the following conditions are met:

- a. Expansion shall be effected within the firm's existing premises;
- b. The enterprise has a good track record of exports and has no record of violation of the terms and conditions governing its existing registration(s), specifically, the earlier project exceeded its projected export commitment in the past three (3) years;
- c. That the expansion project shall export at least 70% of its production;
- d. As a general rule, the acquisition of brand new equipment applies; and,
- e. Use of production processes/equipment that meet environmental standards.

Existing expansion projects proposing to expand nth time within Metro Manila may also be allowed provided they meet all of the above conditions as a preliminary and subject to other conditions the Board may impose upon certain findings on the project.

Expansion projects shall be registered provided the project's activity is listed in the current Investment Priorities Plan (IPP).

5. Modernization Projects
6. New and Expansion Export-Oriented Enterprises whose activities are in support of a jewelry enterprise such as electroplating, gemstone appraisal and certification, assaying and refining.
7. New export-oriented projects to be undertaken by small enterprises with total assets not exceeding the amount established by the SMED Council for small enterprises, provided that these projects comply with environmental standards.
8. New projects of existing export-oriented enterprises are eligible for registration with full incentives, provided all of the following conditions are met:
 - a. the activity involves backward, forward or horizontal integration of the existing facility;
 - b. products for export are non-traditional;
 - c. the enterprise has a good export track record for the past three (3) years;
 - d. if applicable, no record of violation of terms and conditions of its registration;
 - e. export commitment of no less than 70% of production, regardless of nationality;
 - f. brand new equipment will be utilized for the project; and,
 - g. use of production processes/equipment that meet environmental standards.

IV. PROMOTION OF SMALL AND MEDIUM-SIZED ENTERPRISES (SMES)

In line with the Medium Term Development Plan (MTDP), the BOI promotes the development of small and medium-sized enterprises on account of their contribution to employment generation, countryside development, and the cultivation of the Filipino entrepreneurial spirit. The sectors given priority under the SMEs are the activities that will support exports and the priority programs of the government as well as those with strong or with potential industrial linkage.

- V. ASSISTANCE TO SMALL AND MEDIUM-SIZED PROJECTS (In addition to the incentives under E.O. 226)
 1. Assistance in the preparation of project feasibility studies (PFS) for BOI registration;
 2. Business consultancy;
 3. Availability of an exchange and assistance facility that identifies SME support companies of a registered enterprise, thereby encouraging intra-sector linkages;
 4. Technical assistance through the BOI's regular programs which include the JETRO Supporting Industries Promotion Program;
 5. Assistance in sourcing financing support;
 6. Entrepreneurial assistance to overseas contract workers who mostly tend to engage in SMEs; and,
 7. Promotion of specific area of economic activities that will support export and priority programs of the government that encourage inter-sector linkages.

For the year 2003, the BOI will continue to target a minimum of eighty percent (80%) SME registered companies relative to total registrations as previously specified in the past IPPs.

VI. ENCOURAGING UPSTREAM LINKAGES OF REGISTERED ACTIVITIES

To best assist the registered enterprises, and at the same time stimulate investments in corresponding SME support industries, the BOI provides an information exchange and assistance facility that will identify SME support companies of a registered enterprise and, thus, encourage intra-sector linkages.

Projects locating in the Autonomous Region in Muslim Mindanao (ARMM) should register with the respective BOI Office.

VII. POLICIES ON PROJECT TYPE AND STATUS

1. New Projects

New Project refers to a project to be established, or being established, by a newly registered single proprietorship enterprise, or by a newly formed incorporated enterprise, provided, that its stockholders do not own a majority of the outstanding capital share of an existing corporation engaged in the same activity as the proposed project.

A project may still be considered as New Project for purposes of registration, provided, that it is not yet in commercial operation, i.e., no commercial sales have been made. Sales generated from test run or trial operation shall not be considered commercial sales.

Note: "Majority" means greater than half of the total shares." Test run/trial operation sales shall mean 1% (at the maximum, net of rejects) of proposed registered capacity.

The following are deemed NEW Projects:

a) New Without Base Figure

- Same entity, same project site, distinct/different product::

A project to be established by an existing enterprise with exiting business operation(s), on the same location as that of its existing project, wherein the final product of the said proposed project is distinct and different from any of its existing products in terms of: physical and/or chemical properties and characteristics; intended use or function; and production machinery and equipment, provided, that any two of the three criteria are satisfied.

- New entity with common ownership of 49% or less:

A project to be established by a new enterprise whose stockholders are also stockholders of an existing enterprise engage in the same activity, may be registered as NEW, provided that the common stockholders in the existing enterprise do not own more than forty-nine percent (49%) of the equity in the new enterprise.

Note: If the common ownership is more than 49%, the project will be NEW with base figure and with the Board resolution by the companies concerned.

- Project Acquired from PMO/GFI's/GOCC's:

A project acquired or leased from the Privatization and Management Office (PMO) and projects acquired or leased from any government financial institution (GFI's) and government owned or controlled corporations (GOCC's), or entities wherein the government has stake/ownership/interest

- When an existing plant is closed and a new one will be opened:

When an existing manufacturing enterprise closes its existing project and puts up a new project of the same activity in another location or place, which may involve the utilization of some of the existing production machinery and equipment, the said new project shall be registered as NEW, provided, that a new investment in fixed assets and working

capital, of at least 100% of the value of the firm's fixed assets based on AFS prior to closure, shall be put up by the proponent, whether through stockholders' equity and/or loan, provided further, that if the old project is registered with the BOI, the firm should notify the Board that it will cease operation, and that its existing registration shall be cancelled prior to the registration of the new project.

- Newly operational small project by small enterprises:

Project by small enterprise (having asset value of Php15M and below), with total project cost of Php15M and below, that has been in commercial operation for less than one year, may be registered as NEW, provided, that no official financial report yet has been filed with any government office, provided further that incentives availment period shall be reckoned on the date of registration.

b) New With Base Figure

- Same entity, similar product line, same or different project site

A project to be, or being established by an enterprise, which may be similar to any of its existing activities or operations, that will establish a completely new line which may be put up in a site either outside or contiguous of its existing premises or compound, may be registered as NEW, provided, that there is new investment in fixed assets and working capital, whether through stockholders' equity and/or loan, provided further, that its ITH availment shall be subject to a base-figure, which base figure is based on highest attained capacity/sales or registered capacity of the existing line whichever is higher.

Investment in additional facility that will result to increase in production capacity using the firm's existing line is considered as expansion.

Complete Line is defined to cover production from raw materials processing to finished product including quality control and packing.

Facility is defined as the segment of the production process.

- When an existing plant is closed and a new one will be opened:

When an existing manufacturing enterprise closes its existing project and puts up a new project of the same activity in another location or place, which may involve the utilization of some of the existing production machinery and equipment, and that the new investments in fixed assets and working capital are less than the firm's fixed assets prior to closure, the said project shall be registered as NEW, provided, that its ITH shall be subject to a base figure. Provided further that if the old project is registered with the BOI, the firm should notify the Board that it will cease operation, and that its existing registration shall be cancelled prior to the registration of the new project.

2. Expansion Projects

Expansion refers to the installation of additional facilities/equipment that will result in increase in production capacity by at least 25%. It may include modernization and rehabilitation that may or may not result to increase in capacity.

The following are deemed expansion projects:

- Same plant/production facility, same product line, increase in capacity:

A project that involves the installation of additional production equipment within the same existing plant or facility of the firm that will result in increase in its capacity of the

existing product line by at least 25%, the proposed project will be registered as EXPANSION, hence, subject to a base-figure.

- Modernization and rehabilitation, with incremental capacity of at least 25%

A modernization and rehabilitation project that will result in increase in the existing capacity by more than 25%, shall be registered as EXPANSION, hence, subject to a base-figure equivalent to the production volume or sales value during the period prior to the filing of the application or registration of the project.

No expansion shall be allowed unless applicant has attained, in general, eighty-five percent (85%) utilization of exiting capacity.

3. Existing Export Projects

As provided for under Article 32 of E.O. 226, existing export projects are those that are engaged in activities not listed in the IPP but will export part of production under such conditions and/or limited incentives as the Board may determine.

4. Pioneer Status

For projects applying for pioneer status, the BOI may request for a certification from the Department of Science and Technology (DOST) or any other relevant agency, organization or institution not as sole basis for granting pioneer status but as reference in the evaluation of the proposed projects.

VIII. MULTI-PHASED PROJECTS

Projects where capacity build-up shall be implemented in several stages over a period of time shall be registered on a per phase basis. The first phase will be registered as a new project and the succeeding phases may be registered, if qualified, as expansions.

This policy shall, however, not apply to infrastructure projects where commitment for total development is required.

IX. PROJECTS CRITICAL TO THE ENVIRONMENT

1. New and expansion projects shall be required to secure an Environmental Compliance Certificate pursuant to P.D. No. 1586 (Philippine Environmental Impact Statement System).
2. All projects that will involve handling, transport, processing and/or storage of toxic, hazardous substances and/or nuclear wastes shall be subject to the provisions of R.A. No. 6969 (Toxic and Hazardous Substances and Nuclear Wastes Control Act of 1990) and such other laws and/or presidential proclamations/decrees that may be enacted or issued in the future.
3. No project involving the importation of wastes for final deposition as a material of no economic value to the country shall be eligible for registration.

X. GENERAL POLICY ON ISO 9000

To assist registered firms to improve their efficiency and competitiveness, the attainment of ISO 9000 certification is promoted to BOI firms registered under the 2003 IPP.

Companies are encouraged to submit a timeframe of activities leading to ISO 9000 certification as a measure to monitor each company's progress towards achieving ISO 9000 accreditation status.

XI. GENERAL POLICY ON ISO 14000

To encourage the private sector to embrace the concept of Environmental Management Systems (EMS) as a way to achieve a balanced pursuit of productivity and economic growth side by side with environmental standards compliance and ecological integrity of the country, companies are encouraged and supported to adopt a timeframe to track their progress leading to this end or goal.

XII. GENERAL POLICY ON EQUIPMENT

Acquisition of brand new equipment is encouraged.

In case of buses acquired with incentives, these shall be exclusively used as public utility vehicles for a minimum of five (5) years from date of registration.