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EXECUTIVE ORDER NO. 139

22 October 2002

Fifth Regular Foreign Investment Negative List

WHEREAS, Republic Act No. 7042 also known as the Foreign Investments Act of 1991, as amended by R. A. 8179, provides for the formulation of a Regular Foreign Investment Negative List covering investment areas/ activities which may be opened to foreign investors and/or reserved to Filipino nationals;

WHEREAS, the Regular Foreign Investment Negative List consisting of Lists A and B, is effective for two years pursuant to Section B of RA 7042 as amended and its Implementing Rules and Regulations;

WHEREAS, there is a need to formulate a Fifth Regular Foreign Investment Negative List to reflect changes to Lists A and B provided in new laws and recommended by concerned government agencies;

NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by Law, do hereby order:

Section 1. Only the investment areas and/or activities listed in Annex A hereof shall be reserved to Philippine nationals, and hereafter shall be referred to as the Fifth Regular Foreign Investment Negative List. The extent of foreign equity participation in these areas shall be limited to the percentages indicated in the List.

Sec. 2. Any amendment to List A may be made at any time to reflect changes instituted in specific laws while amendments to List B shall not be made more often than once every two years, pursuant to Section 8, RA 7042 as amended, and its Implementing Rules and Regulations.

Sec. 3. All orders, issuances, rules and regulations or parts thereof, which are inconsistent with this Order are hereby revoked or modified accordingly.

Sec. 4. This order shall take effect fifteen (15) days after publication.

Done in the City of Manila, this 22nd day of October, in the year of our Lord, Two Thousand and Two.

LIST A:
FOREIGN OWNERSHIP IS LIMITED
BY MANDATE OF THE CONSTITUTION AND SPECIFIC LAWS

No Foreign Equity

1. Mass Media except recording [Article XVI, Section 11 of the Constitution; Presidential Memorandum Order dated 04 May 1994].

2. Practice of professions ¹
 - a. Engineering
 - i. Aeronautical
 - ii. Agricultural
 - iii. Chemical
 - iv. Civil
 - v. Electrical
 - vi. Electronics and Communication
 - vii. Geodetic
 - viii. Mechanical
 - ix. Metallurgical
 - x. Mining
 - xi. Naval Architecture and Marine
 - xii. Sanitary
 - b. Medicine and Allied Professions
 - i. Medicine
 - ii. Medical Technology
 - iii. Dentistry
 - iv. Midwifery
 - v. Nursing
 - vi. Nutrition and Dietetics
 - vii. Optometry
 - viii. Pharmacy
 - ix. Physical and Occupational Therapy
 - x. Radiologic and X-ray Technology
 - xi. Veterinary Medicine
 - c. Accountancy
 - d. Architecture
 - e. Criminology
 - f. Chemistry
 - g. Customs Brokerage
 - h. Environmental Planning
 - i. Forestry

¹ This is limited to Filipino citizens save in cases prescribed by law

- j. Geology
- k. Interior Design
- l. Landscape Architecture
- m. Law
- n. Librarianship
- o. Marine Deck Officers
- p. Marine Engine Officers
- q. Master Plumbing
- r. Sugar Technology
- s. Social Work
- t. Teaching
- u. Agriculture
- v. Fisheries

3. Retail trade enterprises with paid-up capital of less than US\$ 2,500,00 (Sec. 5 of RA 7862) ²

- 4. Cooperatives (Ch. III, Art. 26 of RA 6938)
- 5. Private Security Agencies (Sec. 4 of R.A. 5487)
- 6. Small-scale Mining (Sec. 3 of TA 7076)
- 7. Utilization of Marine Resources in archipelagic waters, territorial sea, and exclusive economic zone (Art. XII, Sec. 2 of the Constitution)
- 8. Ownership, operation and management of cockpits (Sec. 5 of P.D. 449)
- 9. Manufacture, repair, stockpiling and/or distribution of nuclear weapons (Art. II Sec. 8 of the Constitution) ³
- 10. Manufacture, repair, stockpiling and/or distribution of biological, chemical and radiological weapons and anti-personal mines (Various treaties to which the Philippines is a signatory and conventions supported by the Philippines) ⁴
- 11. Manufacture of firecrackers and other pyrotechnic devices (Sec. 5 of RA 7183)

Up to Twenty Percent (20%) Foreign Equity

- 12. Private radio communication network (R.A. 3846)

² Full foreign participation is allowed for retail trade enterprises: (a) with paid-up capital of US\$ 2,500,000 or more provided that investments for establishing a store is not less than US\$ 830,000; or (b) specializing in high end or luxury products, provided that the paid-up capital per store is not less than US\$ 250,000 (Sec. 5 of R.A. 9762)

³ Domestic investments are also prohibited (Art II, Sec. 8 of the Constitution; Conventions/Treaties to which the Philippines is a signatory)

⁴ Ibid

Up to Twenty-Five Percent (25%) Foreign Equity

13. Private recruitment, whether for local or overseas employment (Art. 27 of PD 442)
14. Contracts for the construction and repair of locally-funded public works (Sec. 1 of C.A. 541, LOI 630) except:
 - a. infrastructure/development projects covered in RA 7718; and
 - b. projects which are foreign funded or assisted and required to undergo international competitive bidding (Sec. 2(a) of RA 7718)
15. Contracts for construction of defense-related structure (Sec. 1 of C.A. 541)

Up to Thirty Percent (30%) Foreign Equity

16. Advertising (Art. XVI, Sec. 11 of the Constitution)

Up to Forty Percent (40%) Foreign Equity

17. Exploration, development and utilization of natural resources (Art. XII, Sec. 2 of the Constitution)⁵
18. Ownership of Private Lands (Art. XII, Sec. 7 of the Constitution; Ch. 5, Sec. 22 of C.A. 141)
19. Operation and management of public utilities (Art. XII, Sec. 11 of the Constitution; Sec. 16 of C.A. 146)
20. Ownership/establishment and administration of educational institutions (Art. XIV, Sec. 4 of the Constitution)
21. Culture, production, milling, processing, trading excepting retailing, of rice and corn and acquiring, by barter, purchase or otherwise, rice and corn and the by-products thereof (Sec. 5 of P.D. 194; Sec. 15 of R.A. 5762)⁶
22. Contracts for the supply of materials, goods and commodities to government-owned or controlled corporation, company, agency or municipal corporation (Sec. 1 of R.A. 5183)
23. Project Proponent and facility Operator of a BOT project requiring a public utilities franchise (Art. XII, Sec. 11 of the Constitution; Sec. 2a of RA 7718)
24. Operation of deep sea commercial fishing vessels (Sec. 27 of RA 8550)
25. Adjustment Companies (Sec. 323 of PD 612 as amended by PD 1814)
26. Ownership of condominium units where the common areas in the condominium projects are co-owned by the owners of the separate units or owned by a corporation (Sec. 5 of R.A. 4726)

⁵ Full foreign participation is allowed through financial or technical assistance agreement with the President Art. XII, Sec. 2 of the Constitution)

⁶ Full foreign participation is allowed provided that within the 30-year period from start of operation, the foreign investor shall divest a minimum of 60 percent of their equity to Filipino citizens (Sec. 5 of P.D. 194; NFA Council Resolution No. 193 s. 1998)

Up to Sixty Percent (60%) Foreign Equity

27. Financing companies regulated by the Securities and Exchange Commission (Sec. 6 of R.A. 5980 as amended by RA 8556)⁷

28. Investment houses regulated by the SEC (Sec. 5 of P.D. 129 as amended by RA 8336)⁸

LIST B:

FOREIGN OWNERSHIP IS LIMITED

**FOR REASONS OF SECURITY, DEFENSE, RISK TO HEALTH AND MORALS
AND PROTECTION OF SMALL AND MEDIUM-SCALE ENTERPRISES**

Up to Forty Percent (40%) Foreign Equity

1. Manufacture, repair, storage and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) clearance:

a. Firearms (handguns to shotguns), parts of firearms and ammunition therefor, instruments or implements used or intended to be used in the manufacture of firearms

b. Gunpowder

c. Dynamite

d. Blasting supplies

e. Ingredients used in making explosives:

i. Chlorates of potassium and sodium

ii. Nitrates of ammonium, potassium, sodium barium, copper (11), lead (11), calcium and cuprite

iii. Nitric acid

iv. Nitrocellulose

v. Perchlorates of ammonium, potassium and sodium

vi. Dinitrocellulose

vii. Glycerol

viii. Amorphous phosphorus

ix. Hydrogen peroxide

x. Strontium nitrate powder

xi. Toluene

f. Telescopic sight, sniper scope and other similar devices

However, the manufacture or repair of these items may be authorized by the Chief of the PNP to non-Philippine nationals; Provided that a substantial percentage of output, as

⁷ No foreign national may be allowed to own stock in financing companies or investment houses unless the country of which he is a national accords the same reciprocal rights to Filipinos (Sec. 6 of R.A. 5980 as amended by RA 8556; P.D. 129 as amended by RA 8336)

⁸ Ibid

determined by the said agency, is exported. Provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA 7042 as amended by R.A. 8179)

2. Manufacture, repair, storage and/or distribution of products requiring Department of National Defense (DND) clearance;

- a. Guns and ammunition for warfare
- b. Military ordnance and parts thereof (e.g., torpedoes, depth charges, bombs, grenades, missiles)
- c. Gunnery, bombing and fire control systems and components
- d. Guided missiles/missile systems and components
- e. Tactical aircraft (fixed and rotary -winged), parts and components thereof
- f. Space vehicles and component systems
- g. Combat vessels (air, land and naval) and auxiliaries
- h. Weapons repair and maintenance equipment
- i. Military communications equipment
- j. Night vision equipment
- k. Stimulated coherent radiation devices, components and accessories
- l. Armament training devices
- m. Others as may be determined by the Secretary of the DND

However, the manufacture or repair of these items may be authorized by the Secretary of National Defense to non-Philippine nationals; Provided that a substantial percentage of output, as determined by the said agency, is exported. Provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA 7042 as Amended by R.A. 8179).

3. Manufacture and distribution of dangerous drugs (RA 7042 as amended by R.A. 8179)

4. Sauna and steam bathhouses, massage clinics and other like activities regulated by law because of risks posed to public health and morals (RA 7042 as amended by R.A. 8179)

5. All forms of gambling, e.g. race track operation (RA 7042 as amended by R.A. 8179)

6. Domestic market enterprises with paid-in equity capital of less than the equivalent of US\$ 200,000 (RA 7042 as amended by R.A. 8179)

7. Domestic market enterprises which involve advanced technology or employ at least fifty (50) direct employees with paid-in-equity capital of less than the equivalent of US\$ 100,000 (RA 7042 as amended by R.A. 8179)