

09 January 2002

Administrative Order No. 19
Series of 2002

SUBJECT : ***Implementing Rules and Regulations on Foreign Donations Under Section 105 (I) of the revised Tariff and Customs Code of the Philippines***

WHEREAS, Section 105 paragraph "I" of the Revised Tariff and Customs Code of the Philippines as amended, provides that "Imported articles donated to or for the account of any duly registered relief organization upon certification by the Department of Social Welfare and Development (DSWD) or the Department of Education, Culture and Sports as the case may be" shall be exempt from the payment of import duties;

WHEREAS, Section 1 of the Republic Act No. 4653, otherwise known as *An Act to Safeguard the Health of the People and Maintain the Dignity of the Nation by Declaring it a National Policy to Prohibit the Commercial Importation of Textile Articles Commonly Known as Used Clothing and Rags*, provides that it shall be unlawful for any person, association or corporation to introduce into any point in the Philippines textile articles commonly known as used clothing and rags except when these are imported under paragraph "I" of Section 105 of Republic Act No. 1933, Tariff and Customs Code of the Philippines;

WHEREAS, it has been observed that there is an increasing number of organization receiving donations from foreign sources, particularly used clothing, which have reportedly resulted in the influx of used clothing in the open market; and, as such, DSWD Department Order No. 28, Series of 1999 was issued, holding in abeyance all application of duty free entry of non-commercial quantities of used clothing;

WHEREAS, there is a need to strictly regulate and monitor donations of imported articles to duly accredited relief organization to ensure that these articles shall be received exclusively and entirely by the intended beneficiaries, and that these articles will not find their way in the open market for sale, so as not to jeopardize our economy;

NOW THEREFORE, to properly and effectively enforce the provisions of Section 109 (I) of the Revised Tariff and Customs Code of the Philippines (TCCP), these implementing guidelines are hereby promulgated.

SECTION 1. Definition of Terms - For purpose of this Administrative Order, the following terms shall be defined as:

- (a) **Relief** – is the provision of interventions to alleviate, ease and/or mitigate a distressed, stressful and/or critical situation affecting persons, families, groups or communities.
- (b) **Donated Imported Articles** – are food and non-food items, except used clothing, that are responsive to any situation affecting disadvantaged or distressed individuals and families in order to meet their basic needs. This may also be termed as "foreign donations."
- (c) **Non-Commercial Quantity of Relief Goods** - refers to the volume of food and non-food items that are donated, not in excess of the amount needed by the beneficiaries as specified in the relief distribution plan of the organization as approved by the DSWD Field Office(s) concerned.
- (d) **Duly Registered Relief Organization** – is an organization duly registered or licensed or accredited by DSWD.
- (e) **Outer Port** – is any port of entry within the Philippines other than the Port of Manila (POM), Manila International Container Port (MICP) and Ninoy Aquino International Airport (NAIA).
- (f) **Packing List** - an itemized list of goods/articles with corresponding volume/units sent to recipient.
- (g) **Approved Plan** - is a duly notarized plan of distribution of donated goods, prepared by the agency, confirmed by the social welfare office and endorsed by the DSWD Field Office.

SECTION 2. General Guidelines - The following general guidelines shall govern all foreign donations consigned to relief organizations;

- (a) Only duly registered relief organizations may apply for a certification for duty free entry of foreign donations.
- (b) The local government units (LGUs) need not to go through the DSWD as their importations are covered by Section 1205 of the Tariff and Customs Code of the Philippines (TCCP) which provides that all

importations by the government, for its own use, or that of its subordinate branches and instrumentalities, owned and controlled by the government, shall be subject to duties, taxes, fees and other charges provided for in the TCCP.

- (c) The duly registered organizations shall consult with the concerned DSWD Field Offices for the confirmation and approval of their plan of distribution before negotiating for or accepting any foreign donations. The concerned DSWD Field Offices shall confirm and approve the plan of distribution, stating the specific purposes, areas of distribution, and the kind and volume of goods relevant to the identified purposes.
- (d) The concerned DSWD Field Offices shall forward all applications to the Standards Bureau. The latter shall review and evaluate such request before any appropriate action is endorsed or recommended by the SB Director to the Undersecretary for Management and Operations. Whenever appropriate, the Undersecretary for Management and Operations shall then endorse such request for the entry of the foreign donations into the Philippines free of duty to the Department of Finance (DOF).
- (e) In cases where an organization operates nationwide, said organization shall secure approval from each Field Office having jurisdiction over the area where the distribution of goods shall take place. The DSWD shall not allow organizations with specific areas of operation, to expand their area of coverage for the purpose of accepting foreign donations.
- (f) Foreign donations for release at the Outer Ports shall be under the authority of the Field Office concerned and the Standards Bureau (SB).
- (g) Items not listed in the packing list or in excess of the approved plans shall not be released to the consignee. After compliance with the pertinent provisions of the Tariff and Customs Code of the Philippines, as amended, and other approved laws, rules and regulations (under Section 3602. Various Fraudulent Practices Against Customs Revenue) the same shall be forfeited in favor of the Philippine Government. Notice on this shall be given to the Bureau of Customs (BOC), and the Department of Finance (DOF), subject to existing laws.
- (h) Each shipment should not exceed a quarter's requirement of the organization's relief program, except when there is a state of calamity that requires a bigger volume of goods.

- (i) Goods subject of request for duty free entry shall be assessed and endorsed by the DSWD Field Office where the duly registered relief organizations are based.
 - i. Goods that are subject of applications for entry into the Philippines free of duty shall be limited to non-commercial quantity of relief commodities that are necessary to accomplish the objectives of the social welfare and development programs and services.
 - ii. Importation of all goods shall be supported by the required documents as mentioned in Section 5 of this Administrative Order, including contracts/ agreements if there are any, and shall not violate existing laws or policies and guidelines governing such importation.
 - iii. If goods to be donated are medicines, a certification by the Bureau of Food and Drugs (BFAD) of the Department of Health (DOH) is required, stating the purpose of the medicines and the fact that the same may be used by the intended beneficiaries without the need of a prior prescription.
 - iv. All the subject goods shall be for free distribution exclusively to the identified clients of the duly registered relief organizations.
 - v. Donation/Importation of used clothing shall be strictly prohibited in order to safeguard the health of the people and maintain the dignity of the nation.
- (j) The DSWD shall transact only with the organizations concerned or their duly authorized representatives. Recipient organizations shall make the necessary representations and follow-up of the request for endorsement from the DSWD.
- (k) Agencies or organizations, to whom a duty free certification is issued, shall submit to the Field Office concerned a status report of the distribution or utilization of commodities in accordance with approved/submitted plans, indicating: (a) the category and number of recipients, (b) areas covered and (c) the purpose. This report must be certified by the duly authorized representatives of DSWD, and/or Local Government Unit, and submitted within one (1) month from withdrawal from the Bureau of Customs. Thereafter, a report of utilization shall be submitted monthly thereafter until all the donated goods are utilized or distributed, as the case may be. Non-submission of the utilization report shall be a ground for refusal of certification for

duty-free entry of succeeding donations or revocation of Certificate of Accreditation.

- (l) Foreign donors or resource agencies shall consign their donations only to duly registered relief organization by the DSWD, and in certain cases, to DSWD. Re-consignment of the goods that have already arrived shall not be allowed pursuant to Memorandum Order dated March 21, 1998 issued by the Department of Finance.
- (m) All releases, whether or not the port of entry is Manila, shall require the presence and signature of the duly authorized representative of the DSWD.

SECTION 3. Standard Condition - All applications for duty-free importation must comply with all the rules, regulations and conditions imposed by the DOF, and in addition, shall be subject to the following conditions:

- (a) All the necessary clearances from the appropriate government agencies shall be secured by the registered relief organization.
- (b) The goods shall be guarded or escorted by the authorized representatives of the Bureau of Customs and the DSWD directly from the Bureau of Customs (BOC) to the warehouse of the duly registered relief organization.
- (c) The opening, stripping, inventory and distribution shall be fully documented by DSWD, which shall include photo documentation.
- (d) The distribution of all donations shall be monitored by the DSWD and documented by the donee, using the relief distribution sheets. A notarized copy of the summary report of the distribution, as well as photo documentation, shall be submitted to the DSWD Central Office, through the concerned Field Office, as basis for validating the distribution of donations.
- (e) Such other conditions that the DSWD may impose to ensure that the objectives of this Administrative Order will be achieved.

SECTION 4. Requirements - To facilitate the issuance of certification for duty free release of foreign donation, the following documents (in three (3) copies each), shall be submitted to the DSWD at least two weeks prior the scheduled arrival of the donation:

1. Certificate or Deed of Donation duly authenticated by the Philippine Consular Office of the country of origin, with accompanying certificate as to fitness of food and medicine for consumption.

2. A separate duly notarized Deed of Acceptance by the donee;
3. Valid and subsisting License/Accreditation/Registration Certificate issued by DSWD;
4. Shipping documents such as original and/or duly certified true copy of Bill of Lading and Packing List;
5. Duly notarized Plan of Distribution, certified and endorsed by the DSWD Regional Office(s).
6. In case of medicines, a certification from the Department of Health that the commodities are allowed for free distribution and use;
7. Duly notarized distribution report on latest shipment, certified correct by the concerned DSWD Field Office;
8. In case of relief items other than food and medicines, proof of prior agreements or approved arrangements with the appropriate government agencies.

SECTION 5. Pursuant to the first paragraph of Section 105 of the Revised Tariff and Customs Code, “any article sold, bartered, hired or used for purpose other than that they were intended for without prior payment of the duty tax and other charges which would have been due and payable at the time of entry if the article had been entered without the benefit of this section, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs revenue punishable under Section Thirty Six Hundred and Two, as amended of this Code. Further, paragraph two of Section 3602 of the said Code provides that, ... “in addition to the punitive action of confiscation (forfeiture) of the imported goods the law has provided that the guilty party should also suffer by paying a fine and a temporary loss of liberty; and if the offender is an alien, he is subject to deportation after serving his sentence.”

Violations of any of the above conditions shall bar certification for duty free entry of succeeding donations, and shall subject the organizations to revocation of its certificate of accreditation and/or its concerned officers or members to criminal, civil and administrative sanctions.

Non compliance with the rules and regulations shall subject the organization concerned to the penalties provided by law, the suspension or cancellation of its license or accreditation as a welfare relief agency, as well as the loss of tax exemption privilege, after due investigation, in accordance with the Tariff and Customs Code.

SECTION 6. Separability Clause - If any provision of these implementing rules and regulations is held invalid or unconstitutional. The other provisions not so declared shall remain valid and subsisting.

SECTION 7. Effectivity Clause. This Administrative Order shall take effect immediately and shall supercede Department Order No. 11, series of 1994; Department Order No. 12, Series of 1995; Department Order No. 02, Series of 1996; Department Order No. 01, Series of 1999 and Department Order No. 04, Series of 1999.

CORAZON JULIANO-SOLIMAN
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