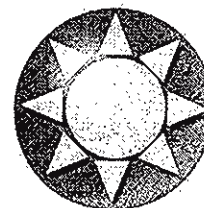




Republic of the Philippines
 Department of Health
OFFICE OF THE SECRETARY
 2nd Flr., Bldg. 1, San Lazaro Compound, Rizal Avenue, Manila



June 6, 2003

ADMINISTRATIVE ORDER

No. 54-A s. 2003

SUBJECT: Guidelines on the Processing and Clearance of Importations through Donations by the Department of Health

I. RATIONALE

The need to rationalize and systematize the acceptance of importations through donations in support of the services and programs of the Department is deemed appropriate. Towards this end, these guidelines consistent and in accordance with the issuances of the Office of the President (Memorandum Order No. 36), NEDA Rules and Regulations governing the implementation of the last clause of the last paragraph of Section 105 of the Presidential Decree No. 1464 or the Tariff and Customs Code, NEDA Board Resolution No. 58 s. 1988, Section 13 of the General Appropriations Act of 2002 and the World Health Organization Guidelines are hereby formulated.

II. COVERAGE

These guidelines shall cover all donations in the form of medicines/drugs having similar preparations and of medical supplies registered with the Bureau of Food and Drugs (BFAD), medical equipment and devices duly registered with BFAD or with the Bureau of Health Devices and Technology (BHDT) and such other commodities/goods which may be subjected to BFAD and BHDT regulations.

III. DEFINITION OF TERMS

The following are the relevant terms used in the transactions/processes for accepting foreign-donated goods.

- Bill of Lading – a shipping document in the form of a contract issued to a shipper by the transporting agency to transport and deliver the goods shipped to the person named and which indicates destination, freight charges and description of the goods i.e. quantity, weight,

dimension, volume, identification and condition. Airway bill means a document serving for air transportation as a bill of lading does for water or land transportation.

Brokerage Fee	- the payment for the services rendered by a customs broker or a customs brokerage firm for and on behalf of a client-importer/exporter in making, signing and filing the required import or export entry documents and in following up the final release of the shipment
Customs Duties	- tariffs or taxes levied by the Government on imports
Deed of Acceptance	- a duly notarized document formally accepting the donation
Deed of Assignment	- a notarized written document or instrument under seal, done after shipment, usually upon arrival of the goods, identifying a particular agency as recipient of the donation
Deed of Donation	- a notarized written document or instrument under seal which, when delivered, gratuitously transfers ownership and interests in a property to persons and/or entities
Deed of Undertaking	- a written document or instrument under seal, which lays a person under obligation to perform or carry out a particular act
Demurrage Fee	- payment for the delay caused by a freighter's failure to unload cargoes within a prescribed time
Donee/Consignee	-those who are qualified to receive donations
Donor	- an individual or organization that grants or bestows financial, material or technical assistance especially to a charity
Foreign Donations	- include goods or articles donated by Filipinos or private groups overseas in support of the regular services and programs of the Department
Medical Device	- instrument, apparatus, machine, implant or in-vitro reagent intended for use in, or actually used in the diagnosis, treatment, monitoring or prevention of disease or injury; investigation, examination or modification of the anatomy or a physiological process; contraception, and does not achieve any of the intended purposes by means of chemical action within or on humans and not dependent on being metabolized to achieve a result.
Medical Supplies	- refer to disposable articles used for medical purposes
Packing List	- a shipping document, which includes an inventory of contents/catalog or list of goods indicating the international nonproprietary name (generic name), dosage form, quantity, batch number, expiry date,

volume, weight and any special storage conditions. Also included are copy of complete brochure/literature of the good, a copy of the pro forma invoice, and plan of distribution of commodities

Pro Forma or Commercial Invoice	– a shipping document, which indicates the description of goods, quality, unit price, total amount and other identification remarks
Prohibited/Contraband Items	- commodities that are not permitted entry into the Philippines
Regulated/Restricted Items	-commodities that require clearances/permits from various government agencies prior to importation
Shipping Documents	-supporting papers such as bill of lading, pro-forma invoice and packing list or inventory of contents acknowledging the goods on board to be transported to a certain port and delivered to a designated person
Storage Fee	– refers to the payment for the use of space in a particular warehouse for the safekeeping of goods while in the Bureau of Customs
Value Added Tax	-a form of sales tax, which is levied on the value, added by every seller to purchase price/costs of good and services
BFAD	- Bureau of Food and Drugs, DOH
BHDT	- Bureau of Health Devices and Technology, DOH
BIHC	- Bureau of International Health Cooperation, DOH
BOI	-Board of Investments, DTI
DOF	- Department of Finance
NEDA	- National Economic and Development Authority
OP	-Office of the President
PLS	- Procurement and Logistics Service, DOH

IV. CORE PRINCIPLES

- A. All donations should benefit the recipient to the maximum extent possible. This implies that all donations should be based on an expressed need and that unsolicited donations are to be discouraged.
- B. All donations should be given with full respect for the wishes and authority of the recipient, and be supportive of existing government health policies and administrative arrangements.
- C. There should be no double standards in quality: if the quality of an item is unacceptable in the donor country, it is also unacceptable as a donation.
- D. There should be effective communication between the donor and the recipient: donations should be based on an expressed need and should not be sent unannounced.

V. GUIDELINES

- A. The following institutions/entities are allowed to receive donations:
1. All government hospitals except specialty hospitals with specific charters
 2. Private infirmaries and first level referral hospitals duly registered and licensed to operate by the Bureau of Health Facilities and Services of DOH.
- B. Drugs and medicines to be donated should have a shelf life of twelve (12) months after arrival in the recipient country.
- C. The following products are not acceptable for donations:
1. Expired, spoiled or deteriorated products
 2. Products with expiration date below the 12 months expiry limit
 3. Products with literature without English translation
 4. Products which are not in original packaging or have been partly used except for health devices/equipment which may be second-hand but in excellent operating/functional condition
 5. Products included in the list of prohibited or contraband list prepared by the National Economic and Development Authority (Annex A)
 6. Drugs included under the dangerous drugs, prohibited drugs and exempt preparations list of the Dangerous Drugs Board
 7. Experimental/investigational drugs and drugs containing active ingredient(s) not found in any currently registered drug product
 8. Drugs containing the same active ingredient(s) as those under BFAD Monitored Release Registration (new drug)
 9. Incompletely labeled drugs or those not bearing the following labeling information: name of the product (generic name or brand name), dosage forms/strengths, name and address of the manufacturer, formulation, lot number and expiration date
- D. In addition to IV. A and D, importations through donations may qualify for duty-exemption under the following conditions:
1. That the importations consist of essential machinery and equipment, including spare parts and accessories thereof, and other goods;
 2. That the articles imported are not locally available and there are no local substitutes thereof as certified to by the Board of Investments (BOI) of the Department of Trade and Industry. However, in case of local availability, the importations may be recommended for duty-free treatment if these satisfy the foregoing conditions, in addition to which, the BOI interpose no objection to the grant of duty-exemption.
- E. All importations are subject to Value Added Tax (VAT) unless expressly exempt from such imposition under Title IV, Chapter 1, Section 1 of Executive Order No. 273 or the VAT Law.
- F. Unless the VAT Law is amended to allow the tax-free treatment of importations/donations by government agencies and NGOs, they shall remain liable to pay the VAT. However, in order to ease the burden, the Department may opt to avail of the deferred payment scheme under Department of Finance (DOF) Department Order No. 31-77 which allows government offices/agencies to withdraw their importations from Custom's custody without the prepayment of taxes and duties provided that automatic appropriation of taxes and duties is requested with the DBM and included in the ensuing year's budget. The deferred payment scheme should be clarified with the Finance Service and Procurement and Logistics Service (PLS) of DOH and with NEDA and DOF.
- G. The importations and donations of medicines, medical supplies and equipment for the relief and rehabilitation programs of the government for calamity-affected areas are allowed under the special import facility of the

Office of the President (OP). Donation/s to calamity stricken areas are evaluated pursuant to Memorandum Order No. 36 being processed by the OP.

- H. Certification for duty-free importation is made on a per shipment basis to ensure that each request satisfies the policy guidelines.
- I. The name appearing as consignee in the Deed of Donation and shipping documents is deemed as the owner of the imported items. The donee should likewise be the consignee.
- J. All importations arising from foreign loans and grants as well as selected government-owned and controlled corporations including the four specialty hospitals should not be entitled to tax and/or duty-free treatment. The duties and taxes imposable on such importation should be included in the annual budget request of DOH and hence, are deemed automatically appropriated. This should be clearly stipulated in the Memorandum of Agreement between the donor agency and the implementing agency. However, this provision on automatic appropriation could vary from year to year and is subject to annual approval by Congress.
- K. The taxes and duties imposable on importations of national government agencies and local government units are chargeable against the General Appropriations Act and the Internal Revenue Allotment, respectively.

VI. REQUIREMENTS

- A. The following are the documents to be submitted to BIHC in 5 copies each one month before the arrival of the donated goods:
 - 1. From the donor:
 - a. Deed of donation duly authenticated by the Philippine Embassy/Consulate in the country of origin
 - b. Shipping documents such as bill of lading, airway bill, itemized packing list/inventory of contents, pro-forma or commercial invoice and other shipping documents
 - 2. From the donee:
 - a. Letter request for DOH clearance
 - b. Deed of Acceptance of the donation stating that the donee is assuming all responsibilities with regard to the item/s being donated
 - c. Distribution plan of commodities
 - d. If applicable, the following are the additional requirements:
 - i. SEC registration certificate of the recipient
 - ii. DSWD license to operate as a charitable organization or BIR tax exemption certificate
 - 3. An authenticated document signed by both the donor and the donee indicating who will assume the responsibility of VAT payment shall also be submitted.
- B. In addition to VI. A., the following are the BFAD requirements for medicines and medical supplies:
 - 1. List of drugs and quantity to be donated with the following information on the label:
 - a. Formulation (literature with English translation)
 - b. Generic name/brand name, if any
 - c. Dosage forms/strengths
 - d. Storage conditions
 - e. Batch/ lot number and expiry date
 - f. Name and address of manufacturer
 - 2. Application letter/documents for registration of donated drugs with BFAD, stating the donor and the recipients.

- C. In addition to VI. A., the following are the BHDT requirements for healthcare equipment especially those capable of emitting radioactive substances such as x-ray and ultrasound equipment:
 - 1. Complete operation, instruction and service manual regarding equipment model
 - 2. For x-ray equipment, a copy of the license to operate an x-ray facility issued by the BHDT, if applicable.
- D. Upon receipt of the donation, the donee/consignee shall submit an inventory report of the donated shipment to the concerned Centers for Health Development copy furnished the BIHC.

VII. PROCESS

A. UNDER THE REGULAR FACILITY

- 1. Prospective donors should send original copies of the shipping documents to the recipients at least 3 weeks prior to the arrival of the shipment to the Philippines.
- 2. The donee/consignee should send to the BIHC request for DOH clearance/endorsement with the necessary supporting documents attached.
- 3. Upon receipt of the required documents from the donee through BIHC, the BFAD or BHDT shall determine if the intended donations are eligible for duty-free entry and if the intended beneficiary is allowed or accredited to accept donations.
- 4. The BIHC shall transmit request for exemption from customs duties, if deemed meritorious, to the DOF.
- 5. The donee may coordinate with DOF and NEDA for the status of their request.
- 6. After compliance of the donee with all the documentation and payment of the necessary fees and charges, the shipment shall be released to the donee in the presence of representatives from BFAD or BHDT/RHS.

B. UNDER THE SPECIAL FACILITY (AS DEFINED IN V.H)

- 1. For goods directly consigned to the DOH:
 - a. In coordination with the Finance Service, the Procurement and Logistics Service (PLS) shall process all documents pertinent to customs brokerage.
 - b. BIHC shall transmit requests for clearance to the Office of the President (OP) together with the supporting documents/information.
- 2. For goods directly consigned to OP but assigned to DOH:
 - a. BIHC shall provide OP with a copy of the clearance, deed of assignment and the supporting documents.
 - b. The PLS shall process the goods at the DOF, shoulder all incidental expenses and have custody of the goods.
- 3. For goods directly consigned to other entities which include other non-relief-related government agencies, NGOs and private organizations:
 - a. For medicines and medical supplies, OP shall process requests from other entities provided that a favorable

endorsement is provided by the DOH through BIHC upon review of pertinent documents.

- b. OP shall send the original copy of the clearance to the BOC while only a copy of the clearance shall be sent to BIHC.
- c. The release and distribution of the goods shall be under the control and supervision of the DOH Internal Management and Support Cluster.

VIII. MISCELLANEOUS PROVISION

The provisions of this Administrative Order and all its amendments shall be deemed incorporated in any agreement or Memorandum of Agreement for duty-free importation, regardless whether or not specific reference is made thereto.

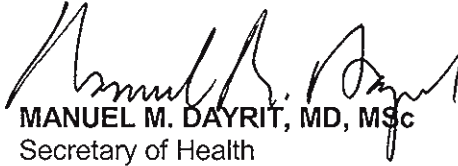
IX. SEPARABILITY CLAUSE

Should any of the provisions herein be declared invalid or unconstitutional by the appropriate authority or courts of law respectively, the same shall not affect the other provisions' validity unless otherwise so specified.

X. EFFECTIVITY

This Order shall take effect immediately. All related orders inconsistent thereto are hereby rescinded and revoked.

Signed A.O.
Received in the Records
Section on 6-23-03


MANUEL M. DAYRIT, MD, MSc
Secretary of Health

Smoking can kill you!

ANNEX A

LIST OF PROHIBITED/CONTRABAND ITEMS

- A. Dynamite, gunpowder, ammunition and other explosives, firearms and weapons of war, and parts thereof, except when authorized by law.
- B. Written or printed articles in any form containing any matter advocating or inciting treason, or rebellion, insurrection, sedition or subversion against the government of the Philippines or forcible resistance to any law of the Philippines, or containing any threat to take the life of, or inflict bodily harm upon any person in the Philippines.
- C. Written or printed articles, negatives or cinematographic film. Photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character.
- D. Articles, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises or describes or gives directly or indirectly information where, how or by whom unlawful abortion is produced.
- E. Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes or other articles when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof.
- F. Lottery and sweepstakes tickets except those authorized by the Philippine government, advertisements thereof, and lists of drawings therein.
- G. Any article manufactured in whole or in part of gold, silver or other precious metals or alloys thereof, the stamps, brands or marks which do not indicate the actual fineness of quality of said metal or alloys.
- H. Any adulterated or misbranded articles of food or any adulterated or misbranded drug in violation of the provisions of the "Food and Drugs Act."
- I. Marijuana, opium, poppies, coca leaves, heroin or any other narcotics or synthetic drugs which are or may hereafter be declared habit-forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, except when imported by the Government of the Philippines or any person duly authorized by the Dangerous Drugs Board for medicinal purposes only.
- J. Opium pipes and parts thereof, of whatever material.
- K. Those originating from the Union of South Africa (CB Circular No. 246 dated July 17, 1967).
- L. Onions, potatoes, garlic and cabbages, except for seedlings purposes (R.A. No. 1296)
- M. Coffee (R.A. No. 2712)
- N. Used clothing except when imported under subsections I, j, k, l, n, and v of Section 105 of Tariff and Customs Code (R.A. No. 4653); and
- O. All other articles and parts thereof, the importation of which is prohibited by law or rules and regulations issued by competent authority. (As amended by Presidential Decree No. 34).