IMPORTATION OF USED ITEMS

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I. IMPORT PROCEDURES AND DOCUMENTATIONS

A. Importer's Accreditation with the Bureau of Customs (BOC)

Every importer must be accredited with the BOC. The importer's accreditation will be valid for a period of one (1) year which accreditation may be renewed by filing an application for its renewal at least thirty (30) days prior to the date of expiration. An application for accreditation in the prescribed form must be filed with the BOC supported by the following documents:

1. Special Power of Attorney (in case of representative applicant) or Board Resolution of authorized representative (for Corporations);

2. Bureau of Customs Official Receipt (BCOR) evidencing payment of registration fee;

3. Printed Client Profile Registration System (CPRS) Application profile;

4. Mayor's Permit and Barangay Clearance (Business Permits);

5. Bureau of Internal Revenue (BIR) Tax Identification Number (TIN) and/or VAT (non-VAT) Certificate;

6. Valid ID and Community Tax Certificate (CTC) of applicant;

7. Securities and Exchange Commission (SEC) Certificate of Registration, Articles of Incorporation and By-laws (for Corporations); Proof of registration with the Department of Trade and Industry (DTI) (for Sole Proprietorships);

8. Audited Financial Statements (AFS) for the past year (if applicable);

9. Bureau of Investments (BOI) Certificate of Registration (if applicable);

10. Income Tax Returns, Certified True Copy of VAT returns for the past 3 years (if applicable);

11. Proof of ownership or lawful occupancy of the business premises, as the case may be;

12. Proof of utility billing;

13. Company profile with pictures of premises;

14. Location map of principal place of business;

15. Capital structure;

B. License and Permits

There are three classes of imports in the Philippines and they are those commodities: (i) freely importable; (ii) regulated; and (iii) prohibited. Freely importable commodities are commodities which importation may be effected without the prior approval of or clearance from any government agency. On the other hand, importations that require clearances/permits from appropriate government agencies belong to the class of regulated commodities. Finally, prohibited commodities fall under the class of commodities which importation is not allowed under existing laws.

With the exception of some commodities which are identified under Section 104 of the TCCP specifically as used items, commodities in general are not distinguished as to whether they are brand-new or used. As discussed above, commodities are classified into three based on the extent of government regulation involved in their importation. Therefore, there are no special requirements for the importation of used items as compared to their brand-new counterparts.

For regulated commodities however, used items must pass specific requirements prescribed by the regulatory agencies having jurisdiction over the particular commodity. Table 1 below lists some of these regulated commodities with an indication of the government agency tasked to issue licenses and permits on their importation.

Table 1. List of Regulated Commodities Requiring Import Permits

COMMODITY	AGENCY ISSUING IMPORT PERMIT
Toys	Department of Health - Bureau of Health Devices and Technology (DOH-BHDT)
Motor Vehicles, Trucks, Motorcycles, Parts	Department of Trade and Industry - Bureau of Import Services (DTI-BIS)
Jukebox, auto-changer, optical media manufacturing, replicating equipment, parts and accessories	Optical Media Board (OMB)
Firearms and Ammunition; Parts and Accessories thereof	Philippine National Police - Firearms and Explosives Office (PNP-FEO)
Communications, Telecommunications equipment, and accessories	National Telecommunications Commission (NTC)
Ships, equipment, and parts	Maritime Industry Authority (MARINA)
Recyclable materials containing hazardous substances, *e.g.* electronic assemblies.	Department of Environment and Natural Resources - Environmental Management Bureau (DENR-EMB)

1. Motor Vehicles, Trucks, Motorcycles, and Parts

Unlike brand new vehicles which are freely importable subject to certain requirements, used motor vehicles may only be imported in to the Philippines upon prior authority to import issued by the DTI-BIS.

Section 2, Article 2 of Executive Order 156 defines a brand new vehicle as one that is of current or advance year model in the country of origin or manufacture or of year model immediately preceding year in the country of origin or manufacture. The vehicle must in addition have a mileage of not more than 200 kilometers and the vehicle must have been acquired by the importer from the dealer as first owner. Hence, any vehicle not of current or advance year model will be processed as in used motor vehicle.

The used commodities allowed for importation upon prior clearance from the DTI-BIS are the following:

i. used trucks with gross vehicle weight (GVW) of 2.5 to 6 tons;

ii. used buses with GVW of 6 to 12 tons;

iii. used tires;

iv. automotive replacement parts;

v. motor vehicles not exceeding 3,000 kilograms GVW brought in by returning residents and other qualified individuals for personal use under certain conditions

A properly filled up application form must be filed with the DTI-BIS. Additionally, the motor vehicle must be accompanied by a certificate of roadworthiness and a certificate of compliance to emission standards issued by the authorized agency in the country of origin; and the motor vehicle must be left hand drive.

2. Recyclable Materials

It is the policy of the State to regulate, restrict or prohibit the importation, manufacture, processing, sale, distribution, use and disposal of chemical substances and mixtures that present unreasonable risk and/or injury to health or the environment. Hence, all importers of recyclable materials containing hazardous substances must first register with the DENR and supply the following information:

i. names and addresses of waste importer and receiving parties;

ii. types and quantities of the imported material;

iii. physical characteristics;

iv. chemical characteristics;

v. justification for the import;

vi. methods for handling including collection, packaging, labeling, transportation, and route which must conform with internationally accepted standards;

vii. listing of personnel who will be responsible for supervising the collection, transport and unpacking of the recyclable materials and their respective qualifications; and

viii. emergency response plan describing steps to be taken by parties concerned in case of spill/accident which may occur during transport from the premises of the recyclable material generator to the importer.

Upon a determination by the EMB that the applicant has the capability to recycle the imported material in an environmentally acceptable manner, the importer will be registered and can now proceed to apply for an Importation Clearance for each shipment of the imported recyclable material at least thirty (30) working days prior to the actual importation.

3. Communications, Telecommunications equipment, and accessories

The NTC requires an importer of communications equipment to submit a letter of intent indicating the name of the consignee; its nature of business; intent of the letter; description and quantity of each equipment indicated in the pro-forma invoice; and purpose of the importation. The letter of intent must be filed with the NTC together with other documents and payment of the permit to import fees and documentary stamp tax.

4. Firearms and Ammunition

Importers who wish to deal firearms and ammunition including air guns must apply for a license with the PNP-FEO. In addition to the application for a license to deal in the said articles, the importer must write a supplementary letter addressed to the Chief PNP requesting issuance of the license.

5. Toys

To ensure the safety of Filipino children using locally manufactured or imported toys intended for children, all toys that are imported, distributed and manufactured in the Philippines must comply with the Philippine National Standards for Safety of Toys. In addition, all manufacturers, distributors and importers of toys shall apply for a License to Operate (LTO) at the DOH-BHDT. Non-functional, incomplete, worn-out, broken or unsanitary imported donated toys shall be prohibited to enter the Philippines and shall be reshipped to the country of origin.

6. Optical media manufacturing, replicating equipment, parts and accessories

Importers of optical media, manufacturing, replicating equipment, parts and accessories are required to register with the OMB. In addition to the registration, importers of said articles must obtain a separate license for each activity which they intend to engage in or are actually engaged in and for each location at which such activity is being undertaken.

7. Ships, equipment, and parts

Persons intending to engage in the importation of ships, equipment, and parts must first obtain an accreditation with the MARINA. After obtaining the certificate of accreditation, the importer must then obtain a separate permit for the importation of the article intended for importation.

C. Import Entry

Upon importation of the subject items, importers must file an import entry and internal revenue declaration with the BOC within 30 days from the date of discharge of the last package from the vessel. The following documents are required to be submitted to the BOC:

1. Import Entry and Internal Revenue Declaration;
2. Supplemental Declaration on Value (SDV);
3. Bill of Lading (BL) or Airway Bill (AWB);

4. Commercial Invoice;
5. Packing List;
6. Processing Report Form;
7. Certificate of Origin (if applicable);
8. Insurance Certificate/Policy (if applicable);
9. Duty/Tax exemption (if applicable);
10. Other Import Permits (if applicable)

II. VALUATION OF USED ITEMS

A. ASEAN Harmonized Tariff Nomenclature (AHTN)

Section 104 of the Tariff and Customs Code of the Philippines (TCCP) provides for the ASEAN Harmonised Tariff Nomenclature *(*AHTN). The AHTN is an 8-digit commodity nomenclature adopted by the ten (10) ASEAN member countries. Its purpose, among others, is to serve as a uniform tariff nomenclature within ASEAN.

The AHTNs for selected commodities are laid down in the following subsections and chapters of section 104 of the TCCP:

SECTION/CHAPTER	DESCRIPTION
Section XVII	**Vehicles, Aircraft, Vessels and Associated Transport Equipment**
Chapter 86	Railway or tramway locomotives, rolling-stock, and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signaling equipment of all kinds
Chapter 87	Vehicles other than railway or tramway, rolling-stock, and parts and accessories thereof, *e.g.* motor vehicles principally designed for the transport of persons (87.02 and 87.03), motorcycles (87.11),
Chapter 88	Aircraft, spacecraft, and parts thereof
Chapter 89	Ships, boats, and floating structures, *e.g.* cruise ships (89.01), fishing vessels (89.02), yachts (89.03)
Section XVI	**Machinery and Mechanical Appliances; Electrical Equipment; Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles**

Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof *e.g.* air conditioning machines (84.15), refrigerators (84.18), calculating machines (84.7)
Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image, and parts and accessories of such articles, *e.g.* telephone sets (85.17), sound recording or reproducing apparatus (85.19), video recording or reproducing apparatus (85.21),
Section XVIII	Optical, Photographic, Cinematographic, Measuring, Checking Precision, Medical or Surgical Instruments and Apparatus; Clocks and Watches; Musical Instruments; Parts and Accessories Thereof
Chapter 90	Optical, Photographic, Cinematographic, Measuring, Checking Precision, Medical or Surgical Instruments and Apparatus; Parts and Accessories Thereof
Chapter 91	Clocks and Watches and Parts Thereof
Chapter 92	Musical Instruments; Parts and Accessories of such Articles
Section XIX	Arms and Ammunition; Parts and Accessories Thereof
Chapter 93	Arms and Ammunition; Parts and Accessories Thereof, *e.g.* revolvers and pistols (93.02), spring, air, or gas guns (93.04).

B. Appraisal

The method used for the appraisal of imported articles fro purposes of computing the correct duties and taxes is found under Section 201 of the TCCP. There six methods for determining the basis of dutiable value of imports: (1) transaction value; (2) Transaction Value of Identical Goods; (3) Transaction Value of Similar Goods; (4) Deductive Value (5) Computed Value; and (6) Fallback Value.

Section 201 of the TCCP provides:

> Section 201. Basis of Dutiable Value. — (A) Method One. — Transaction Value. — The dutiable value of an imported article subject to an ad *valorem* rate of duty shall be the transaction value, which shall be the price actually paid or payable for the goods when sold for export for the Philippines, adjusted by adding:
>
> (1) The following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:
>
> (a) Commissions and brokerage fees (except buying commissions);
>
> (b) Cost of containers;
>
> (c) The cost packing, whether for labour or materials;

(d) The value, apportioned as appropriate, of the following goods and services: materials, components, parts and similar items incorporated in the imported goods; tools, dies, moulds and similar items used in the production of the imported goods; materials consumed in the production of the imported goods; and engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Philippines and necessary for the production of imported goods, where such goods and services are supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been include in the price actually paid or payable;

(e) The amount of royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods that accrues directly or indirectly to the seller;

(2) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;

(3) The cost of transport of the imported goods from the port of exportation to the port of entry in the Philippines;

(4) Loading, unloading and handling charges associated with the transport of the imported goods from the country of exportation to the port of entry in the Philippines; and

(5) The cost of insurance.

All additions to the price actually paid or payable shall be made only on the basis of objective and quantifiable data.

No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Section: Provided, That Method One shall not be used in determining the dutiable value of imported goods if:

(a) There are restrictions as to the disposition or use of the goods by the buyer other than restrictions which:

(i) Are imposed or required by law or by Philippine authorities;

(ii) Limit the geographical area in which the goods may be resold; or

(iii) Do not substantially affect the value of the goods.

(b) The sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

(c) Part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions hereof; or

(d) The buyer and the seller are related to one another, and such relationship influenced the price of the goods. Such persons shall be deemed related if:

(i) They are officers or directors of one another's businesses;

(ii) They are legally recognized partners in business;

(iii) There exists an employer-employee relationship between them;

(iv) Any person directly or indirectly owns, controls or holds five percent (5%) or more of the outstanding voting stock or shares of both seller and buyer;

(v) One of them directly or indirectly controls the other;

(vi) Both of them are directly or indirectly controlled by a third person;

(vii) Together they directly or indirectly control a third person; or

(viii) They are members of the same family, including those related by affinity or consanguinity up to the fourth civil degree.

Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Act if they fall within any of the eight (8) cases above.

(B) Method Two. — Transaction Value of Identical Goods. — Where the dutiable value cannot be determined under method one, the dutiable value shall be the transaction value of identical goods sold for export to the Philippines and exported at or about the same time as the goods being valued. "Identical goods" shall mean goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearances shall not preclude goods otherwise conforming to the definition from being regarded as identical.

(C) Method Three. — Transaction Value of Similar Goods. — Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the transaction value of similar goods sold for export to the Philippines and exported at or about the same time as the goods being valued. "Similar goods" shall mean goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark shall be among the factors to be considered in determining whether goods are similar.

If the dutiable value still cannot be determined through the successive application of the two immediately preceding methods, the dutiable value shall be determined under method four or, when the dutiable value still cannot be determined under that method, under method five, except that, at the request of the importer, the order of application of methods four and five shall be reversed: Provided, however, That if the Commissioner of

Customs deems that he will experience real difficulties in determining the dutiable value using method five, the Commissioner of Customs may refuse such a request in which event the dutiable value shall be determined under method four, if it can be so determined.

(D) Method Four. — Deductive Value. — The dutiable value of the imported goods under this method shall be the deductive value which shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Philippines, in the same condition as when imported, in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons not related to the persons from whom they buy such goods, subject to deductions for the following:

(1) Either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;

(2) The usual costs of transport and insurance and associated costs incurred within the Philippines; and

(3) Where appropriate, the costs and charges referred to in subsection (A) (3), (4) and (5); and

(4) The customs duties and other national taxes payable in the Philippines by reason of the importation or sale of the goods.

If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued in the Philippines in the conditions as imported, the customs value shall, subject to the conditions set forth in the preceding paragraph hereof, be based on the unit price at which the imported goods or identical or similar imported goods sold in the Philippines in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of ninety (90) days after such importation.

If neither the imported goods nor identical nor similar imported goods are sold in the Philippines in the condition as in imported, then, if the importer so requests, the dutiable value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Philippines who are not related to the persons from whom they buy such goods, subject to allowance for the value added by such processing and deductions provided under Subsections (D)(1), (2), (3) and (4) hereof.

(E) Method Five. — Computed Value. — The dutiable value under this method shall be the computed value which shall be the sum of:

(1) The cost or value of materials and fabrication or other processing employed in producing the imported goods;

(2) The amount for profit and general expenses equal to that usually reflected in the sale of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Philippines;

(3) The freight, insurance fees and other transportation expenses for the importation of the goods;

(4) Any assist, if its value is not included under paragraph (1) hereof; and

(5) The cost of containers and packing, if their values are not included under paragraph (1) hereof.

The Bureau of Customs shall not require or compel any person not residing in the Philippines to produce for examination, or to allow access to, any account or other record for the purpose of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value may be verified in another country with the agreement of the producer and provided they will give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

(F) Method Six. — Fallback Value. — If the dutiable value cannot be determined under the preceding methods described above, it shall be determined by using other reasonable means and on the basis of data available in the Philippines.

If the importer so requests, the importer shall be informed in writing of the dutiable value determined under Method Six and the method used to determine such value.

No dutiable value shall be determined under Method Six on the basis of:

(1) The selling price in the Philippines of goods produced in the Philippines;

(2) A system that provides for the acceptance for customs purposes of the higher of two alternative values;

(3) The price of goods in the domestic market of the country of exportation;

(4) The cost of production, other than computed values, that have been determined for identical or similar goods in accordance with Method Five hereof;

(5) The price of goods for export to a country other than the Philippines;

(6) Minimum customs values; or

(7) Arbitrary or fictitious values.

If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon the filing of a sufficient guarantee in the form of a surety bond, a deposit, cash or some other appropriate instrument in an amount equivalent to the imposable duties and taxes on the imported goods in question conditioned upon the payment of customs duties and taxes for which the imported goods may be liable: Provided, however, That goods, the importation of which is prohibited by law shall not be released under any circumstance whatsoever.

Nothing in this Section shall be construed as restricting or calling into question the right of the Collector of Customs to satisfy himself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes. When a declaration has been presented and where the customs administration has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the customs administration may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Subsection (A) hereof.

If, after receiving further information, or in the absence of a response, the customs administration still has reasonable doubts about the truth or accuracy of the declared value, it may, without prejudice to an importer's right to appeal pursuant to Article 11 of the World Trade Organization Agreement on customs valuation, be deemed that the customs value of the imported goods cannot be determined under Method One. Before taking a final decision, the Collector of Customs shall communicate to the importer, in writing if requested, his grounds for doubting the truth or accuracy of the particulars or documents produced and give the importer a reasonable opportunity to respond. When a final decision is made, the customs administration shall communicate to the importer in writing its decision and the grounds therefor.

III. PREPARATION FOR IMPORTATION

Depending on the packaging needs of the importer, the following types of packaging material may be used to transport goods:

i. Bubble Wrap/Shrink Wrap

ii. Boxes

iii. Plastic; and

iv. Wood

A. International Standard for Phytosanitary Measures (ISPM 15)

To prevent the introduction and spread of pests linked to the worldwide movement of Wood Packaging Material (WPM), all incoming shipments with WPM must be treated and properly marked at the country of origin. The need to regulate was realized because the introduction of pests linked to WPM is a worldwide problem.

The guidelines under the ISPM 15 apply to coniferous and non-coniferous WPMs which includes pallets, dunnage, crating, packing blocks, drums cases, load boards, pallet collars, and skids. The regulation does not cover WPMs made entirely out of wood-based products such as plywood, particle board, oriented strand board, or veneer that have been created using glue, heat and pressure because the risks associated with raw wood are not presenting these materials.

The procedure for importation with WPMs involves an examination of the shipment by an officer of the Bureau of Plant Industry (BPI) upon an application for inspection filed by the Importer. After the clearance has been issued by the BPI, the goods may be released in accordance with existing rules and regulations.

IV. STATISTICAL DATA

According to the National Statistics Office (NSO) and the Bureau of Customs (BOC), in an informal inquiry, they do not make available any statistical data on importation of used items with the exception of certain commodities e.g., motor vehicles.

The following table lists the value of importation for selected commodities which may be brand new or used.

Table 2. Value Imports of Selected Commodities From January to September 2011 and 2012

COMMODITY	January to September 2012 (US$)	January to September 2011 (US$)
Power Generating & Specialized Machines	2,793,809,253.00	2,579,960,180.00
Office & EDP Machines	1,532,640,169.00	1,375,219,188.00
Telecommunication Eqpt.& Elect. Mach.	6,288,404,972.00	5,671,570,972.00
Land Transport Eqpt. excl. Passenger Cars & Motorized cycle	949,351,025.00	791,291,117.00
Aircraft, Ships and Boats	794,944,715.00	430,086,247.00
Prof.Sci.& Cont. Inst., Photographic Eqpt. & Optical Goods	449,732,622.00	414,744,347.00
Passenger cars & motorized cycle	1,451,297,164.00	1,219,816,958.00
Home appliances	242,063,159.00	241,187,835.00

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