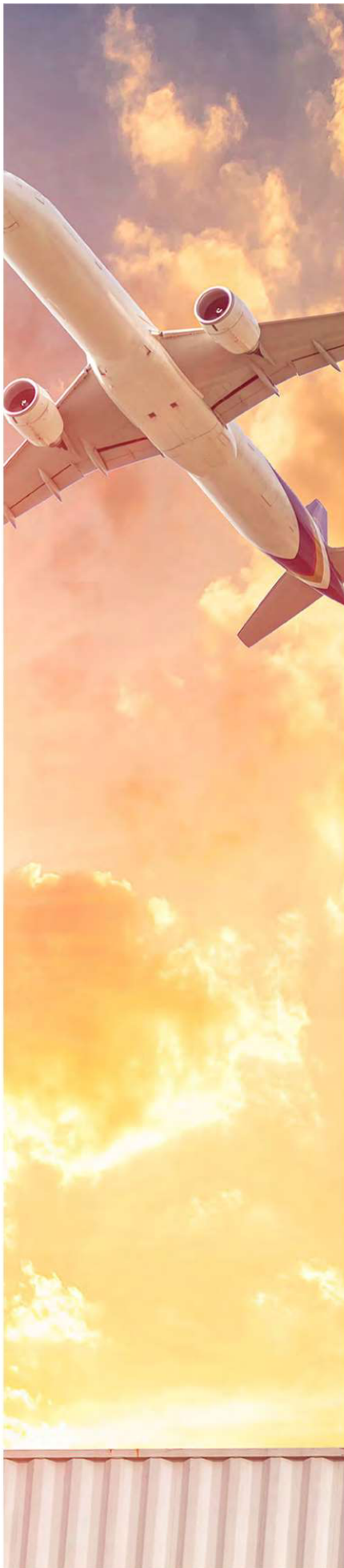


eBook on East Asia Customs Procedures

The Republic of Philippines





eBook on East Asia Customs Procedures

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MESSAGE FROM CHAIRMAN

Blessed with geographical proximity, cultural affinity, close business ties and natural advantages for trade and economic cooperation, East Asia is one of the regions in the world with the most potential and development prospects. Since its establishment in 2004, East Asia Business Council (EABC) has always held the belief that cross-border trade, investment liberalization and facilitation are the prerequisites and foundations for East Asian countries to



promote industrial advancement, reduce unemployment and improve the quality of economic development. EABC has long been devoting to reducing trade and investment barriers and facilitating enterprises to carry out cross-border trade and investment.

In 2018, EABC agreed to compile eBook on East Asia Customs Procedures and listed it as a top priority in the Council's annual work in 2019. Today, the eBook is officially launched, with the expectation to strengthen regional economic and trade information sharing and further improve trade facilitation and connectivity among East Asian countries.

The eBook on East Asia Customs Procedures covers the guides of Customs procedures in 13 countries in East Asia, with 24 major items related to the Customs clearance of goods such as legal system, clearance procedures,

prohibitions and restrictions, duty collection (including classification, valuation, rules of origin), trade statistics, violations and sanctions, FTAs, AEOs and etc. The eBook is published electronically in English, providing companies with practical reference for international trade.

I believe that the eBook will help enterprises in the region, especially small and medium-sized enterprises, improve their capabilities in business management, investment and financing, and international market development. We hope that enterprises will take full advantage of the eBook to actively explore the regional market and achieve development goals.

Lu Pengqi
EABC Chairman 2019

ACKNOWLEDGEMENTS

Heartfelt gratitude and sincere respects should be addressed to China Committee, East Asia Business Council (in short EABC China, also China Council for the Promotion of International Trade - CCPIT), to organize, support and sponsor the edition and publication of the eBook on East Asia Customs Procedures to provide manufactures, trader and related service-providers with comprehensive information and elaborate references on Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea, which is a unique, innovative and significant contribution to regional and even international trade community.

Cordial appreciations should be extended to the Trilateral Cooperation Secretariat (TCS) for supporting and partially sponsoring the eBook of China, Japan and the Republic of Korea and CCPIT Guangxi Sub-council for supporting the project.

Dedicated gratitude should also be expressed to all members of the editing team, proofreading team, project team for their arduous and continuous efforts during the process.

EDITOR'S STATEMENT

Customs procedures in almost every country are usually very professional, diverse, technical, abstruse, ambiguous, and even trapped for cross-border manufactures, traders and related service-providers, sometimes even cause significant invisible “barriers” to trade. Thus all the stakeholders imminently need information, materials and references as comprehensive, elaborate and concrete as possible in different countries to enhance the effectiveness and efficiency of cross-border trade.

This eBook on East Asia Customs Procedures aiming to provide a general picture involves in almost all aspects of Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea. For each eBook, a framework of 24 parts of contents is basically followed with certain flexibility of adjustments according to specific situation of each individual country.

It is not an easy task to edit this panorama-type of eBook and during the process the editors are facing significant challenges including English language proficiency, professional competence and most importantly very limited information and materials in English for references.

The contents of each eBook are based on current publicly available information and materials in English, mainly contained in the publications and on the websites of related Customs administrations, government departments and agencies, international organizations and private professional institutions. The editors believe the selection and use of publicly available information will not affect the interests of the above-mentioned organizations and sincerely appreciate those organizations having their information and publications publicly available.

During the editing process, the biggest and greatest challenge is the lack of information and materials in English, which are very limited in almost all countries and even very deficient, very scarce in some countries. Therefore some citations from the official websites and excerpts from legal documents do exist in the eBook.

As a first remarkable pilot project in the fields, this eBook on East Asia Customs Procedures are not perfect and flawless and we are satisfied with the qualities of the majority and will keep on improving the rest.

ABBREVIATIONS

AANZFTA	ASEAN - Australia - New Zealand Free Trade Area Agreement
AEO	Authorized Economic Operator
AFTA	ASEAN Free Trade Area
AHTN	ASEAN Harmonized Tariff Nomenclature
AIFTA	ASEAN-India Free Trade Area
APEC	Asia and Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASW	ASEAN Single Window
ATIGA	ASEAN Trade in Goods Agreement
BOC	The Bureau of Customs
CAO	Customs Administrative Order
CBW	Customs Bonded Warehouses
CFW	Customs Facilities and Warehouses
CMTA	Customs Modernization and Tariff Act
CPRS	Client Profile Registration System
EPZ	Export Processing Zone
FTA	Free Trade Agreement
GATT	General Agreement on Tariff and Trade
HS	Harmonized Commodity Description and Coding System

JPEPA	Japan, Philippine Economic Partnership Agreement
MFN	Most Favored Nation
NSW	National Single Window
OGAs	Other Government Agencies
ROO	Rule of Origin
SEZ	Special Economic Zone
TCCP	Tariff and Customs Code of the Philippines
WCO	World Customs Organization
WTO	World Trade Organization

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The Republic Of Philippines

1. INTRODUCTION OF PHILIPPINES CUSTOMS

The Bureau of Customs (BOC) under the Department of Finance was organized on July 1, 1947 in Manila and has been reorganized for several times. The last major reorganization of the Bureau took place in 1986 with the issuance of Executive Order which expanded the organization umbrella of the Central Office by providing offices that will monitor and coordinate assessment and operations of the Bureau and provided for a staff of about 5,500 Customs personnel and 14 District Offices.

Today, the BOC is mandated to facilitating trade according to international standards, protect the country from smuggling and Customs fraud, increase the revenues of the government, and bring a sense of professionalism to commerce in the country. The Bureau also covers activities in the functional areas of revenue collection, trade facilitation and border protection.

1.1 Missions and Values

The BOC is focused on fulfilling the mandate from the President as follows:

- To eradicate graft and corruption;
- To collect duties and taxes;
- To apprehend illegal drugs and other prohibited goods;
- To enhance trade facilitation;
- To keep our borders secure.

As a Customs Administration, the Bureau is committed to the following values:

- Professionalism and Integrity;
- Transparency and Accountability;
- Consistency and Simplicity;
- Vigilance and Dynamism;
- Be responsive to the needs of the community and industry.

1.2 Functions of BOC

In detail, the major functions of the BOC include the following aspects:

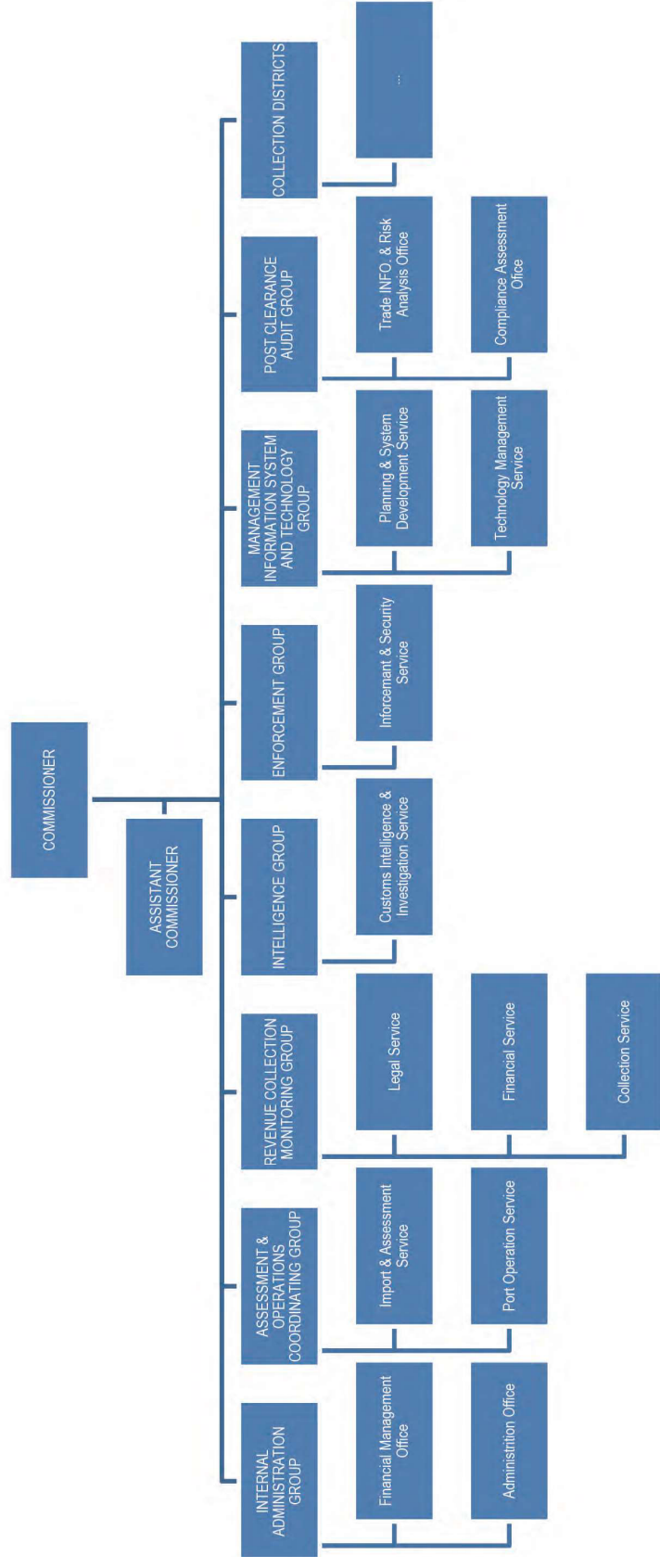
- The assessment and collection of the lawful revenues from imported articles and all other dues, fees, charges, fines and penalties accruing under the tariff and Customs laws;
- The prevention and suppression of smuggling and other frauds upon the Customs;
- The supervision and control over the entrance and clearance of vessels and aircraft engaged in foreign commerce;
- The general supervision, control and regulation of vessels engaged in the carrying of passengers and freight or in towage in coastwise trade and in the bays and rivers of the Philippines;
- The prohibition and suppression of unnecessary noises, such as explosion of gasoline engines, the excessive blowing of whistles or sirens, and other needless and disturbing sounds made by water craft in the ports of the Philippines or in parts of rivers included in such ports;
- The exclusion, if the conditions of traffic should at any time so require, of vessels of more than one hundred and fifty tons from entering, berthing or mooring in the Pasig River;
- The admeasurement, registration, documenting and licensing of vessels built or owned in the Philippines, the recording of sales, transfers and encumbrances of such vessels, and the performance of all the duties pertaining to marine registry;
- The inspection of Philippine vessels, and supervision over the safety and sanitation of such vessels;
- The enforcement of the lawful quarantine regulations for vessels entering Philippine ports;
- The enforcement of the tariff and Customs laws and all other laws, rules and regulations relating to the tariff and Customs administration;

- The licensing of marine officers who have qualified in the examination required by law to be carried on Philippine vessels, the determination of the qualifications of pilots, the regulation of this service, and the fixing of the fees which they may charge;
- The supervision and control over the handling of foreign mails arriving in the Philippines, for the purpose of the collection of the lawful duty on dutiable articles thus imported and the prevention of smuggling through the medium of such mails.

1.3 Organization of BOC

The Bureau of Customs shall have one chief and one assistant chief, to be known respectively at the Commissioner and Assistant Commissioner of Customs, who shall each receive an annual compensation in accordance with the rates prescribed by existing laws. The Assistant Commissioner of Customs shall be appointed by the proper department head. Now, the BOC employed about 5500 officers and employees at the Central Office and 14 District Offices. There are also 7 departments under the Commissioner of Customs as shown by Figure 1.

4 Figure 1 Organizational Chart of the Bureau of Customs



Source: www.customs.gov.ph

2. CUSTOMS LEGAL SYSTEM

The Philippines Bureau of Customs (BOC) is the governmental agency under the authority of the Ministry of Finance that is responsible for the enforcement of the Tariff and Customs Code and other related regulations.

2.1 TCCP

In 1957, Philippines enacted the Tariff and Customs Code of the Philippines (TCCP) known as Republic Act No. 1937, otherwise known as the “Tariff Law of the Republic of the Philippines”, the first official expression of an autonomous Philippine tariff act. In 1978, the president of the Republic of the Philippines at that time did hereby order and decree as follows to infuse flexibility, keep pace with the changing needs and demands of trade and commerce as well as strengthen the punitive force of the law against smuggling and other forms of Customs fraud. All tariff and Customs laws embodied in the Tariff and Customs Code and various laws, presidential decrees and executive orders including new amendments were consolidated into a single Code to be known as the Tariff and Customs Code of 1978 which shall form an integral part of the Decree.

According to Tariff and Customs Code of the Philippines (As Amended by Executive Orders Nos. 1, 2, 5, 8, 61, 94, 115, 116 & 148, Series of 1994), the main contents of the Tariff and Customs Code of Philippines are as follows:

BOOK I

- **Tariff Law**

- Title I - Import Tariff

- Title II - Administrative Provisions

- **Customs Law**

- Title I - The Bureau of Customs

- Title II - Registration of Vessels, Coastwise Trade and Licensing of Marine Officers

- Title III - Vessels and Aircraft in Foreign Trade

Title IV - Ascertainment, Collection and Recovery of Import Duty

Title V - Warehousing of Imported Articles

BOOK II

Title VI - Administrative and Judicial Proceedings

Title VII - Fees, Dues and Charges Collectible by the Bureau of Customs

Title VIII - General Provisions

Please click [here](#) for more details about TCCP.

2.2 CMTA

Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), was signed into law on May 30, 2016. CMTA amended the Tariff and Customs Code of the Philippines (TCCP) with the aim of modernizing Customs rules and procedures for faster trade, reduce opportunities for corruption, improve Customs service delivery and improve supply chain.

Main contents of CMTA are shown below:

- **Title I Preliminary Provisions**
 - Chapter 1 Shot Title
 - Chapter 2 General and Common Provision
 - Chapter 3 Types of Importation
 - Chapter 4 Relief Consignment
- **Title II Bureau of Customs**
 - Chapter 1 General Administration
 - Chapter 2 Customs Districts and Ports of Entry
 - Chapter 3 Exercise of Police Authority
- **Title III Customs Jurisdiction and Customs Control**
 - Chapter 1 Customs Jurisdiction

Chapter 2 Customs Control

- **Title IV Import Clearance and Formalities**

Chapter 1 Goods Declaration

Chapter 2 Examination of Goods

Chapter 3 Assessment and Release

Chapter 4 Special Procedures

- **Title V Export Clearance and Formalities**

Chapter 1 Export Clearance and Declaration

- **Title VI Customs Transit and Transshipment**

Chapter 1 Customs Transit

- **Title VII Import Duty and Tax**

Chapter 1 Basis of Valuation

Chapter 2 Special Duties and Trade Remedy Measures

- **Title VIII Tax and Duty Deferment, Preference and Exemption**

Chapter 1 Conditionally Tax and/or Duty-exempt Importation

Chapter 2 Customs Warehouses

Chapter 3 Free Zones

Chapter 4 Stores

- **Title IX Duty Drawback and Refund**

Chapter 1 Duty Drawback

Chapter 2 Refund and Abatement

- **Title X Post Clearance Audit**

- **Title XI Administrative and Judicial Procedures**

Chapter 1 Advance Ruling and Dispute Settlement

Chapter 2 Protest

Chapter 3 Alert Orders

Chapter 4 Seizure and Forfeiture

Chapter 5 Appeal in Protest and Forfeiture Cases

Chapter 6 Abandonment

Chapter 7 Other Administrative Proceedings

Chapter 8 Civil Remedies for the Collection of Duties and Taxes

Chapter 9 Judicial Proceedings

Chapter 10 Disposition of Property in Customs Custody

- **Title XII Third Parties**

Chapter 1 Customs Service Providers

Chapter 2 Carriers, Vessels, and Aircrafts

Chapter 3 Other Third Parties

Chapter 4 Authorized Economic Operators (AEOs)

- **Title XIII Customs Fees and Charges**

- **Title XIV Offenses and Penalties**

Chapter 1 Crimes and Other Offenses

Chapter 2 Penalties Imposed Upon Bureau Employees

- **Title XV Miscellaneous Provisions**

- **Title XVI Tariff Administration and Policy**

Chapter 1 Tariff Commission

Chapter 2 Flexible Tariff

Chapter 3 Tariff Nomenclature and Rate of Duty

- Title XVII Congressional Oversight Committee
- Title XVIII Final Provisions

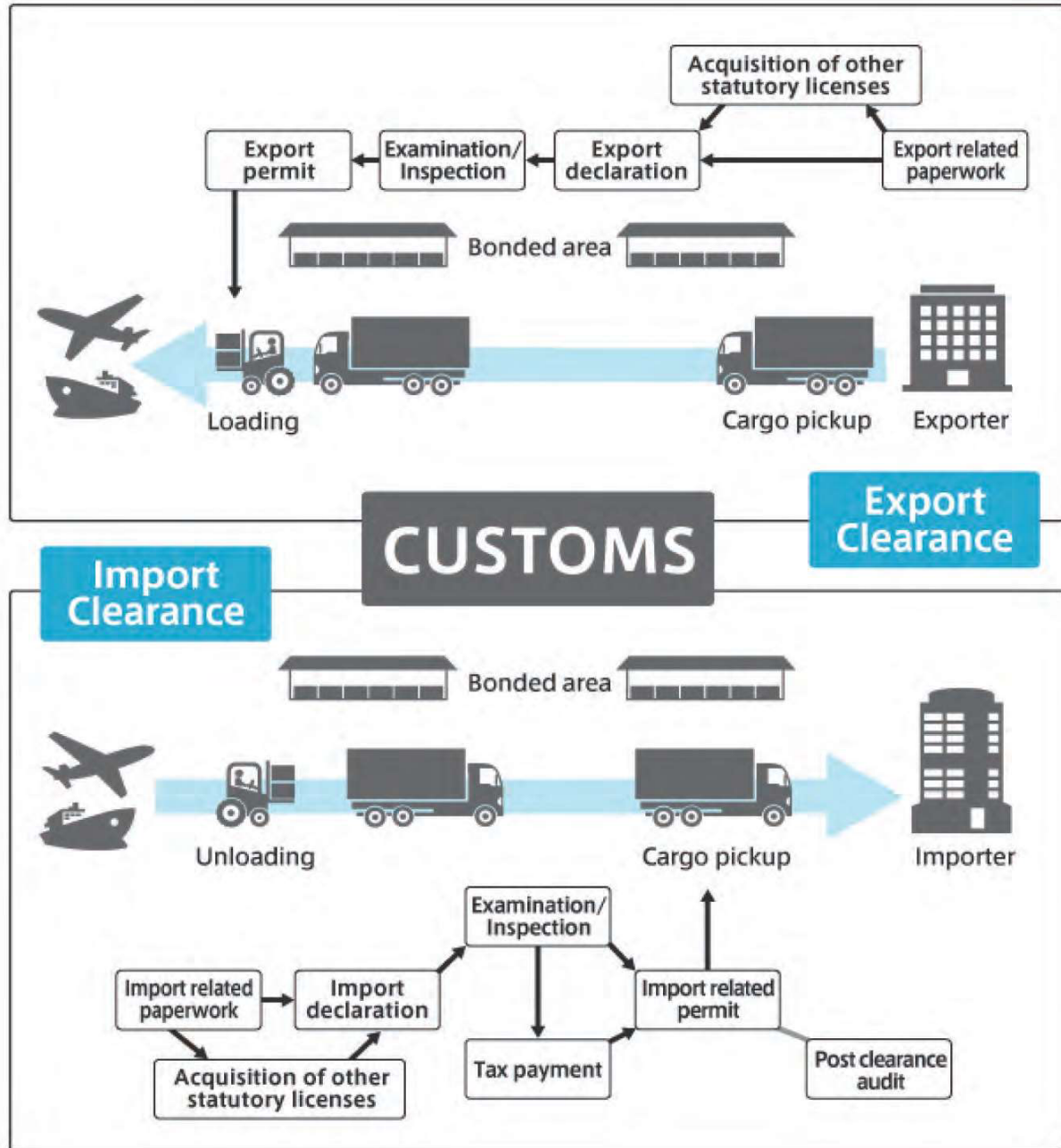
Please click [here](#) for more details about CMTA.

3. CUSTOMS CLEARANCE PROCEDURES

3.1 Normal Customs Clearance Procedures

As shown in Figure 2, the general Customs clearance procedures of importing and exporting in the Philippines are: Accept the declaration → Review the documents → Check the goods → Apply for taxation → Customs clearance.

Figure 2 Customs Clearance Process



Source: <https://siam-relocation.com/moving-to-philippines/>

3.1.1 Declarations

Importers, exporters or their Customs clearance agents are required to file declaration to Customs upon

arrival or departure of consignments. Besides Declaration Form, other supporting documents are also required to be submitted.

A. Declaration for Import

To register as an importer, businesses first need an Import Clearance Certificate from the Bureau of Internal Revenue. Importers then register with the Bureau of Customs (BOC) and set up an account with the Client Profile Registration System (CPRS). The Import Clearance Certificate is valid for three years while the Customs Client Profile Accreditation must be updated annually. The CPRS accreditation costs P1000 (US\$20) and typically takes 15 working days to process.

Businesses importing into the Philippines must provide the following documents when their goods arrive:

- Packing List;
- Invoice;
- Bill of Lading;
- Import Permit;
- Customs Import Declaration; and
- Certificate of Origin.

Other Documents for certain Imports such as bringing in animals, plants, foodstuff, medicine or chemicals must additionally obtain a Certificate of Product Registration from the Philippines' Food and Drug Administration.

B. Declaration for Export

For certain types of exporters, additional registrations are required in the Philippines. For instance, coffee exporters must register with the Export Marketing Bureau. Exporters operating out of a special economic zone (SEZ) must register with the Philippine Economic Zone Authority (SEZA) while companies exporting out of free port zones must register with the specific free port. Once registered, exporters will receive a Unique Registration Number, necessary for all export activity.

Businesses exporting out of the Philippines must provide the following documents before their goods depart:

- Packing List;
- Invoice;
- Bill of Lading;
- Export License;
- Customs Export Declaration; and
- Certificate of Origin.

Additional government permission documents for certain exports are also required. Below is a brief list of products requiring additional permissions as well as the concerned government authorities:

- Endangered species of flora and fauna (Bureau of Biodiversity Management);
- Animals and animal products (Bureau of Animal Industry);
- Fish and fish products (Bureau of Fisheries and Aquatic Resources);
- Plants (Bureau of Plant Industry);
- Rice (National Food Authority);
- Radioactive materials (Philippine Nuclear Research Institute) and;
- Sugar and molasses (Sugar Regulatory Administration);
- Tariff-Rate Quotas (TRQs) still remain on a number of sensitive products such as corn, poultry meat, pork, sugar and coffee. Minimum Access Volumes (MAVs) have also been established for these commodities.

C. Declaration for Transit Trade

All commodities, not for domestic consumption and imported for transit trade, are required to produce the Customs Declaration Form for Transit Trade, attached with the following documents:

- Bill of Lading or Air Consignment Note or Truck Note;
- Transit Trade License or Permit issued by the Ministry of Trade;
- Commercial Invoice;
- Sales Contract between seller and buyer or contract between seller and authorized agent;

- Guarantee Bond, undertaken in strict compliance with regulations: failure to export will be dealt with according to the existing law.

3.1.2 Documentary Examination

After accepting declarations, Customs officials conduct documentary examination to check the accuracy, authenticity and completeness of both Declaration Forms and attached supporting documents, by both manual and more importantly by advanced automated clearance system.

3.1.3 Physical Inspection

BOC officers examine goods imported or exported physically to assure that they have been properly declared. After examining all declaration documents, physical inspections can be conducted by Customs competent officers based on assessment of risk. Imported goods are divided into three categories: green, yellow and red. Green denotes the least risk, yellow denotes intermediate risk, and red denotes high risk.

3.1.4 Duty Collection for Import

Once a declaration has been submitted and accepted by the Customs, the importers will be required to pay the duties. Customs duties assessed on imports are usually determined based upon three main factors:

A. Origin of Goods

Country of Origin is determined mainly for the application preferential duty rates, such as rates established by the ASEAN Trade in Goods Agreement (ATIGA). Under ATIGA, over 8800 tariff lines are duty free and ASEAN has its specific rules for determining ASEAN origin.

B. Customs Valuation of Goods

Philippine Customs uses an internationally accepted Customs valuation method to verify the duty-paying value of imported goods.

C. Customs Classification of Goods

The classification, or legal description, is based upon the goods classification under an international

tariff nomenclature, the Harmonized Commodity Description and Coding System (2017), or “HS”, an international agreement administered by the World Customs Organization (WCO) that categorizes all goods into about 5000 commodity groups, each identified by an eight-digit code.

3.1.5 Release

Goods declared shall be released when taxes, duties and other lawful charges have paid or secured and all the pertinent law, rules and regulations have been complied with. After declaration, documentary examination, physical inspection and duty collection, release usually is the final step for Customs field operations allowing the consignments to be used for domestic consumption, or to be transported for exportation, or for other allowed purposes.

3.2 Special Customs Clearance Procedures

3.2.1 Transit and Transshipment

Customs transit within the Customs territory shall be allowed for goods except those intended for consumption. A transit permit is required for goods transported under Customs transit. Goods admitted for transshipment shall not be subject to the payment of duties and taxes. The goods declared for Customs transshipment, duly commercial or transport documents or evidences are required by the Bureau.

Goods for transshipment must be exported from the Philippines within thirty days from arrival thereof. The Commissioner may allow an extension of such period after the establishment of valid reasons.

A. Documents for Transit and Transshipment

All commodities, not for domestic consumption and imported for transit trade, are required to produce the Customs Declaration Form for Transit, attached with the following documents:

- Bill of Lading or Air Consignment Note or Truck Note;
- Transit Trade License or Permit issued by the Ministry of Trade;
- Commercial Invoice;
- Sales Contract between seller and buyer or contract between seller and authorized agent;
- Guarantee Bond, undertaken in strict compliance with regulations: failure to export will be dealt with

according to the existing law.

B. Security for Transit and Transshipment

Where an intent of re-exportation of the goods is shown by the Bill of Lading, invoice, manifest, or other satisfactory evidence, the whole or a part of a bill comprising not less than one package may be entered for immediate re-exportation under security. The District Collector shall designate the vessel or aircraft in which the goods are loaded constructively as a warehouse to facilitate the direct transfer of the goods to the exporting vessel or aircraft.

Unless it shall appear in the Bill of Lading, Airway Bill, invoice, manifest, or other satisfactory evidence, that goods arriving in the Philippines are destined for transshipment, no exportation thereof will be permitted except under entry for immediate re-exportation under sufficient security in an amount equal to the ascertained duties, taxes and other charges. Upon the re-exportation of the goods, and the production of proof of landing beyond the limits of the Philippines, the security shall be released.

3.2.2 Temporary Entry

Following products entering the Philippines temporarily are exempted from the payment of import duties subject to conditions as defined in the Tariff and Customs Code of Philippines (TCCP):

- equipment for use in the salvage of vessels or aircraft;
- articles brought into the Philippines for repair, processing or reconditioning to be re-exported upon completion of the repair, processing, or reconditioning;
- articles used exclusively for public entertainment, and for display in public expositions, or for exhibition or competition for prizes, and devices for projecting pictures and parts;
- articles brought by foreign film producers directly and exclusively used for making or recording motion picture films on location in the Philippines

Certain cases wherein an intent to export is shown in the covering commercial documents of imported articles where the Collector of Customs may authorize the filing of an entry for immediate exportation, under bond.

For warranty and non-warranty items entering the Philippines for repair, the Department of Finance

requires the following additional documents:

- letter from the importer or consignee with information on the purpose of importation;
- notarized affidavit of undertaking;
- commercial invoice and shipping documents;
- scope of work;
- contract;
- bond.

3.2.3 Cross Border E-Commerce

In Philippines, any person or entities who in the course of trade or business, sells, exchanges, or leases goods or properties, or renders services, and any person who imports goods is liable to VAT. For E-commerce taxation, the 12% VAT on total value of online transactions came into effect in 2016 and is applicable to store owners as well. For transactions lower than the threshold, a 3% VAT is levied instead on online transactions. Recently, BOC is drafting its rules on Cross-Border E-Commerce, but BOC has still its own challenges enforcing supervision on different online business models.

3.3 Document Requirements for Customs Clearance

3.3.1 Written Declaration for Entry

Except in case of informal entry, no entry of imported and exported goods shall be affected until there shall have been submitted to the Collector a written Declaration Form, in such form as shall be prescribed by the Commissioner, containing statements of substance as follows:

- a full and true statement of all the articles which are the subject of the entry;
- the invoice and entry contain a just and faithful account of the actual cost of said articles, including and specifying the value of all containers or coverings, and that nothing has been omitted therefrom or concealed whereby the government might be defrauded of any part of the duties lawfully due on the articles;
- the invoice and all Bills of Lading relating to the articles are the only ones in existence relating to the importation in question;

- the invoice and Bill of Lading, and the declaration thereon are in all respects genuine and true, and were made by the person by whom the same purport to have been made respectively.

3.3.2 Commercial Invoice or Pro-Forma Invoice

Invoice of articles imported into the Philippines shall set forth:

- The place where, the date when, and the person by whom and the person to whom the articles are sold, or the place from which shipped, the date when, and the person to whom and the person by whom they are shipped;
- The port of entry to which the articles are destined;
- The detailed description of the articles, including the grade or quality, numbers, marks or symbols, together with the marks and numbers of the packages in which the articles are packed;
- The quantities in the weights and measures of the country or place from which the articles are shipped, or in the weights and measures of the Philippines;
- The purchase price of each item in the currency of the purchase and in the unit of the quantity;
- The kind of currency; whether gold, silver or paper;
- All charges upon the articles itemized by name and amount; or all charges by name (e.g., commission, insurance, freight, cases, containers, coverings and cost of packing) included in invoice prices;
- All discounts, rebates, drawbacks and bounties separately itemized, allowed upon the exportation of the articles, all internal and excise taxes applicable to the home market;
- Any other facts deemed necessary to a proper examination, appraisalment and classification of the articles which the Commissioner may require.

The value indicated must be correct. If the shipment consists of more than one item, the importer must provide a value breakdown and ensure that the total amount tally to the total value of the shipment. The value must be transaction value – the price paid or payable - for the item/s in case the item has been provided free of charge or as a gift. Putting “No Commercial Value” will lead to Customs asking the consignee to provide value evidence such as proof of payment, purchase order, or telegraphic transfer. The invoice should also include the country of origin.

3.2.3 Bill of Lading or Air Waybill

Bill of Lading for sea freight should be filled out completely and accurately. Make sure all the information is consistent with the commercial invoice. A revision in the declared value once a shipment reaches the destination port is subject to Customs approval. Air Waybill for air freight should also be filled and submitted in the same manners.

Make sure to include a reachable consignee contact so the destination port can easily inform them about the shipment's arrival and advise them of any necessary clearance paperwork.

3.2.4 Packing List

Packing List should detail the merchandise in the shipment, along with information on how it was packed, how the items are numbered, the serial numbers, and the weight and dimensions of each item.

3.2.5 Letter of Credit (L/C)

For a Letter of Credit (L/C) transaction, a duly accomplished L/C, including a Pro-Forma Invoice and Import Entry Declaration for Advance Customs Import Duty is required. A Pro-Forma Invoice is required for non-L/C transactions (e.g., Draft Documents against Acceptance, Documents against Payment, Open Account or self-funded documentation).

3.2.6 Applicable Special Certificates/Import Clearance/Permit

Applicable special certificates/import clearance/permit depending on the nature of goods being shipped and/or requested by the importer/bank/letter of credit clause, e.g., Food and Drug Administration (FDA) license.

4. ACOS AND SINGLE WINDOW

4.1 Automated Customs Operating System (ACOS)

In 2004, an automated Customs clearance solution - Automated Customs Operating System (ACOS) has been introduced by the Philippines Bureau of Customs in Manila. Under such automated clearance system, the Customs will no longer examine import or export declaration documents or determine whether or not a given declaration is accepted or declined. Once the declaration filing is done on-line, the system will automatically accept it without further need to review manually the hard copies, and the declarant will have no chance to rectify any errors or mistakes. Upon submission, Customs declaration is deemed done, and the importer/exporter will bear the relevant legal consequences for any improper or untruthful declaration it has made to the system of automated clearance.

ACOS, delivered through Inter Commerce Network Services, enables high-tech industry manufacturers, along with their freight forwarders and Customs brokers, to send secure Internet-based Customs transactions directly to the Bureau of Customs, reducing both clearance cycle times and transaction costs.

4.2 Electronic to Mobile (E2M) System

Accredited importers or Customs brokers can access the BOC's Electronic to Mobile system to lodge import entries electronically. The system allows Customs officers and traders to electronically process most Customs transactions, although importers are still required to submit hard copies of import documents and attachments to the Entry Processing Unit for verification. Customs procedures have been automated through the Electronic to Mobile system to streamline the payment and clearance processes at the Bureau of Customs.

Shipments are classified according to their risk. A low-risk shipment passes through the "Green Lane" without documentary review or physical inspection. A moderate-risk shipment passes through the "Yellow Lane" and is subject to document review. A high-risk shipment passes through the "Red Lane" and is subject to both document review and physical inspection. A shipment considered for post clearance audit passes through the "Blue Lane".

The Electronic to Mobile system does not deal with permits and/or licenses issued by other government

agencies and must be applied for separately.

4.3 Philippine National Single Window

The Philippines National Single Window will facilitate trade through efficiencies in the Customs and authorization processes. Strongly supported by the Office of the President, the NSW will allow single submission and accelerated processing of applications for licenses, permits and other authorizations required prior to undertaking a trade transaction. The success of national single window will be measured by the reduction of the time taken by importers and exporters in doing business with government.

Under the national single window, the BOC processes applications for permits, licenses and clearances from traders. The system allows stakeholders to transact with government agencies through a single internet-based window. The centralized system provides any agency information at the click of a button.

Government agencies and traders are linked via the internet through PCs or mobile devices. Traders can create their application entries and verify before sending them to the agency. On the other hand, the national single window will provide a single source of trade data for analytical purposes. It also calls for a government-wide rationalization, standardization and harmonization of all trade-related data.

The Philippines has connected the NSW trade portal to the ASEAN Single Window by the end of 2018.

4.4 ASEAN Single Window

The ASEAN Single Window (ASW) is a regional initiative that connects and integrates National Single Window (NSW) of ASEAN Member States. The ASW's objective is to expedite cargo clearance and promote ASEAN economic integration by enabling the electronic exchange of border trade-related documents among ASEAN Member States.

With a view to expediting Customs clearance, ASEAN had adopted an action plan to establish the ASEAN Single Window. Information parameters for Customs purposes and particularly for a common Customs declaration document for imports, exports and goods in transit had been standardized. The Steering Committee for the ASEAN Single Window meets regularly to discuss ways forward to speed up the establishment of a regional-wide ASEAN Single Window. At the same time, efforts with regard to technical aspects of the initiative were made by the Technical Working Group on ASEAN Single Window whilst the Legal Working Group on the ASEAN Single Window had accomplished its task with the signing of the

Protocol on the Legal Framework to Implement the ASEAN Single Window.

For further information on ASEAN Single Window, please visit the [website](#).

5. CUSTOMS BROKERAGE SERVICER

In the Philippines, Customs Broker is any person who is bona fide holder of a valid Certificate of Registration/Professional Identification Card issued by the Professional Regulatory Board and Professional Regulation Commission. Customs Brokers' knowledge on import and export guidelines in the Philippines simply helps the Customs clearance process. They know the prohibited products, local shipping requirements, and other relevant information to expedite shipments. They are also familiar with tariff laws and trade agreements between countries in the ASEAN and AMEA regions.

The Government in seeking the need to ensure a world class Customs brokerage industry in the Philippines has enacted into the Customs Brokers Act of 2004. This important legislation is aimed to give priority attention and support in professionalizing the code of conduct and practice of Customs Broker profession in the Philippines which will be beneficial to the fast-growing trade and logistics business in the country towards a more sustainable economic growth of the Philippine Economy. Please click [here](#) for more details about the Customs Brokers Act of 2004.

To modernize the fast-growing Customs broker and logistics business in the Philippines, the Government has also passed the Customs Modernization and Tariff Act (CMTA). This landmark legislation is envisioned to regulate the Customs brokerage business as well as protect and enhance government revenue, institute fair and transparent Customs, and tariff management that will efficiently facilitate international trade. This act will also develop the logistics business and prevent and curtail any form of fraud and illegal acts, and modernize Customs Broker business and tariff administration at par with the international standards.

6. CUSTOMS SECURITY

Philippines Customs Administrative Order (CAO) - Security to Guarantee of Payment of Duties and Taxes and other Obligations, applies to all forms of security required to guarantee payment of duties and taxes and other obligations provided for under the Customs Modernization and Tariff Act (CMTA) and other existing rules and regulations.

6.1 Forms of Security

Unless specifically prescribed, any party required providing securities to guaranty the payment of duties and taxes and other obligations shall have the option to choose from any of the following forms of security:

- Surety Bond;
- Cash Bond;
- Standby Letter of Credit or irrevocable Letter of Credit;
- Any other acceptable forms of security.

6.2 Circumstances Using Security

To guarantee the payment of duties and taxes and other obligations to the BOC, the District Collector shall require the posting of security under the following circumstances:

- **A. Release of Shipment under Provisional Declaration**

Goods under provisional goods declaration may be released upon posting of the required security equivalent to the amount ascertained to the applicable duties and taxes.

- **B. Release of Goods subject to Dispute Settlement**

The District Collector may allow the release of the shipment under tentative assessment upon posting of security equivalent to the duties and taxes due on goods.

- **C. Release of Shipment pending Laboratory Analysis**

When the Bureau requires laboratory analysis of samples, detailed technical documents or expert advice, it may release the goods before the results of such examination are known after posting of sufficient security by the importer. Provided, that the goods are not prohibited or restricted.

- **D. Express Consignment**

Express shipments of accredited air express cargo operators may be released prior to the payment of the duty, tax and other charges upon posting of a sufficient security.

- **E. Shipment under Warehousing Entries**

For goods declared in the entry for warehousing, the District Collector shall require the importer to post a sufficient security equivalent to the computed duties and taxes and other charges conditioned upon the withdrawal of the goods within the period prescribed under CMTA or the payment of the duties and taxes and other charges and compliance with all the importation requirements.

- **F. Transit of Goods to Free Zone Locator**

For goods intended for transit to Free Zones, the District Collector of the port of discharge shall require Free Zone Locators to post a General Transportation Surety Bond (GTSB) for the immediate and faithful delivery of the goods covered by the Goods Declaration for transit to its destination.

- **G. Carrier's Security**

Carriers that transport imported goods that shall be placed under Customs transit from a port of entry to other ports, shall post a general transportation security amounting to at least fifty thousand pesos. Such security shall ensure the complete and immediate delivery of goods to the Customs officer at the port of destination and the payment of pertinent Customs charges and expenses and other transfer costs. The amount of the security may be adjusted by the Commissioner, upon approval of the Secretary of Finance.

- **H. Transit of Goods under Co-loading Act**

Goods intended for transit covered by Republic Act No. 10668, otherwise known as "An Act Allowing Foreign Vessels to Transport and Co-Load Foreign Cargoes for Domestic Transshipment

and for Other Purposes”, shall not be subject to the payment of duties and taxes at the port of entry. Provided, that any conditions and security required by the Bureau are complied with.

- **I. Release of Goods pending Ascertainment of the Accuracy of the Declared Value**

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 posting of a sufficient security to forfeit the bond to answer for the payment of the duties and taxes due thereon. The same procedure may be availed of for accompanied baggage or those arriving after the date of return if the clearance is not yet secured from the Commissioner.

- **J. Posting of Performance Bond with the Bureau**

To protect the interest of the government the District Collector may require any party to post security for the faithful compliance of their obligations with the Bureau under existing laws, rules and regulations.

Please click [here](#) for more details about the Customs security.

7. PROHIBITIONS AND RESTRICTIONS

According to CMTA, importation of certain commodities into the Philippines and exportation of certain commodities from Philippines are regulated, restricted or prohibited for reasons of public health and safety, national security, international commitments, and development/rationalization of local industry.

The type of importation whether freely importable, regulated, restricted or prohibited may be checked or verified with the BOC and also the Bureau of Import Services (BIS) of the Department of [Trade and Industry](#). [The Department of Agriculture](#) can verify the importation status of agricultural products, as well as indicate whether a Minimum Access Volume Import Certificate is required, such as for the importation of swine, chicken, etc.

7.1 Free Importation and Exportation

Free Importation and Exportation - goods that may be freely imported into and exported from the Philippines without the need for import and export permits, clearances or licenses, unless otherwise provided by law or regulation. (Chapter 3, Section 116 CMTA).

7.2 Regulated Importation and Exportation

Goods which are subject to regulation shall be imported or exported only after securing the necessary goods declaration, clearances, licenses, and any other requirements, prior to importation. In case of importation, submission of requirements after arrival of the goods, but prior to release from Customs custody shall be allowed, but only in cases provided for by governing laws or regulations.

7.3 Restricted Importation and Exportation

Except when authorized by law or regulation, the importation and exportation of the following restricted goods are prohibited:

- Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, or parts thereof;
- 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 goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof;
- Lottery and sweepstakes tickets, except advertisements thereof, and lists of drawings therein;
- Marijuana, opium, poppies, coca leaves, heroin or 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;
- Opium pipes or parts thereof, of whatever material;
- Any other goods whose importation and exportation are restricted;
- Weapons of mass destruction and goods included in the national Strategic Goods list as provided under the Strategic Trade Management Act;

- Toxic and hazardous goods under the Toxic Substances and hazardous and Nuclear Wastes Control Act of 1990.

The restriction to import or export the above stated goods shall include the restriction on their transit.

7.4 Prohibited Importation and Exportation

The importation and exportation of the following goods are prohibited:

- Written or printed goods in any form containing any matter advocating or inciting treason, rebellion, insurrection, sedition against the government of the Philippines, or forcible resistance to any law of the Philippines, or written or printed goods containing any threat to take the life of, or inflict bodily harm upon any person in the Philippines;
- Goods, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises, describes or gives direct or indirect information where, how or by whom unlawful abortion is committed;
- Written or printed goods, negatives or cinematographic films, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character;
- Any goods manufactured in whole or in part of gold, silver or other precious metals or alloys and the stamp, brand or mark does not indicate the actual fineness of quality of the metals or alloy;
- Any adulterated or misbranded food or goods for human consumption or any adulterated or misbranded drug in violation of relevant laws and regulations;
- Infringing goods as defined under the Intellectual Property Code and related laws;
- All other goods or parts thereof which importation are explicitly prohibited by law or rules and regulations issued by the competent authority.

Since the regulations change from time to time, regulated imports list will be updated when there are any changes in regulations, such that the version accessible from the Bureau of Customs website will always be up-to-date, and will always be the basis for clearance of regulated products by Customs staff. Regulating agencies are requested to inform the Bureau of Customs when regulations on imports change, at least one month in advance before their implementation.

8. TARIFFS, DUTIES, TAXES AND FEES COLLECTED

8.1 Brief Introduction

The Bureau of Customs mainly collects following Customs tariffs, taxes, duties, charges and fees:

- Import Tariff;
- Export Tariff;
- Value-Added Tax;
- Consumption Tax;
- Stamp Duty;
- Warehouse Processing Charges;
- Bulk and Break Bulk Cargo Fee.

A. Import Tariff

The Philippines imposes ad valorem Import Tariffs on most imported products, but imposes specific Import Tariffs on alcoholic beverages, fireworks, tobacco products, watches, fossil fuels, cartoons, saccharin, and poker.

B. Export Tariff

The only exported good which incur an Export Tariff is log at 20 percent.

C. Value-added Tax

Imported products should also pay a 12% VAT to the Philippine Customs, based on the value of the Customs valuation plus the import tariffs and excise tax imposed.

D. Excise Duty - Consumption Tax

The Philippines imposes an Excise Duty - Consumption Tax on alcohol products, tobacco products,

petroleum products, miscellaneous products (automobiles and non-essential goods) and mineral products.

E. Stamp Duty

The Philippines also imposes Stamp Duty on imported goods, which is generally used for bills of lading, receipts, bills of exchange, other transaction orders, insurance policies, mortgage deeds, power of attorney and other documents.

F. Warehouse Processing Charges (WPC)

There are two types of Warehouse Processing Charges (WPC) will be facing in the Philippines in case of handling shipments: storage charges and warehouse handling charges.

G. Bulk and Break Bulk Cargo Fee

The Philippines has embraced a cargo clearance enhancement program for the bulk and break bulk cargo fees. These commodities include: liquids; chemicals; petroleum products; dry cargoes (grain) and all other cargoes shipped in bulk or break-bulk (such as wood, steel, etc.).

8.2 Import Tariff Rates

Import Tariff rates mainly include the following categories:

- ASEAN Trade in Goods Agreement (ATIGA);

Importing to the Philippines is now easier as the tariffs have been removed on approximately 99% of all goods from ASEAN trading partners due to the ASEAN Trade and Goods Agreement (ATIGA).

- Most-Favored Nation (MFN) rates;
- Free Trade Agreements rates;

Products from China, India, Japan, Korea, Australia and New Zealand, FTA rates shall be applied.

- Preferential duty rates.

The highest Customs tariff rates apply to products derived from sugar and cereal products. However, a rule of thumb is that higher tariffs are overall implemented on imported manufactured goods if they are in

competition with locally produced items, especially when in comparison to those without any or low local competition.

Table 1 Import Tariff of the Philippines 2018

Summary	Total			Ag			Non-Ag		
	6.2			9.8			5.6		
Frequency distribution	Free	0-5	5-10	10-15	15-25	25-50	50-100	> 100	NAV
	Tariff lines and import values (in %)								
Ag MFN applied	3.8	45.6	28.0	9.4	3.4	9.3	0.4	0	0
Non-ag MFN applied	12.6	49.6	23.6	12.5	1.0	0.7	0	0	0
Product groups	MFN applied duties								
	AVG			Duty-free in %			Max		
Animal products	20.2			6.5			45		
Dairy products	3.4			8.7			7		
Fruit, vegetables, plants	9.6			1.6			40		
Coffee, tea	15.7			0			45		
Cereals & preparations	10.1			10.0			50		
Oilseeds, fats & oils	5.3			4.8			15		
Sugars and confectionery	19.1			0			65		
Beverages & tobacco	8.2			0			15		
Cotton	2.6			0			3		
Other agricultural products	3.6			2.4			35		
Fish & fish products	8.8			0.8			15		
Minerals & metals	4.5			7.7			20		
Petroleum	1.0			66.7			3		
Chemicals	3.6			2.3			30		
Wood, paper, etc.	6.3			10.7			30		
Textiles	9.1			0.3			20		
Clothing	14.8			0			15		
Leather, footwear, etc.	6.7			1.3			20		
Non-electrical machinery	1.7			56.9			15		
Electrical machinery	3.4			36.3			30		

Transport equipment	9.8	7.4	30
Manufactures, n.e.s.	4.5	14.2	15

Source: WTO Statistics.

8.3 Special Import Duties

Special import duties are levied in addition to the ordinary import duties, taxes and charges imposed by law on the imported product under the following circumstances:

8.3.1 Anti-Dumping Duty

Anti-Dumping Duty is imposed by the Secretary of Trade and Industry, in the case of non-agricultural products, commodities or articles, or the Secretary of Agriculture, in the case of agricultural products, commodities or articles, after formal investigation and affirmative finding of the Tariff Commission. The duty is equal to the margin of dumping on such product, commodity or article and on like product, commodity or article thereafter imported into the Philippines under similar circumstances.

8.3.2 Countervailing Duty

Countervailing Duty is a special duty charged whenever any imported goods is granted directly or indirectly by the government in the country of origin or exportation, any kind or form of specific subsidy upon the production, manufacture or exportation of such goods, and the importation of such subsidized goods has caused or threatens to cause material injury to a domestic industry or has materially retarded the growth or prevents the establishment of a domestic industry.

After formal investigation and affirmative finding by the Tariff Commission of such threat, the Countervailing Duty which is equal to the ascertained amount of the subsidy, may be imposed by the Secretary of Trade and Industry, in the case of non-agricultural goods, or the Secretary of Agriculture, in the case of agricultural goods thereafter imported into the Philippines.

8.3.3 Marking Duty

The marking of articles (or its containers) is a prerequisite for every article or container of foreign origin which is imported into the Philippines. The marking shall be done in any official language of the Philippines and in a conspicuous place as legibly, indelibly and permanently as the nature of article (or

container) may permit to indicate to an ultimate purchaser in the Philippines the country of origin of the article. In case of failure to mark an article or its container at the time of importation, unless otherwise exempted from the requirements of marking, there shall be levied upon such article a Marking Duty of 5% ad valorem.

8.3.4 Discriminatory Duty

As stipulated under the TCCP, Discriminatory Duty is a new or additional duty in an amount not exceeding 100% ad valorem, imposed by the President by proclamation upon articles of a foreign country which discriminates against Philippine commerce or against goods coming from the Philippines in such manner as to place the commerce of the Philippines at a disadvantage compared with the commerce of any foreign country.

8.3.5 General Safeguard Measure

A general safeguard measure is applied by the Secretary of Trade and Industry (for non-agricultural products) or the Secretary of Agriculture (for agricultural products) upon positive final determination of the Tariff Commission that a product is being imported into the country in increased quantities, whether absolute or relative to domestic production, as to cause or threaten to cause serious injury to the domestic industry.

8.4 Import Tariff Exemption

The following goods shall be exempt from the payment of import tariffs upon compliance with the formalities prescribed in the regulations:

- goods sold, bartered, hired or used for purposes other than what they were intended for and without prior payment of the duty, tax or other charges which would have been due and payable at the time of entry if the goods had been entered without the benefit;
- a sale pursuant to a judicial order or in liquidation of the estate of a deceased person shall not be subject to the preceding proviso, without prejudice to the payment of duties, taxes and other charges;
- the President may, upon the recommendation of the Secretary of Finance, suspend, disallow or completely withdraw, in whole or in part, any conditionally free importation under listed in CMTA.

8.5 Drawbacks

In the Philippines, basis of Duty drawback includes:

A. On Fuel Used for Propulsion of Vessels

On all fuel imported into the Philippines which is afterwards used for the propulsion of vessels of Philippine registry engaged in trade with foreign countries, or in the coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per cent thereof, which shall be paid under such rules and regulations as may be prescribed by the Commissioner of Customs with the approval of the department head.

B. On Articles Made from Imported Materials or Similar Domestic Materials and Wastes

Upon the exportation of articles manufactured or produced in the Philippines, including the packing, covering, putting up, marking or labeling thereof, either in whole or in part of imported materials, or from similar domestic materials of equal quantity and productive manufacturing quality and value, such question to be determined by the Collector of Customs, there shall be allowed a drawback equal in amount to the duties paid on the imported materials so used, or where similar domestic materials are used, to the duties paid on the equivalent imported similar materials, less one per cent.

C. On Goods Made from Imported Materials

A refund or tax credit shall be allowed for the duties paid on the imported materials so used including the packing, covering, putting up, marking or labeling.

8.6 Refund

Refund shall be granted where it is established that duties and taxes have been overcharged as a result of an error in the assessment or goods declaration.

When goods have not yet been released for consumption or have been placed under another Customs procedures, provided that no other offense or violation has been committed, the declarant shall neither be required to pay the duties and taxes nor be entitled to refund in the cases specified by the CMTA.

All claims and application for refund of duties and taxes shall be made in writing and filed with the Bureau within twelve (12) months from the date of payment of duties and taxes.

9. HS CLASSIFICATION

9.1 ASEAN Harmonized Tariff Nomenclature (AHTN)

The Philippines has implemented the 2017 version of the ASEAN Harmonized Tariff Nomenclature (AHTN).

To further facilitate trade, the Protocol Governing the Implementation of the ASEAN Harmonized Tariff Nomenclature (AHTN) was signed by the ASEAN Finance Ministers in Manila on August 7 2003. The Protocol aims to establish clear rules to govern the implementation of the AHTN, its explanatory notes and their amendments; establish uniformity of application in the classification of goods in ASEAN; enhance transparency in the classification process for goods in the region; simplify the AHTN; and create a nomenclature which conforms to international standards.

The AHTN is an 8-digit commodity nomenclature based on the Harmonized System (HS) of the World Customs Organization (WCO) and was first adopted in 2004. WCO version is at 6 digit level and the ASEAN AHTN 2017 version is at 8 digits level while Philippines' national version at 8 digits level as well.

There is a free online facility hosted on the Tariff Commission's website that houses all eight existing tariff schedules of the Philippines and incorporates a search engine that permits tariff searching by keyword or by ASEAN Harmonized Tariff Nomenclature (AHTN) product Code. The facility can be reached at the [website](#).

9.2 Customs Classification

All products can be classified in the Customs Modernization and Tariff Act (CMTA), specifically Section 1611 entitled "Tariff Nomenclature and Rates of Import Duty", which lists all products and their corresponding tariff rates.

9.3 General Rules for Classification

WCO's General Rules for the Interpretation of the Harmonized System are also applied by the Bureau of Customs. Rules that govern the classification of goods under the HS including:

Rule 1

The titles of schedules, chapters and subchapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings or subheadings and any relative schedule or chapter notes and, provided such headings, subheadings or notes do not otherwise require, according to the succeeding rules.

Rule 2

Any reference in a heading or subheading to a material or substance shall include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to articles of a given material or substance shall include a reference to articles consisting wholly or partly of such material or substance. The classification of articles consisting of more than one material or substance shall be according to the principles of Rule 3.

Rule 3

When articles are, prima facie, classifiable under two or more headings or subheadings, classification shall be effected as follows:

The heading or subheading which provides the most specific description shall be preferred to any other heading or subheading providing a more general description.

Mixtures and composite articles which consist of different materials or are made up of different components and which cannot be classified by reference to "a" shall be classified as if they consisted of the material or component which give the articles their essential character, insofar as this criterion is applicable.

When articles cannot be classified by reference to "a" or "b" they shall be classified under the heading or subheading which provides the highest rate of duty.

Rule 4

Where in a note to a schedule or chapter it is provided that certain articles are not covered by that schedule or chapter a reference being made to another schedule or chapter or to a particular heading or subheading, the note shall, unless the context requires otherwise, refer to all the articles falling within that other schedule or chapter or heading or subheading notwithstanding that only certain of those articles are referred to by description in the note.

Rule 5

When dutiable and duty-free articles or those dutiable at different rates are packed together or mingled in such manner that the value of each class of such article cannot be readily determined by the officials of the Bureau of Customs, all such articles shall pay duty at the rate applicable to that article in the package which is subject to the highest rate of duty, unless the importer or consignee segregates such article at his own risk and on his account, under the supervision of Customs officials, within fifteen days after the acceptance of import entry covering same, and before delivery, in order that the value of each article may be determined.

Rule 6

In classifying manufactured products, no account shall be taken of the following:

- Insignificant parts of composite goods, in particular such as are used solely for mounting or connecting separate parts (e.g., nails, rivets, screws, washers, gaskets, locks, clamps, eyelets, clasps, hinges, bolts, cornerpieces, bands, threads, strings, beltings, straps, ropes);
- Negligible processing, refinement and decorations;
- Manufacturers' marks or names or trademarks, indications of the country of origin of the types of articles, their sizes or capacities, calibration marks, indications of graduation and the like, not of an ornamental character.

Rule 7

Unless otherwise provided for, unfinished and incomplete articles shall be classified as the finished and complete articles, provided their intended use is recognizable.

Rule 8

Unless otherwise provided for, the separate parts and unassembled pieces of articles which normally consist of various component parts, shall be classified as complete articles, when imported together by the same importer, owner or consignee from the same seller or shipper on the same vessel or vehicle. The absence of certain non- essential parts does not affect the application of this provision.

Rule 9

Accessories and spare parts shall be classified with the articles with which they are imported, when, by their character and quantity, they correspond to such articles and when they are usually sold together with them and are included in the price of such article.

Rule 10

Cases, boxes, caskets, sheaths and the like, of normal type (e.g., such as are used for cutlery, binoculars, microscopes, watches, musical instruments, weapons, sport goods) imported with the corresponding articles, shall be classified as such articles; if imported separately, they shall be classified under the corresponding heading or subheading of this Code.

Rule 11

No duties shall be assessed on account of the usual coverings or holdings of articles dutiable otherwise than ad valorem, nor those free of duty, except as in this Code expressly provided, but if there be used for covering or holding imported articles, whether dutiable or free, any unusual article, form or material adapted for use otherwise than in the bona fide preservation or transportation of such article to the Philippines, such covering or holding shall be classified under the corresponding heading or subheading of this Code.

Rule 12

When the interior container or packing of any article dutiable by weight is of an unusual character, such container or packing shall be classified under the corresponding heading or subheading of this Code.

Rule 13

When an article falling within a heading or subheading is subject to ad valorem or specific rate of duty, it shall be subject to either the ad valorem or the specific rate of duty whichever is higher.

Rule 14

Unless otherwise provided for, the term “used” or any provision indicating designation by use, for the purpose of classification and taxation of articles shall mean the chief or predominant use of such articles notwithstanding any fugitive or incidental use to which such articles may be subjected.

Rule 15

Articles not falling within any heading or subheading of this Code shall be classified under the heading or subheading appropriate to articles to which they are most akin.

10. CUSTOMS VALUATION

10.1 Transaction Value (TV) System

The Philippine Customs valuation system presently being implemented at the BOC is the Transaction Value system, which is based on the WTO Agreement on Customs Valuation.

Transaction Value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the Philippines. Transaction Values also incorporate the other expenses necessary in making, exporting and bringing the merchandise into the territory of the importing country, which are not yet included in the price. Such expenses may include commissions and brokerage fees; cost of containers; and the cost of packing, whether for labor or materials; the cost of transport of the imported goods from the port of exportation to the port of entry in the Philippines; 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 the cost of insurance.

10.2 Other Alternative Valuation Methods

Only if Customs finds that the first standard Transaction Value cannot be used should the value be determined on the basis of the succeeding standards.

A. Transaction Value of Identical Goods

Where value cannot be determined on the basis of the transaction value, it should be established by using an already determined transaction value for identical goods.

B. Transaction Value of Similar Goods

Where it is not possible to determine value on the basis of the above method, it should be determined on the basis of the transaction value of similar goods.

C. Deductive Value

Deductive value is determined on the basis of the unit sales price in the domestic market of the imported goods being valued or of identical or similar goods after making deductions for such elements as profits, Customs duties and taxes, transport and insurance, and other expenses incurred in the country of importation.

D. Computed Value

The computed value is determined by adding to the cost of producing the goods being valued “an amount for profit and general expenses equal to that usually reflected in sales 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 country of importation.”

E. Fall-back Value

Where Customs value cannot be determined by any of the four methods described above, it can be determined by using any of the previous methods in a flexible manner. A derived (Fall-back) method reasonably adjusted to circumstances.

10.3 Reference Values

The Bureau of Customs provides the Reference Values for various Tariff Headings under the ASEAN Harmonized Tariff Nomenclature (AHTN). Through the Statistical Management System database, import data covering the ninety-day period are extracted. These data are evaluated wherein the outliers such as but not limited to the misclassified goods, goods with extremely high and low values are eliminated.

Table 2 Example of Calculating Reference Value

HS CODE	SUPPLIER	DESCRIPTION	ENTRY NO.	IMPORTER	REG. DATE	BROKER	NET MASS	VALUE F.C./UNIT (NET)
3701.3000	XXXX	XXXX	P02B C-XXX	XXXX	6/19/2017	XXXX	7,069	\$3.43
3701.3000	XXXX	XXXX	P02B C-XXX	XXXX	6/28/2017	XXXX	6,862	\$3.68
3701.3000	XXXX	XXXX	P02B C-XXX	XXXX	6/30/2017	XXXX	9,417	\$3.68
3701.3000	XXXX	XXXX	P02B C-XXX	XXXX	7/14/2017	XXXX	10,190	\$3.99
3701.3000	XXXX	XXXX	P02B C-XXX	XXXX	8/31/2017	XXXX	13,075	\$4.66
3701.3000	XXXX	XXXX	P02B C-XXX	XXXX	6/19/2017	XXXX	23,943	\$4.68
3701.3000	XXXX	XXXX	P02B C-XXX	XXXX	6/22/2017	XXXX	16,654	\$4.68

Source: customs.gov.ph/guide-to-understanding-the-reference-values/

After the thorough evaluation, the three (3) types of averages i.e., Mean, Median and Mode, are computed.

- Mean=4.114
- Median=3.99
- Mode=3.68

Among the three averages, the second to the lowest value will be considered. This will become the

Reference Value of a certain 8-digit AHTN code.

11. RULES OF ORIGIN

Rules of Origin (ROO) are sets of principles to determine the economic content and nationality of a product. They are used to ascertain the origin of a good, i.e., not where the good has been shipped from, but where the good has been deemed to have been produced or manufactured.

There are two types of Rules of Origin in the Philippines:

- **Non-preferential Rules of Origin**

Used to implement measures and instruments of commercial policy, such as quotas, anti-dumping, safeguards, subsidy, anti-circumvention, trade statistics, origin labelling, and marking;

- **Preferential Rules of Origin**

Used to establish whether a product is qualified for preferential tariff treatment and they are an integral component of international trading arrangements, whether regional or bilateral, under specific Free Trade Areas (FTAs), in order to avoid transshipment.

In particular, as a member country, the Philippines apply the ASEAN Common Effective Preferential Tariff (CEPT) Scheme. In determining the origin of products eligible for the CEPT Scheme under the Agreement on the CEPT, the following rules shall be noted:

Rule 1 Originating Products

Products which are consigned directly within the meaning of Rules 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirements under any one of the following conditions:

- (A) Products wholly produced or obtained in the exporting Member State as defined in Rule 2; or
- (B) Products not wholly produced or obtained in the exporting Member State, provided that the said products are eligible under Rule 3 or Rule 4.

Rule 2 Wholly Produced or Obtained

Products shall be considered as wholly produced or obtained in the exporting ASEAN Member State if they are:

- (A) Mineral products extracted from its soil, its water or its seabeds;
- (B) Agricultural products harvested there;
- (C) Animals born and raised there;
- (D) Products obtained from animals referred to in paragraph (c) above;
- (E) Products obtained by hunting or fishing conducted there;
- (F) Products of sea fishing and other marine products taken from the sea by its vessels;
- (G) Products processed and/or made on board its factory ships exclusively from products referred to in paragraph (f) above;
- (H) Used articles collected there, fit only for the recovery of raw materials;
- (I) Waste and scrap resulting from manufacturing operations conducted there;
- (J) Goods produced there exclusively from the products referred to in paragraph (A) to (I) above.

Rule 3 Not Wholly Produced or Obtained

A product shall be deemed to be originating from ASEAN Member States, if at least 40 percent of the contents originate from any Member States. Subject to above, for the purpose of implementing the provisions of products not wholly produced or obtained, products worked on and processed as a result of which the total value of the materials, parts or produce originating from non-ASEAN countries or of undetermined origin used does not exceed 60 percent of the FOB value of the product produced or obtained and the final process of the manufacture is performed within the territory of the exporting Member State.

The value of the non-originating materials, parts or produce shall be:

- (1) The CIF value at the time of importation of the products or when importation can be proven; or
- (2) The earliest ascertained price paid for the products of undetermined origin in the territory of the Member State where the working or processing takes place.

Rule 4 Cumulative Rule of Origin

Products which comply with origin requirements provided for in Rule 1 and which are used in a Member State as inputs for a finished product eligible for preferential treatment in another Member States shall be considered as products originating in the Member State where working or processing of the finished product has taken place provided that the aggregate ASEAN content of the final product is not less than 40%.

Rule 5 Direct Consignment

The following shall be considered as consigned directly from the exporting Member State to the importing Member State:

- (A) If the products are transported passing through the territory of any other ASEAN country;
- (B) If the products are transported without passing through the territory of any other non-ASEAN country;
- (C) The products whose transport involves transit through one or more intermediate non-ASEAN countries with or without transshipment or temporary storage in such countries, provided that:
 - (i) The transit entry is justified for geographical reason or by consideration related exclusively to transport requirements; (ii) The products have not entered into trade or consumption there; and (iii) The products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

Rule 6 Treatment of Packing

Where for purposes of assessing Customs duties a Member State treats products separately from their packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin of such packing. If not, packing shall be considered as forming a whole with the products and no part of any packing required for their transport or storage shall be considered as having been imported from outside the ASEAN region when determining the origin of the products as a whole.

Rule 7 Certificate of Origin

A claim that products shall be accepted as eligible for preferential concession shall be supported by a Certificate of Origin issued by a government authority designated by the exporting Member State and

notified to the other Member States in accordance with the Certification Procedures.

Rule 8 Review Procedures

These rules may be reviewed as and when necessary upon request of a Member State and may be open to such modifications as may be agreed upon by the Council of Ministers.

12. ADVANCE RULING

Advance Ruling system in Philippines was introduced under the CMTA, and passed into law in 2016. Importers and exporters can now request an official, written and legally binding ruling from the Tariff Commission or the BOC on matters involving commodity classification, on the proper application of a specific method on Customs valuation of specific goods or whether the goods qualify under rules of origin of an applicable preferential trade agreement.

12.1 Applicants

Importer or foreign exporter or its authorized agent may request an Advance Ruling. An applicant for the advance ruling can be a natural or juridical person who is an importer, foreign exporter, or its authorized agent. A foreign exporter is defined as a natural or juridical person intending to export any goods or commodities from a foreign country to the Philippines.

12.2 Requirements

To ensure that an Advance Ruling request does not relate to any ongoing trade transaction, a request for Advance Ruling should be submitted to the Bureau at least ninety days before the date of the importation in question, which is the date of lodgment of goods declaration.

A request for Advance Ruling must be made in writing to be submitted to the BOC, and must relate only to one good or product. The Bureau specified the information to be provided, the format to be used and the

documentary requirements for the request.

Requests for Advance Rulings concerning the tariff classification of goods shall be filed with the Tariff Commission for determination.

12.3 On Tariff Classification

An applicant means an importer or exporter who is applying for an advance ruling on tariff classification on a good that will be imported into or exported from the Philippines. The procedures in applying for advance ruling on tariff classification include:

Table 3 Steps in Applying for Advance Ruling on Tariff Classification

Step	Activities	Fees	Unit/Person-in-Charge
1	Present TC Form 1 (three copies), plus supporting documents, for evaluation	---	Commodity Specialist – to assess completeness of document
2	Proceed to Cashier to pay fees	P1500.00 per article (CAO 03-2016)	Cashier
3	Proceed to Records Unit for submission of TC Form 1, issuance of a copy of TC Form 1, and assignment of TC Reference Number	---	Records Officer
4	Submission of additional information	---	Commodity Specialist
5	Check status of application on TC website	---	Commodities Studies Division/ Planning, Management and Information Systems Division
6	Issuance of advance ruling	---	Records Officer / Planning, Management and Information Systems Division

Source: www.formsphilippines.com.

An application for advance ruling on tariff classification can be initiated by accomplishing TC Form No. 1, which is available and downloadable at the Tariff Commission [website](#). It must be submitted for pre-clearing together with the supporting documents to the Commodity Specialist of the Tariff Commission. The application also can be initiated by the submission of the accomplished application forms which are also available online at the BOC website with the supporting documents.

Once issued, the ruling is valid for three calendar years from issuance, or from the date specified in the ruling. Before the three-year period expires, the ruling may be revalidated by filing a request for revalidation at least 90 calendar days before expiration. The rules allow for a motion for reconsideration of a denial, or a modification/revocation/invalidation of a ruling, within 15 calendar days from receipt of the ruling or decision. If still unsuccessful, the applicant may file an appeal.

12.4 On Valuation and Preferential Rules of Origin

In 2016, the BOC issued Customs Memorandum Order which establishes an advance ruling system on Customs valuation method and Rules of Origin of goods. The BOC has been accepting applications through the Office of the Customs Commissioner since the beginning of 2017. A Technical Support Team for Advance Ruling for Valuation and ROO was formed specifically to ensure the smooth implementation of the Advance Ruling system and establish a monitoring plan to guide the implementation and evaluation of the effectiveness of any such advance ruling. In addition to the General Requirements provided in CAO 03-2016, a request regarding origin shall also include the following information:

- The country of origin envisioned for the goods;
- The applicable basis for claiming origin, standing that the request for Advance Ruling is to claim preferential tariff treatment;
- Any samples as necessary, photographs, plans, catalogues, copies of technical literature, brochures, laboratory analysis results, or other documents available on the composition of goods and their component materials which may assist in physical samples may be sent in though courier or personal delivery indicating in the package the Unique Reference Number.

The applicants need to complete the form and submit it to the BOC through tst.advanceruling.roo@customs.gov.ph.

12.5 Modification of Advance Rulings

Advance Rulings may be modified based on the following grounds:

- Clerical error;
- Change of material facts and circumstances after issuance of the Ruling;
- Misleading information based on excusable neglect or honest mistake; and
- Change in applicable law.

13. FREE TRADE AGREEMENTS

13.1 Multilateral and Bilateral FTAs

As a member of the ASEAN, the Philippines is naturally a participant in the ATIGA. The country enjoys significantly reduced tariff rates within ASEAN though some tariff lines on sensitive food products still remain. The Philippines, by virtue of its membership in ASEAN, is also a party to the six FTAs that ASEAN has signed with the following countries or groups of countries:

- ASEAN Free Trade Area (AFTA);
- ASEAN-China Comprehensive Economic Cooperation Framework Agreement (ACFTA);
- ASEAN-South Korea Comprehensive Economic Cooperation Framework Agreement (AKFTA);
- ASEAN-Japan Free Trade Zone (ACJEPA);
- ASEAN-Australia-New Zealand Free Trade Area Agreement (AANZFTA);
- ASEAN-India Free Trade Area (AIFTA);
- Japan, Philippine Economic Partnership Agreement (JPEPA).

13.2 Fundamental Contents of FTAs

13.2.1 AFTA

- Tariff concessions: fast tax cuts, normal tax cuts, general exception lists, sensitive product lists, temporary exception lists;
- MFN status;
- Cancel quantitative restrictions and non-tariff barriers;
- Principle of origin;
- Open service;
- Establishing an ASEAN Investment Zone;
- ASEAN Industrial Cooperation Program;
- ASEAN Integrated Preferential System;
- ASEAN transportation convenience;
- Standard and quality uniform measures;
- E-ASEAN and trade liberalization of information and communication products.

13.2.2 ACFTA

Tax reduction model for sensitive products: The old members of China and ASEAN should be reduced to 20% on January 1, 2012, and further reduced to less than 5% on January 1, 2018; new members of China and ASEAN should be in January 1, 2015. The daily cut was reduced to 20%, and it was further reduced to 5% or less on January 1, 2020. Tax reduction model for highly sensitive products: China and ASEAN members should cut tariffs on highly sensitive products to less than 50% on January 1, 2015, and new ASEAN members should achieve this target on January 1, 2018.

13.2.3 AKFTA

South Korea and ASEAN member countries will waive tariffs on 90% of imported projects by 2010; for the remaining 7% of sensitive products, tariffs should be reduced to 20%, and then to 0-5% in 2016; high sensitivity to 3% remaining. The product will allow certain measures to be taken for protection.

13.2.4 ACJEP

Japan imposed zero tariffs on 90% of products imported from ASEAN, and gradually eliminates tariffs on another 3% of products within 10 years, while reducing tariffs on another 7% of products.

13.2.5 AANZFTA

From 2010, Australia's 96.4% tariff line and New Zealand's 84.7% tariff line imposed zero tariffs. The Philippines' advantageous exports, such as automotive parts, including ignition harnesses, batteries, wheels and tires, yacht and vessel transportation, mineral products, and agricultural products such as pineapple and canned tuna, enjoy zero-tariff treatment in Australia and new markets. By 2020, Australia and New Zealand will eliminate tariffs on almost all products.

13.2.6 JPEPA

Ninety-five percent of the Philippines' exports to Japan are subject to zero tariffs, and the agreement allows a certain number of Filipino caregivers to travel to Japan for employment. Japan's tariffs on exports of industrial products such as electronics and automobiles to the Philippines will also be phased out within 10 years, and Japan's capital will enjoy preferential treatment in direct investment in the Philippine auto and electronics industries.

13.2.7 AIFTA

The Philippines provides its schedule of tariff commitments from 2010 until 2022. Tariff reduction/elimination is composed of two tracks:

A. Normal Track

Products listed in the Normal Track by a Party on its own accord shall have their respective applied MFN tariff rates gradually reduced or eliminated in accordance with specified schedules and rates.

B. Sensitive Track

Products listed in the Sensitive Track by a Party on its own accord shall, where applicable, have their respective applied MFN tariff rates progressively reduced/eliminated within timeframes to be mutually agreed between the Parties.

14. BONDED SYSTEM AND SPECIAL ZONES

In the Philippines, Customs Bonded Warehouses (CBWs) are approved and supervised by Customs. Except CBWs, Customs Facilities and Warehouses (CFWs) are also supervised by Customs.

Special treatments are also provided to operations inside the Export Processing Zones and the Special Economic Zones to promote trade and production.

14.1 Customs Bonded Warehouses (CBWs)

When the business of the port requires such facilities, the District Collector, subject to the approval of the Commissioner, shall designate and establish warehouses for use as public and private bonded warehouses, yards, or for other special purposes. All such warehouses and premises shall be subject to the supervision of the District Collector.

14.1.1 Customs Bonded Manufacturing Warehouse

It is a facility established for the manufacture of products utilizing raw materials or components that are imported duty and tax-free conditioned on the exportation of the finished products within the period prescribed herein. A Customs Bonded Manufacturing Warehouse shall include:

- **Miscellaneous Customs Bonded Warehouse.** It is a warehouse facility established and authorized by the Bureau to import, receive, and store, duty free and under bond, raw materials, accessories and packing materials for products and commodities not covered under any specific industry, for manufacture into finished products for export.
- **Customs Common Bonded Warehouse.** It is a warehouse facility established and authorized by the Bureau to import, receive, and store, duty free and under bond, raw materials, accessories, and packing materials for the account of its accredited members classified as micro or small-scale enterprise, for manufacture into finished products for export.
- **Industry Specific Bonded Warehouse.** It is a warehouse facility established and authorized by the Bureau to import, receive, and store, duty free and under bond, raw materials, accessories, and packing materials for products that fall under a specific industry, for manufacture into finished products for export.

14.1.2 Bonded Non-Manufacturing Warehouse

It is a facility where goods are stored duty-free and tax-free conditioned on the eventual withdrawal of the goods for consumption, or for export, or for transit, or for any other clearance regime, within the period prescribed herein, such as:

- Public Bonded Warehouse. It is a warehouse facility authorized by the Bureau to receive and store general cargoes for exportation, transfer to another CBW, free zones, or for local consumption, in the same state when the cargoes were imported. Articles for local consumption shall only be withdrawn upon payment of the assessed duties, taxes and other charges.
- Private Bonded Warehouse. It is a warehouse facility authorized by the Bureau to import, receive and store articles for its production intended for domestic consumption, withdrawal of which shall be made only upon payment of the corresponding duties, taxes and other charges.

14.2 Customs Facilities and Warehouses (CFWs)

- Container Yard. It is a facility authorized by the Bureau to accept and store container vans, laden or empty, intended for international shipping for storage within the period allowed under Customs laws, rules and regulations. A container yard may be established either within the Customs zone or off dock, as may be allowed under Customs laws, rules, and regulations.
- Container Freight Station. It is a facility authorized by the Bureau to accept and store container vans intended for international cargo, for temporary storage, examination, stripping, stuffing, and other related activities as may be allowed under Customs laws, rules, and regulations. A container freight station may be established either within the Customs zone or off dock, as may be allowed under Customs laws, rules, and regulations.
- Seaport Temporary Storage Warehouse. It is a Customs facility established at the seaport for purposes of storage, examination, stripping, stuffing, and safekeeping of imported cargoes.
- Airport Temporary Storage Warehouse. It is a Customs facility established at the airport for purposes of storage, examination, stripping, stuffing, and safekeeping of imported cargoes.

14.3 Export Processing Zones (EPZs)

Export Processing Zone (EPZ) is a specialized industrial estate located physically and/or administratively outside Customs territory, predominantly oriented to export production. Enterprises located in export

processing zones are allowed to import capital equipment and raw materials free from duties, taxes and other import restrictions. Currently there are four export processing zones in the Philippines including:

- the Bataan Export Processing Zone;
- the Macton Export Processing Zone;
- the Krabi Export Processing Zone;
- the Baguio Export Processing Zone.

These four export processing zones have become isolated small areas that use imported raw materials and semi-finished products to process, assemble and manufacture a variety of export commodities. In the above four export processing zones, investors can enjoy a series of preferential treatment including:

- the first batch of enterprises entering the zone are exempt from income tax for 6 years, other enterprises are exempt from income tax for 4 years;
- the machinery and equipment imported from the district enterprises, raw materials and goods necessary for the operation of the enterprise are exempt from Customs duties;
- exemption from import and export tax of enterprises in the zone with various expenses;
- enterprises in the zone are not bound by local government regulations;
- 15% tax exempted from repatriating profits from foreign companies;
- machinery, equipment, raw materials, etc. are exempt from import duties;
- accelerated depreciation of fixed assets;
- preferential allocation of foreign exchange, etc.

In addition to the above four export processing zones, the Philippines has also established the Clark and Subic Special Economic Zones in the former US military bases in recent years. The relevant preferential policies refer to the four export processing zones.

14.4 Special Economic Zones (SEZs)

Businesses operating in Special Economic Zones (SEZs) or free port zones are exempt from paying taxes and tariffs on imported raw material and manufacturing equipment. As stipulated in the CMTA, the main SEZs in the Philippines include:

- Clark Freeport Zone;
- Poro Point Freeport Zone;
- Subic bay Freeport Zone;
- Cagayan Special Economic Zone;
- Zamboanga City Special Economic Zone;
- Freeport area of Bataan.

Exporters and importers operating in SEZs or free port zones must register with PEZA or the specific free port regulator.

15. CUSTOMS AUDIT

Customs Audit is one of the most critical parts of the importation process. In May 2001, the Philippine Congress passed the act to establish the Port Entry Audit (PEA) System. This was shortly followed by the Customs Administrative Order which allows for the system to be fully implemented all over the country. The procedure was strengthened by the CMTA.

The audit shall be undertaken when firms are selected by a computer-aided risk management system, the parameters of which are to be based on objective and quantifiable data. The criteria for selecting firms to be audited shall include, but not be limited to, the following:

- Relative magnitude of Customs revenue from the firm;
- The rates of duties of the firm's imports;
- The compliance tract record of the firm;
- An assessment of the risk to revenue of the firm's import activities.

The audit shall be undertaken also when errors in the import declaration are detected and when firms

voluntarily request to be audited.

Customs audit means that the importer is obliged to open its import and business records and give full & free access to Customs officer for purpose of authenticating the accuracy of the information declared in the corresponding import entries covered by the audit period. Brokers shall be audited to validate audits of their importer clients and/or fill in information gaps revealed during an audit of their importer clients. Some of the import and business documents that are reviewed by Customs in an audit include:

- Customs entry records (both manual records and electronic records);
- General ledger accounts;
- Foreign vendor payments;
- Inventory and disbursement records;
- Correspondence with foreign suppliers.

Noncompliance with laws and regulations may result in very stiff penalties. Any person who, after being subjected to post clearance audit and examination is found to have incurred deficiencies in duties and taxes paid for imported goods, shall be penalized according to two degrees of culpability:

- First when negligence committed and found guilty for deficiency results from an offender's failure to exercise reasonable care and competence in ensuring that a statement/declaration made is correct, shall be penalized with a fine equivalent to 125% of the revenue loss;
- Worst, when the Customs officers found out that there is fraud involved (committed knowingly, voluntarily and intentionally) the auditee if found guilty is subject to a separate investigation and may further be liable to criminal prosecution aside from the penalty of not more than six times the revenue loss.

16. CUSTOMS ENFORCEMENT AND APPEALS

16.1 Protection of Customs Revenue and Prevention of Smuggling

In order to prevent smuggling and to secure the collection of the legal duties, taxes and other charges, the Customs service shall exercise surveillance over the coast, beginning when a vessel or aircraft enters Philippine territory and concluding when the article imported therein has been legally passed through the Customs.

16.1.1 General Violations

Any person who violates any Customs and tariff laws, for which delinquency no specific penalty is provided, shall be punished by a fine of not more than four hundred pesos or by imprisonment for not more than six months, or both. The violations could be:

- Unlawful Importation;
- Various Fraudulent Practices Against Customs Revenue;
- Failure to Report Fraud;
- Statutory Offense of Officials and Employees;
- Concealment or Destruction of Evidence of Fraud;
- Breaking of Seal on Car or Conveyance by Land, Sea or Air;
- Alteration of Marks on Any Package of Warehoused Articles;
- Fraudulent Opening or Entering of Warehouse;
- Fraudulent Removal or Concealment of Warehoused Articles;
- Violation of Tariff and Customs Laws and Regulations in General; and other Miscellaneous Offenses.

16.1.2 Seizure and Arrest

It shall be within the power of a Customs official or person authorized as aforesaid, and it shall be his duty, to make seizure of any vessel, aircraft, cargo, articles, animal or other movable property when the same

is subject to forfeiture or liable for any fine imposed under Customs and tariff laws, and also to arrest any person subject to arrest for violation of any Customs and tariff laws, such power to be exercised.

16.1.3 Administrative Proceedings

Administrative proceedings by Customs include:

- Warrant for Detention of Property;
- Report of Seizure to Commissioner and Auditor
- Notification to Owner or Importer;
- Description and Appraisal and Classification of Seized Property;
- Settlement of Case by Payment of Fine or Redemption of Forfeited.

16.1.4 Judicial Proceedings

In the absence of special provision, judicial action and proceedings instituted on behalf of the Government pursuant to the provisions of this Code shall be subject to the supervision and control of the Commissioner.

Review by Court of Tax Appeals: The party aggrieved by a ruling of the Commissioner in any matter brought before him upon protest or by his action or ruling in any case of seizure may appeal to the Court of Tax Appeals, in the manner and within the period prescribed by law and regulations.

Unless an appeal is made to the Court of Tax Appeals in the manner and within the period prescribed by laws and regulations, the action or ruling of the Commissioner shall be final and conclusive.

16.1.5 Enforcement of Administrative Fines and Forfeitures

Administrative fines and forfeitures shall be enforced by the seizure of the vessel or aircraft or other property subject to the fine or forfeiture and by subsequent proceedings in conformity with the provisions of Parts 2 and 3, Title VI, Book II, of Customs Law.

16.2 Seizure and Forfeiture Proceedings

16.2.1 Seizure of Misdeclaration, Misclassification, Undervaluation

When the misdeclaration, misclassification or undervaluation is intentional or fraudulent, such as when a false or altered document is submitted or when false statements or information are knowingly made, the goods shall be seized, forfeited and an administrative fine in a form of surcharge equivalent to five hundred percent (500%) of the duty and tax due regardless of the amount of the discrepancy shall be imposed.

The payment of surcharge shall be without prejudice to the criminal liability of the importer and other person or persons who willfully participated in the fraudulent act. Provided, however that a discrepancy in duty and tax to be paid between what is legally determined and what is declared amounting to more than thirty percent (30%) shall constitute a prima facie evidence of fraud.

16.2.2 Fines of Misdeclaration, Misclassification, Undervaluation

A. Misdeclaration and Misclassification

When the misdeclaration and misclassification results to a discrepancy in duty and tax to be paid does not exceed thirty percent (30%) between what is legally determined upon assessment and what is declared, a surcharge equivalent to two hundred fifty percent (250%) of the duty and tax due shall be imposed.

No surcharge shall be imposed and the goods shall not be subject to seizure under the following circumstances:

- When the discrepancy in duty is less than ten percent (10%);
- When the declared tariff heading is rejected in a formal Customs dispute settlement process involving difficult or highly technical question of tariff classification;
- When the tariff classification declaration relied on an official government ruling.

B. Undervaluation

When the undervaluation is established without the need to go through the formal dispute settlement process, and the discrepancy in duty and tax to be paid does not exceed thirty percent (30%) between

what is legally determined upon assessment and what is declared a surcharge shall be imposed equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed under the following circumstance and the goods shall not be subject to seizure:

- When the discrepancy in duty is less than ten percent (10%);
- The declared value is rejected as a result of an official ruling or decision under the Customs dispute settlement process involving difficult or highly technical question relating to the application of Customs valuation rules.

16.2.3 Forfeiture Proceedings

Notice of Hearing shall be sent if the subject goods are perishable by registered mail or electronic mail. Upon notice to all the parties, forfeiture proceedings shall be conducted by the District Collector or duly designated hearing officer of the concerned port. In the formal hearing, uncontroverted facts shall be stipulated on and issues to be heard shall be agreed upon in order to abbreviate the proceedings. The determination shall be made whether or not there is a violation of law from the facts and evidence presented. The District Collector of Customs shall then render a Decision.

The owner, importer, exporter, or consignee or agent, may during the course of the proceedings, or pending appeal, offer settlement of the forfeiture case. The offer of settlement shall be made in writing and addressed to the District Collector or office of the Commissioner. Offer of settlement may either be through payment of fine or payment of redemption value. Unless otherwise expressly withdrawn or impliedly abandoned, the offer of settlement made before the District Collector shall be considered and resolved until final disposition by the Commissioner.

When the District Collector renders a Decision of forfeiture on the main case and no offer of settlement was made by the claimant or owner (either by payment of fine or payment of redemption value) before the District Collector, the offer of settlement during appeal before the Commissioner may be allowed only through payment of redemption value.

16.2.4 Settlement by Payment of Fine

The District Collector may accept the settlement by payment of fine during the pendency of the forfeiture case, under any of the following circumstances:

- For regulated goods, when the release of the same through payment of fine is allowed even without required permits or licenses;
- For vessels or aircrafts, when the owner, agent, master, pilot-in-command or other responsible officer is found liable for fine or penalty for any violation of the CMTA;
- For sea stores or aircraft stores when adjudged by the District Collector to be excessive, and when the duties and taxes assessed thereon are not paid;
- Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of goods;
- Any vehicle, vessel or aircraft used in conveying or transporting smuggled goods in commercial quantities within the Philippines;
- Any vessel engaging in the coastwise trade which shall have on board goods of foreign growth, produce, or manufacture in excess of the amount necessary for sea stores, without such goods having been properly entered or legally imported;
- Any vessel or aircraft into which shall be transferred cargo unloaded contrary to law prior to the arrival of the importing vessel or aircraft at the port of destination; Any other valid grounds, as may be determined by the District Collector.

In case of settlement by fine, the owner, importer, exporter, or consignee or agent shall pay the amount of fine equivalent to thirty percent (30%) of the landed cost.

16.3 Appeal

The person may, within fifteen days or five days in case of perishable goods, from receipt of the decision of the District Collector, file a written Notice of Appeal with proof of payment of the required appeal fee amounting to 1500 Pesos to the District Collector, furnishing a copy to the Commissioner.

Upon receipt of the Notice of Appeal, the District Collector shall immediately transmit all the records of the proceedings to the Commissioner, who shall review and decide on the appeal within thirty days or fifteen days in case of perishable goods from receipt of the records of the case.

An appeal filed beyond the prescribed period or an appeal filed without the payment of the required appeal fee shall be dismissed.

17. CUSTOMS IPR BORDER PROTECTION

The Bureau of Customs (BOC) accepts filing applications for intellectual property-related goods, but currently the Philippine Customs regulations only regulate this for imported goods. The commodity filing period is valid for 2 years.

By authority of TCCP in relation to the Trademark Law, the Patent Law and the Intellectual Property Law, the BOC:

- Prevents the importation of goods or products that infringe upon the property rights of patent holders, trademark and copyright owners;
- Prevents the entry of merchandise into the country in line with the provisions of the foregoing legal provisions;
- Drive to combat piracy and counterfeiting of intellectual properties.

The BOC accepts filing applications for intellectual property-related goods, but currently the Philippine Customs regulations only regulate this for imported goods.

17.1 Prohibited Imports

Without the authorization or consent of the registrant or its duly authorized agent, the following imports are related to intellectual property-related goods prohibited in the Philippines:

- which copy or simulate any mark or trade name registered with the Intellectual Property Office in accordance with the IP Code,
- which copy or simulate any well-known mark as determined by competent authority;
- which are judicially determined to be unfairly competing with products bearing marks whether registered or not;
- which constitute as a piratical copy or likeness of any work, whether published or unpublished, on which a copyright subsists;
- which present themselves as a substantial simulation of any machine, article, product, or substance duly patented under the IP Code;

- which use false or misleading description, symbol, or label that is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of the imported goods with another person's goods; or those which misrepresent their nature, characteristics, qualities, or geographic origin.

17.2 Operational Procedures

17.2.1 Application

A patent holder , trademark or copyright owner , his assign , or his duly authorized agent or representative , desiring to prevent or prohibit the entry or importation of any cargo or shipment that may infringe upon his property rights, shall file a written request to the Commissioner of Customs attaching thereto duly authenticated copies of the certificate of patent, trademark or copyright registration and facsimiles of his name, name of the locality in which his goods are manufactured, or of this registered mark or tradename. The right owner shall also furnish the Commissioner with the following information:

- Name and address of the patent holder, trademark, or copyright owner;
- Name of the locality in which his goods or products are manufactured;
- Name and address of agent or representative;
- Sufficiently detailed description of the goods, product or services of the patent holder, trademark or copyright owners to make them readily recognizable by the Customs Authorities.

17.2.2 Informing Collectors of Customs

Upon receipt of the written request, the Commissioner of Customs shall direct the Legal Service to record the patent, trademark or copyright certificate and the foregoing information in the books kept for such purpose.

After proper evaluation and due recording in the registry, the Commissioner of Customs shall then issue a Memorandum Circular addressed to all Collectors of Customs, Customs Examiners / Appraisers and Hearing Officers of the Law Division, informing them of the request, directing them to strictly monitor and enforce the prohibition and attaching to such circular a copy of the request, the patent, trademark or copyright certificates of registration, the facsimiles and all the pertinent information thereto.

The recordation of IPRs and product or products covered therein shall be valid for two years from date of

the recording and renewable every two years thereafter.

On the basis of the recordation, the Bureau shall monitor and inspect on its own initiative suspect imports to determine whether or not they are liable to seizure and forfeiture pursuant to law. However, the exercise of such power shall be governed and circumscribed by existing rules and regulations on the issuance of alert or hold orders.

17.2.3 Monitoring and Prohibiting

Upon receipt of the Memorandum Circular, all Collectors of Customs, Customs Examiners/Appraisers and Hearing Officers, on their parts, shall maintain and keep their own file of all such requests that will provide basis for monitoring and prohibiting the entry or importation of any incoming cargo or shipment that may infringe upon the property rights of the patent, trademark or copyright owners, and for notifying such owners or their authorized agent or representative to witness the examination of the said cargo or shipment.

17.2.4 Examination and Seizure

In the performance of their duties, the Customs Examiners / Appraisers shall conduct an actual examination of the suspected cargo or shipment and shall immediately submit a recommendation to the Collector of Customs for the issuance of Warrant of Seizure and Detention against such cargo or shipment if there is prima facie case of infringement. The IPR Holder/Owner or his representative shall be notified of the time and place of examination.

During the seizure proceeding of such goods, the patent, trademark or copyright owners or their duly authorized agents shall be notified so that they may participate as intervener and present evidence to prove infringement on its patent, trademark or copyright.

Goods finally found in seizure proceedings to be infringing shall be forfeited in favor of the government and shall be destroyed, unless used as evidence in court proceedings.

17.3 Documentary Requirements

In the case of IPR registered with the IPO, three certified true copies of the Certificate of Registration issued by the said Office are required to be submitted.

In the case of IPR not registered with the IPO, three certified true copies of a decision or resolution of a court or other competent authority declaring or recognizing the claim to an IPR.

In the case of copyright and related rights, an Affidavit executed by the IPR Holder / Owner or his duly authorized representative stating that:

- At the time specified therein, copyright subsists in the work or other subject matter;
- The person named therein is the owner of the copyright; and
- The copy of the work or other subject matter annexed thereto is a true copy thereof.

Payment of recordation fee of PHP Two Thousand (P2,000.00) per product but in no case to exceed PHP Twenty Thousand (P20,000) per IPR Holder / Owner.

The foregoing documentary requirements are solely for the purpose of identifying the IPR Holder/Owner and providing the Bureau with minimum information that will help its officers in effectively monitoring and evaluating infringing goods at the border. Such requirements therefore may in certain meritorious circumstances be liberalized for as long as the basic purposes for which the above requirements are imposed are achieved.

18. AUTHORIZED ECONOMIC OPERATOR (AEO)

In 2012, the Philippine BOC established an Authorized Economic Operator (AEO) program for exporters through Customs Administrative Order.

The AEO program has three components:

- Cargo Security System

It is a system that ensures the integrity and security of imported goods in accordance with the principles of the WCO SAFE Framework.

- Trade Clearance Facility

It is a system that enables highly compliant stakeholders to clear their goods with minimum or zero Customs border intervention.

- Mutual Recognition Arrangement (MRA)

It refers to a formal document between two or more Customs administrations outlining the circumstances and conditions in which AEO programs are recognized and accepted between the signing parties. The MRA sets out the process to implement, evaluate, monitor and maintain mutual recognition. In addition, the MRA defines the benefits mutually provided to the AEOs by the participating Customs administrations and lays down the practical arrangements enabling the participating Customs administrations to provide those benefits.

18.1 Application and Approval

The BOC established a simplified system of processing, evaluation and action on applications for AEO accreditation.

The AEO program shall be administered by the port concerned under the direct supervision by a committee headed by the Deputy Commissioner for Assessment and Operations Coordinating Group (see 1.3). The committee shall be in charge of accrediting AEOs, gathering and evaluating relevant data for the implementation of the AEO program in the country, conducting consultations with the private sector/ stakeholders, establishing and enhancing benefits and incentives of the AEO program and to review, revised and draft rules and regulations for the program. It shall perform such other functions necessary for the implementation of the AEO program.

18.2 Benefits of AEO

Aside from the consequent benefits resulting from the implementation of robust security measures in the forms of increased visibility of goods in the supply chain, reduction in pilferages and greater efficiency in their supply chain management, companies accredited under the AEO program shall be recognized as trusted allies by the BOC and shall be entitled to the flowing benefits:

- Dedicated processing lanes for AEO accredited exporters resulting in reduced processing period;
- Renewal of accreditation as exporter not on an annual basis but for a longer period;-Last priority on post-entry audit;

- Recognition as a low risk company i.e. enhanced branding;
- Reduced inspection or expedited clearance by other Customs authorities should be certified status be also recognized by overseas countries under a mutual recognition program established by bilateral or multilateral arrangement;
- Such other trade facilitation benefits that may be afforded by BOC under existing laws and regulations.

19. INTERNATIONAL CUSTOMS COOPERATION

The international Customs cooperation in the Philippines is mainly carried out with the ASEAN and neighboring countries. At the same time, more Customs cooperation have been implemented in several Multilateral and Bilateral FTAs such as APEC, AFTA, ASEM, JPEPA, AANZFTA and the ACFTA and so on. The Philippines Customs has also signed Customs Mutual Assistance Agreement (CMAA) with the United States, Russia, Japan and other countries.

As a member administration of the World Customs Organization (WCO), the Philippines Customs also adopts related agreements, instructions, standards and best practices of WCO.

20. TRADE STATISTICS

Foreign trade statistics are compiled by the National Statistics Office from copies of import and export documents submitted by importers and exporters or their authorized representatives to the BOC as required by law.

Preliminary monthly export and import statistics are released in the form of Press Releases 40 days and 55 days after the reference month respectively. The Foreign Trade Statistics of the Philippines publications comes out annually in two volumes, Volume I for Imports and Volume II for Exports.

There are other unpublished statistical tables that are available at the Foreign Trade Statistics Section, such as those requested by private entities both in the Philippines and abroad. They could be in computer printouts, diskettes and CD's depending on the needs of the researchers. Other special tabulations may also be made available upon request, addressed to the Administrator, National Statistics Office.

Monthly CIF Value of Philippine Import and Monthly FOB Value (in USD) of Philippine Export are released through "Open STAT" from "Customs Dashboard" at BOC's website.

21. OFFICE HOURS

The regular working hours in all offices, including offices under the Office of the Commissioner at all ports and sub-ports, will be from 8:00 a.m. to 5:00 p.m., Monday to Friday.

The District Collectors may also consider providing frontline service from 7:00 a.m. to 7:00 p.m., depending on the end needs of the transacting public.

22. OFFICIAL WEBSITE

Official websites of Bureau of Customs, Tariff Commission and other related departments and chambers have been listed below for further reference:

- [Bureau of Customs \(BOC\)](#)
- [Tariff Commission \(TC\)](#)
- [Department of Trade and Industry \(DTI\)](#)
- [Department of Agriculture \(DA\)](#)
- [Chamber of Philippine Commerce and Industry](#)

23. CONTACT INFORMATION

For further and detailed information, enquiries can be made to the following BOC contact:

Legal Service

Revenue Collection and Monitoring Group (RCMG)

Accounts Management Office, Bureau of Customs

South Harbor, Gate 3

Port Area, Manila

Tel: (632) 527-8402

E-mail: amo_boc@yahoo.com.ph

REFERENCE

1. www.customs.gov.ph/.
2. www.tariffcommission.gov.ph/.
3. www.dti.gov.ph/resources/laws-and-policies#trade.
4. www.asean.org/.
5. www.customsdutyfree.com.

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