

NMM

NAGUE MALIC MAGNAWA & ASSOCIATES
Customs Brokers

COMPLIANCE BEYOND BORDERS

CUSTOMS GAZETTE

Updates on Customs-Related Matters

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In Brief

Guidelines on the Implementation of the Registered Exporter System (REX) for Exporters Under European Union – Generalised System of Preferences (EU-GSP) - CMO 50-2019 (page 02)

Strengthening the Planning and Policy Research Division (PPRD) - CMO 51-2019 (page 09)

Amendments to CMO No. 39-2019 Dated 31 July 2019 on the Processing of Goods Declaration from Lodgement to Issuance of Final Assessment Notice - CMO 52-2019 (page 14)

Freedom of Information Manual - CMO 53-2019 (page 16)

Korea's Change in Certificate of Origin (CO) Numbering System Under the ASEAN-Korea Free Trade Agreement (AKFTA) - CMC 276-2019 (page 41)

Note Verbale on the Amendment of Anjem Choudary on the Sanction List of Individuals and Entities - CMC 277-2019 (page 42)

Note Verbale on the Deletion of Two (2) Entities on the Sanction List of Individuals and Entities - CMC 278-2019 (page 43)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - MEMORANDUM 2019-12-014 (page 44)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - MEMORANDUM 2019-12-015 (page 45)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - MEMORANDUM 2019-12-028 (page 46)

CMO 50-2019

Issue Date: November 26, 2019
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Scope

This Order shall govern the guidelines on the implementation of the Registered Exporter System (REX), a system of self-certification of origin by Registered Exporter, the Rules of Origin of which are laid down in the EU Delegated Regulation No. 2015/2446 and EU Commission Implementing Regulation 2015/2446 of the Union Customs Code (EU Regulation No. 952/2013).

Objectives

- Establish an appropriate mechanism in the registration of exporters, producers, and manufacturers as “Registered Exporter”, including the modification and revocation of its registration as such
- Simplify export formalities by allowing “Registered Exporters” to certify preferential origin through a Statement on Origin
- Facilitate application and provide procedures on how to qualify under the Registered Exporter System

Definition of Terms

Export Division/Unit – the division or unit within any of the Collection Districts of the Bureau which is responsible for the evaluation of the requirements submitted by the applicants for registration to REX

Export Coordination Division (ECD) – the division under the Assessment and Operations Coordinating Group (AOCG) and Port Operations Service of the BOC which shall issue the REX number to the application endorsed by the Export Division/Unit concerned

Product Evaluation Report – the document which contains the result/s of the pre-evaluation of export products applying for CO, after complying with the requirements of the Bureau

Registered Exporter – a producer, manufacturer, or trader who complied with the requirements set forth in the Delegated Regulation (EU) No. 2015/2446 and Commission Implementing Regulation (EU) 2015/2447 of the Union Customs Code (Regulation (EU) No. 952/2013), and authorized by the Bureau of Customs (BOC) to complete a Statement on Origin through invoice or any other commercial document

cf. CMTA, Title I, Chapter 2, Section 201 (z)

Registered Exporter Number – the number that will be given to a Registered Exporter by ECD, which shall be indicated in the Statement on Origin Declaration

cf. CMTA, Title XIV, Chapter 1, Section 1400

Rules of Origin – the set of rules in determining the originating status of goods which are laid down in the EU Delegated Regulation No. 2015/2446 and EU Commission Implementing Regulation 2015/2447 of the Union Customs Code (EU Regulation No. 952/2013)

Statement on Origin – the proof of origin required under the REX in the form of a declaration set out in EU Delegated Regulation No. 2015/2446 and EU Commission Implementing Regulation 2015/2447 of the Union Customs Code (EU Regulation No. 952/2013 sufficient to ascertain the originating status of goods.

cf. CMTA, Title VII, Chapter 2, Section 709

Registered Exporter System (REX)

REX is a system established by the European Union which allows a Registered Exporter to self-certify the preferential origin by accomplishing a Statement on Origin under Generalised System of Preference (GSP) on the invoice or other commercial document identifying the exported product. The registered exporter does not need to apply upon each export for the issuance of a certificate of origin.

cf. CMTA, Title VII, Chapter 2, Section 709

The Statement on Origin on any commercial documents shall serve as proof of origin in accordance with EU Delegated Regulation No. 2015/2446 and EU Commission Implementing Regulation 2015/2447 of the Union Customs Code (EU Regulation No. 952/2013).

A Statement on Origin may be made out of the time of exportation to the EU or when the exportation to the EU is ensured

Article 92, Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No. 952/2013 of the European Parliament and of the Council laying down the Union Customs Code

Application as "Registered Exporter"

- Producers, manufacturers, or traders may apply to be a "Registered Exporter" by filling out the application available at the <https://customs.ec.europa.eu/rex-pa-ui/#/create-preapplication/>

Those applying as Registered Exporters who are not manufacturers or producers (for instance, traders) must have knowledge on how the goods were manufactured or produced, for instance, they should have in their possession all necessary documents, i.e. supplier's declarations (please see ANNEX "A") allowing him to declare and prove the origin of the goods

- Once application has been filled out and submitted electronically, the producer, manufacturer, or trader shall print and submit the application form to the concerned Export Division/Unit together with the following documents, to wit:
 - Unique Reference Number (URN) as PEZA locators, Client Profile Registration System (CPRS) for non-PEZA locators or other equivalent document
 - Product Evaluation Report, if applicable
- Applications evaluated by Export Division/Unit of the port shall be endorsed to ECD for its registration to the REX system. Registered Exporters shall be assigned with a REX Number within seven (7) working days from receipt of the complete set of documents endorsed by the port to ECD.
- Exporters and the endorsing port shall be notified by the ECD on the results of the application with the assigned REX number. Denial of application shall likewise be communicated stating the reasons therein.

Annex 22-03 of Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015

Application for Product Evaluation Report shall be in accordance with CMO 27-2004 until modified or superseded

Statement on Origin under REX

- The Statement on Origin must be completed in legible and permanent form, and issued by typing, printing or stamping the text stated below on the invoice, pro-forma invoice, packing list or any other commercial document identifying clearing the originating products:

*“The exporter (**Registered Exporter Number**) of the products covered by this document declares that, except where otherwise clearly indicated, these products are of **Philippine** preferential origin according to the rules of origin of the Generalised System of Preferences of the European Union and that the origin criterion met is_____.”*

- The Registered Exporter Number must be indicated in the Statement on Origin if the Value of the originating goods for consignment is above the value threshold of 6,000 EUR. If the value of the originating goods is below the value threshold, then any exporter, even though not registered with BOC, may accomplish a Statement on Origin.
- Representative/s of an exporter shall be allowed to make origin declaration upon submission of the exporter’s written authorization.

Products wholly obtained: enter the letter “P”; Products sufficiently worked or processed: enter the letter “W” followed by a heading of the Harmonised System (example “W” 9618)

Obligations of a Registered Exporter

A registered exporter shall comply with the following obligations:

- Maintain appropriate commercial accounting records concerning the production and supply of goods qualifying for preferential treatment
- Keep available all evidence relating to the materials used in the manufacture
- Keep all customs documentation relating to the materials used in the manufacture
- Keep for at least 3 years a copy of the Statement on Origin from the date of its completion or issuance, and/or records of their originating and non-originating materials, production and stock accounts
- Cooperate with BOC in carrying out verifications of Statements on Origin. Accordingly, they must submit documents or provide appropriate evidence of compliance, including contractual transport documents such as bill of lading, packing list or any other evidence related to the goods themselves
- Immediately notify their buyer and the Export Division/Unit and ECD, if he becomes aware of or having reason to believe that a Statement on Origin contains incorrect information of any change affecting the originating status of the goods covered by that Statement on Origin

cf. Article 91, Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No. 952/2013 of the European Parliament and of the Council laying down the Union Customs Code

Verification of Statement on Origin

- BOC shall carry out verifications on the originating status of the goods upon request of the importing country or based on risk analysis criteria. Verifications can be made based on documents requested from the exporter or by conducting inspection at the exporter's premises
- Upon request for verification on the Statement on Origin carried out at random or upon reasonable doubts as to the authenticity and accuracy of such document by the customs authority of the importing EU Member States, the ECD and/or Export Division/Unit shall conduct an audit and evaluation of the accounting and manufacturing process of the products at the exporter's premises within six (6) months from the date of the verification request
- Responses to all requests for verifications shall be centralized to ECD. Accordingly, all Chiefs of Export Divisions/Units are required to direct the result of their verification to the ECD
- The formal answers by the BOC to all verifications shall be signed by the Deputy Commissioner, AOCG upon recommendation of the Chief, ECD.

Products wholly obtained: enter the letter "P"; Products sufficiently worked or processed: enter the letter "W" followed by a heading of the Harmonised System (example "W" 9618)

cf. Article 110 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No. 952/2013 of the European Parliament and of the Council laying down the Union Customs Code

cf. Section III.8 of CMO 2-2010

Revocation of Registration

BOC shall revoke the registration if the registered exporter:

- No longer exists
- No longer meets the conditions for exporting goods under the GSP scheme
- Has informed BOC that they no longer intend to export goods under the GSP scheme
- Fails to keep the data concerning their registration up to date, or
- Intentionally or negligently draws up, or causes to be drawn up, a Statement on Origin which contains incorrect information and leads to his buyer wrongfully obtaining the benefit of preferential tariff treatment

Article 89, Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No. 952/2013 of the European Parliament and of the Council laying down the Union Customs Code

Repealing Clause

All Customs Memorandum Orders inconsistent with the provisions of this Order are hereby modified and/or amended accordingly.

Effectivity

This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or a newspaper of general circulation.

The Office of the National Administrative Register (ONAR) of the UP Law Center shall be provided three (3) certified copies of this CMO.

Annex A

For wholly obtained goods

(Company Logo)

Supplier's Declaration

I, the undersigned, declared that the goods listed on this document originate in the Philippines and satisfy the rules of origin governing preferential trade with _____.²

- (1) _____
 (2) _____
 (3) _____

This declaration is valid for all shipments of these products dispatched from _____ to _____.³

I undertake to make available to the Bureau of Customs any further supporting documents they require.


(Place and Date)

(Name and Designation)

(Name and Address of the Company)

(Signature)

**CERTIFIED TRUE COPY
 OF THE ORIGINAL**



MICHELLE N. TABLAZON
 Admin Officer I
 CRMD-Printing Unit

² Country of Destination

³ This paragraph is applicable if the products indicated in the supplier's declaration will be supplied for a period not exceeding 24 months.

CMO 51-2019

Issue Date: November 26, 2019
UP Law Center Received: December 4, 2019

Scope

This Order covers the strengthening of the Planning and Policy Research Division (PPRD) to make it more responsive and effective as it assumes its expanded role in the bureau's implementation of the Strategic Plan.

Objectives

- Provide vital support in the implementation of the Bureau's priority programs specifically those included in the Customs Strategic Plan
- Hasten the BOC's enrollment in the Performance Governance System (PGS) and completion of the four-stage PGS Pathway of initiation, compliance, proficiency and institutionalization
- Establish the PPRD as the lead office in the conduct of research, review and assessment of the respective performance of units, office, groups, and districts pursuant to existing customs, civil service, and relevant laws, rules and regulations
- Establish new units in the PPRD to better identify/delineate its tasks and responsibilities and make it more effective and efficient in performing its expanded functions

Structure

The PPRD, as part of the Internal Administration Group (IAG) is tasked under Executive Order 127 to perform the functions of formulation projections in management improvement activities; conduct and supervise policy research and development studies; study and recommend improvement on structural organization and operating procedures; develop and maintain management and operating manual; and prepare/submit reports on customs data, as may be required by the Commission.

Such functions are hereby further expanded in order for PPRD to be more effective as it advance to face the challenges brought about by the bureau's adoption of the Performance Governance System (PGS) framework.

New Units

To comply with the PGS, the PPRD shall create/establish the following new units:

- **Office for Strategy Management** – shall act as central coordinator and facilitator of the BOC Strategic Plan. It shall have the following specific functions:
 - Oversee the Bureau’s strategy design, execution and sustainability
 - Assist in cascading the strategy to concerned units or offices and ensure that strategic information is properly disseminated and coordinated to all concerned
 - Monitor and review the strategic contributions of the responsible units and/or individuals
 - Coordinate the activities of the Performance Governance System (PGS) core team to steer the execution and accomplishment of the strategy. The PGS core team, which shall be composed of senior customs officials considered as experts in their field, shall focus on monitoring and ensuring that the commitments or deliverables are accomplished on time
 - Coordinate with OSM point persons assigned in strategic offices, to spearhead the accomplishments of activities/strategic contributions of their respective offices/units
- **Policy and Performance Review** – shall conduct research and review of the policies and performance of the bureau, its offices and personnel. It shall have the following specific functions:
 - Review and evaluate individual performance of the groups/districts for purposes of complying with the Civil Service Commission (CSC) Memorandum Circular (MC) No. 6 s. 2012 on Strategic Performance Management System (SPMS) and/or other related laws
 - Conduct policy research, development studies, review, etc. of projects/programs or processes to ensure consistency with the bureau’s strategic plan and compliance with the CMTA, relevant laws, rules and regulations and to submit recommendations thereon
 - Monitor and coordinate with relevant working groups or committees, any project initiatives of external stakeholders
 - Coordinate and/or supervise activities/projects/programs that are proposed, about to be implemented, or already being implemented to comply with relevant international agreements or standards

- Actively supervise relating to the granting of performance or productivity bonus and other employee benefit, reward or incentives

International Affairs as Attached Office of PPRD

The significance and general direction of the bureau's participation in the international trade community, especially in the implementation of programs relating to enhanced trade facilitation and border protection, necessitates continuous study and evaluation. Accordingly, in attending or participating in any international forum, the bureau must be judicious in making or issuing any position or commitment for the government.

The PPRD is hereby tasked to ensure that all commitments and deliverables in connection with our participation in any international organization or forum and/or as a result of our concurrence to international agreements, are properly studied, implemented, monitored and evaluated vis-à-vis the goals of the bureau and the country's general interest. For this purpose, the External Affairs Office is hereby re-attached under the PPRD.

International Affairs as Attached Office of PPRD

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The PPRD is hereby tasked to ensure that all commitments and deliverables in connection with our participation in any international organization or forum and/or as a result of our concurrence to international agreements, are properly studied, implemented, monitored and evaluated vis-à-vis the goals of the bureau and the country's general interest. For this purpose, the External Affairs Office is hereby re-attached under the PPRD.

General and Administrative Provisions

The PPRD shall take a vital role in the implementation of the Strategic Plan, thru the OSM to orchestrate all operations related to the advancement of the identified strategy.

- The OSM shall work closely with the PGS Core Team, which shall be composed of personnel assigned in key units of the BOC (e.g. MISTG, PCAG, Districts, etc). Identified members of the PGS core team shall be involved either as architects of the strategy, as measure or initiative owners, or support group of the OSM. They shall ensure that the activities/deliverables are accomplished by the concerned unit/office.
- The OSM shall also coordinate all activities that will involve external stakeholders or association/groups that will likewise help in championing the bureau's transformation agenda.
- The OSM must cascade in a timely manner all basic governance documents (strategy map and governance scorecard) to all units/office/districts and thereafter to monitor their compliance and accomplishments.

One of the goals of the PGS is to "make governance a shared responsibility." Accordingly, everyone in the bureau needs to participate and contribute to the attainment of the desired transformation. PPRD, for this purpose, is tasked to ensure that the activities/deliverables under the Strategic Plan are included in the respective OPCR's of the Groups/Districts.

The functions of the OSM and PPR shall be complementary to each other. Whereas the OSM shall be concerned with the achievement of the medium to long term goals set for the BOC's organization transformation/Strategic Plan, the PPR shall be concerned with monitoring and review of the operational (day-to-day) plans and programs of the organization, for development of needed policies.

The PPR shall, among others, focus on conducting studies or review that will assist in clarifying or improving policies or processes of the bureau. For this purpose, assistance and cooperation shall be provided by all concerned offices. Further, the MISTG is hereby directed to provide statistical and other data to PPRD for purposes of evaluating projects/programs or processes of the bureau.

Project or programs pertaining to employee benefits or rewards shall be coordinated by the PPRD to guarantee that all requirements are submitted, and to ensure that these benefits/rewards are received by employees in a timely manner.

Additional manpower complement necessary for PPRD to accomplish its expanded functions shall be coordinated with the Human Resource Management Division (HRMD) and with the Budget Division and Financial Management Office (FMO), for budgetary requirements.

Periodic Review

Unless otherwise provided, this CMO shall be subject to review every three (3) years, and be amended or revised, if necessary.

Separability Clause

If any part of this CMO is declared unconstitutional or contrary to existing laws, rules and regulations, the other parts not so declared shall remain in full force and effect.

Effectivity

This CMO shall take effect immediately.

CMO 52-2019

Issue Date: November 29, 2019
UP Law Center Received: December 18, 2019

To clarify the timelines prescribed in CMO 39-2019 from the filing of the goods declaration up to the assessment process and ensure compliance thereto, Section 3 and 4 are hereby amended as follows:

Definition of Terms

Assessment Notice – the Assessment Notice with appropriate data filled-in under the column “Assessment Reference”. The Assessment Notice shall serve as payment instruction to the AAB to debit the amount of duties, taxes and other charges from the account of the importer or consignee

Assessment Process – that portion specified in the Period/s Section hereof commencing from assignment of the cGD to the Examiner of the appropriate Section or equivalent unit, the review thereof wherein the assigned Examiner may, among others, agree to the self-assessment made therein or recommend the imposition of additional duties and taxes, and until the Appraiser adopts the recommendation/s of the Examiner and inputs the same in the E2M producing the Assessment Notice

FED – the Formal Entry Division at the Port of Manila (POM) and the Manila International Container Port (MICP) and its equivalent unit in other ports

Filing of the cGD – the submission of the signed Single Administrative Documents (SAD) off the cGD and its supporting documents to the Entry Processing Unit (EPU) or its equivalent unit at the FED

Lodgement – the electronic registration of a goods declaration with the Bureau in a manner prescribed under customs laws, rules and regulation

Period/s

- Filing of the cGD shall be within forty-eight (48) hours from lodgement of the cGD, except when the 48th hour falls on a non-working day, in which case, the deadline shall be of the same time on the next working day.

The EPU or its equivalent unit shall submit to the District Collector a daily report of all cGDs entered in the Goods Declaration Verification System or GDVS that were filed with the EPU beyond the forty-eight (48) hours from lodgement. The District Collector shall forward the report to the Accounts Management Office (AMO) for evaluation and imposition of sanction against the importer or broker, if applicable.

- The assessment process shall be completed within twenty-four (24) hours from receipt by the Examiner of the filed cGD. The Section Chief or equivalent unit shall submit to the District Collector through the Chief, FED or equivalent unit and Deputy Collector for Assessment, a report of all cGDs which have not been completely processed within the prescribed period. The District Collector shall require the Examiner and Appraiser concerned to explain within seventy-two (72) hours and in writing the reason/s for the delay in the processing and why no administrative charges shall be pursued against them for non-compliance with this Order, in accordance with existing Civil Service law, rules and regulations.

Other provisions of CMO 39-2019 not inconsistent herewith shall remain in force and effect.

CMO 53-2019

Issue Date: November 18, 2019
UP Law Center Received: December 10, 2019

Introduction

This Freedom of Information (FOI) Manual implements Executive Order No. 02, series of 2016 “Operationalizing in the Executive Branch the People’s Constitutional Right to Information and a State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefore”, Memorandum from the Executive Secretary dated November 24, 2016 “Inventory of Exceptions to Executive Order 2 (S. 2016)”, Sections 111 and 112, Chapter 2, Title 1: Sections 1500 and 1502, Chapter 2, Title 6; and other related provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation to Articles II and III of the 1987 Constitution, RA No. 10173, otherwise known as the Data Privacy Act of 2012, RA No. 10667, otherwise known as the Philippine Competition Act, and other pertinent laws, rules and regulations.

Scope

This Order covers any online or written request for information in accordance with the state policies of full public disclosure and transparency in the public service.

Objectives

- Reinforce and give further effect to the right of the public to access to non-confidential, unpublished information held by the Bureau
- Provide guidelines and procedures for manual and online requests for information from the Bureau
- Establish an ICT-enabled monitoring and control system for online requests of information

Definition of Terms

Administrative FOI Appeal – an independent review of the initial determination made in response to a FOI request. Requesting parties who are dissatisfied with the response made on their initial request have a right to appeal that initial determination to an office within the agency, which will then conduct to an independent review

Bureau – the Bureau of Customs

CMTA, Title I, Chapter 2, Section 102 (i)

Confidential Business Information – information which concerns or relates to the operations, production, sales, shipments, purchases, transfers, identification of customers, inventories, or amount or source of any income, profits, losses, expenditures

Republic Act No. 10667, otherwise known as “Philippine Competition Act”, Chapter 1, Section 2, (e)

Confidential Matter – information and material (matter) the unauthorized disclosure of which, while not endangering the national security, would be prejudicial to the interest or prestige of the nation or any government activity, or would cause administrative embarrassment or unwarranted injury to an individual or would be of advantage to a foreign nation

Office of the President of the Philippines Memorandum Circular No. 78, s. 1964, Section IV

Executive Privilege – information the confidential nature of which is crucial to the fulfillment of the unique role and responsibilities of the executive branch, or in those instances where exemption from disclosure is necessary to the discharge of highly important executive responsibilities. The doctrine of executive privilege is thus premised on the fact that certain information must, as a matter of necessity, be kept confidential in pursuit of the public interest. The privilege being, by definition, an exemption from the obligation to disclose information, the necessity must be of such high degree as to outweigh the public interest in enforcing that obligation in a particular

Senate v. Ermita, G.R. No. 169777, 20 April 2006

FOI Request – a written request submitted to the Bureau personally or by email at piad@customs.gov.ph asking for record on any topic. A FOI request can generally be made by any Filipino to any government office.

Freedom of Information – the recognition by the executive branch of the right of the people to information on matters of public concern, and adopting and implementing a policy of full

public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided Executive Order No. 2. This right is indispensable to the exercise of the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making.

Frequently Requested Information – the information released in response to an FOI request that the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

Information – any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, and video recording, magnetic or other tapes, electronics data, computer stored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transactions of official business by any government office

Information for Disclosure – Information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts, and programs of the government. In line with the concept of proactive disclosure and open data, these types of information can already be posted to government websites, such as ***data.gov.ph***, without need for written requests from the public.

Multi-Track Processing – a system that divides incoming FOI requests according to their complexity so that simple requests requiring relatively minimal review are placed in one processing track and more complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

Non-Confidential Information – matters which are not included in the enumeration in the Grounds for Denial section of this Order.

Executive Order No. 02, s. 2016, otherwise known as "Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines", Section 1 (a)

Official Record/s – information produced or received by the Bureau or any of its employees in an official capacity or pursuant to public function or duty

Open Data – publicly available data structured in a way that enables the data to be fully discoverable and usable by end users

Pending Request or Pending Appeal – an FOI request or administrative appeal for which the Bureau has not yet taken final action in all respects. It captures anything that is open at a given time including requests that are well within the statutory response time

Perfected Request – an FOI request, which reasonably describes the records, sought and is made in accordance with the Bureau's regulations

Personal Information – any information, whether recorded in a material form or not, from which identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual

Proactive Disclosure – information made publicly available by the Bureau without waiting for a specific FOI request. Government agencies now post on their websites a vast amount of material concerning their functions and mission

Processed Request or Processed Appeal – the number of requests or appeals where the Bureau has completed its work and sent a final response to the requester

Public Records – information required by laws, executive orders, rules, or regulations to be entered, kept, and made publicly available by the government office

Public Service Contractor – a private entity that has dealing, contract, or a transaction of whatever form or kind with the government or government agency or office that utilizes public fund. However, for the purpose of this Order, the term includes accredited service providers or information processors

Received Request or Received Appeal – a FOI request or administrative appeal that the Bureau has received within a fiscal year

RA 10173 otherwise known as the "Data Privacy Act of 2012", Section 3 (g)

Referral – when a government office locates a record that originates with, or is of otherwise primary interest to another agency, it will forward that record to the other agency to process the record and to provide the final determination directly to the requester.

Requesting Party – persons exercising the right of access to information by requesting any information, official record or public record from the Bureau

Sensitive Personal Information – as defined in the Data Privacy Act of 2012, shall refer to personal information:

- About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations
- About an individual health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings
- Issued by government agencies peculiar to an individual which include, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns
- Specifically established by an executive order or an act of Congress to be kept classified

Simple Request – an FOI request that an agency anticipates will involve a small volume of material or which will be able to be processed relatively quickly

Trade Secret – a plan or process, tool, mechanism or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having a commercial value

General Provisions

Pursuant to the mandate of the Constitution and the Laws of the Republic of the Philippines, the Bureau is committed to the following principles:

- Adopt and implement a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law

- Guarantee the right of the people to information on matters of public concern
- Recognize the fundamental role of free and open exchange of information in a democracy, meant to enhance transparency and accountability in government official acts, transactions, or decisions
- Protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth
- Ensure that personal information in information and communications system in the government and in the private sector are secured and protected

FOI Online Portals

- **data.gov.ph** - an Open Data website that serves as the government's comprehensive portal for all public government data that is searchable, understandable, and accessible.
- **eFOI.gov.ph** - a website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides a central resource for the public to understand FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly available. It also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency and over time.

FOI Contact and Receiving Office

The FOI contact for the Bureau shall be the Public Information and Assistance Division (PIAD) Office located at the Office of the Commissioner Building, Gate 3, South Harbor, Port Area, Manila and can be contacted at telephone number **8705-6000** or at **piad@customs.gov.ph**. The PIAD shall likewise be the primary contact for the Bureau where the requesting party can call and ask questions about the FOI process or the pending FOI request.

The public may also access the **eFOI.gov.ph.**, a website that serves as the government's comprehensive FOI website for all information on the FOI. Among many other features, eFOI.gov.ph provides a central resource for the public to understand FOI, to locate records that are already available online, and to learn how to make a request for information that is not yet publicly

available. It also promotes agency accountability for the administration of the FOI by graphically displaying the detailed statistics contained in Annual FOI Reports, so that they can be compared by agency and over time.

FOI Contact and Receiving Office

The FOI contact for the Bureau shall be the Public Information and Assistance Division (PIAD) Office located at the Office of the Commissioner Building, Gate 3, South Harbor, Port Area, Manila and can be contacted at telephone number 8705-6000 or at piad@customs.gov.ph. The PIAD shall likewise be the primary contact for the Bureau where the requesting party can call and ask questions about the FOI process or the pending FOI request.

Proactive Disclosure

The Bureau in order to make the Bureau's public records searchable, understandable, and accessible, shall adopt an integrated system of sharing and dissemination wherein it shall utilize its official website, customs.gov.ph and other means of communication to achieve its goal of full-public disclosure subject to reasonable conditions prescribed by law.

Composition

The Deputy Commissioner for Internal Administration Group (IAG) shall act as the FOI Decision Maker (FDM), and shall have overall responsibility for the initial decision on FOI requests (i.e. to decide whether to release all the records, partially release the records or deny access) subject to review as provided in this Manual.

FOI Receiving Officer

There shall be an FOI Receiving Officer (FRO) designated at the PIAD.

The functions of the FRO shall include but not limited to:

- Receive on behalf of the Bureau all requests from information and forward the same to the appropriate office that has custody of the records
- Monitor all FOI requests and appeals
- Provide assistance to the FDM
- Provide assistance and support to the public and staff with regard to FOI
- Compile statistical information related to FOI as required
- Conduct initial evaluation of the request and advise the requesting party whether the request will be forwarded to the FDM for further evaluation, or promptly deny the request either because the request form is incomplete, or the information requested has already been disclosed, or it can be directly found on the Bureau's official website or on data.gov.ph

FOI Decision Maker

The FDM shall conduct an evaluation of the request for information and has the authority to grant the request, or deny it based on any of the grounds for denial stated in this manual.

Referral to the Data Protection Officer

In case of doubt as to the interpretation of this manual for requests involving personal or sensitive personal information, the FDM may refer to the matter to the Bureau's Data Protection Officer whose recommendation will be subject to the FDM's approval.

Chief of Central Appeals and Review Committee

There shall be a Central Appeals and Review Committee (Review Committee) composed of three (3) officials with a rank not lower than the Director or its equivalent designated by the Commissioner to review and analyze the grant or denial of a request for information of the FDM. The FDM who issued the denial shall not be part of the Review Committee.

Protection of Privacy and Confidentiality

While providing for access to information, the Bureau shall afford full protection to a person's right to privacy and confidentiality of matters affecting national interest.

- The Bureau shall ensure that all non-confidential, unpublished information shall, for legitimate use, be available to the public in an expeditious manner
- Except in the context of judicial proceedings, any disclosure of confidential information shall not be made except upon the written consent of the party concerned
- The Bureau shall ensure that sensitive personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter or relevant to the subject-matter of the request and its disclosure is permitted under the existing laws
- The Bureau shall protect personal information in its custody or under its control by making reasonable security arrangements against unauthorized access, leaks or premature disclosure which unduly exposes the individual whose personal information is requested to vilification, harassment or any other wrongful acts
- Subject to existing laws, rules and regulations, the CRMD, utilizing ICT-enabled system, shall create and maintain accurate and reasonably complete customs records and information in appropriate formats, and implement a records management system that facilitates easy identification, retrieval and communication of information to the public
- The FRO, FDM, or any employee or official who has access, whether authorized or unauthorized, to personal information in the custody of the Bureau, shall not disclose that information except as authorized by existing laws

Standard Procedure

Receipt of Request for Information

- The FRO shall receive the request for information from the requesting party and shall check if the following requirements have been complied with:

- the request must be in writing
- The request shall state the name and contact information of the requesting party, as well as provide valid proof of identification and/or authorization
- The request shall reasonably describe the information requested, and the reason for, or purpose of, the request for information

The following are sufficient proof of authorization:

- In case the principal is a juridical entity, the requesting party must be able to present a Secretary's Certificate or Board Resolution authorizing the requesting party to make the request
- In case the principal is a private person, the requesting party must be able to present an authorization letter, a general power of attorney, or a letter of consent
- If the request is made pursuant a pending case or ongoing investigation, the requesting party must be able to present a verification or certification of participation in the pending case or ongoing investigation

The request may be made through electronic mail (e-mail), provided that the requesting party shall attach a scanned copy of the FOI application request form along with scanned copy of a duly recognized government-issued proof of identity with photo.

- In case the requesting party is unable to make a written request, because of illiteracy or due to being a differently-abled person, they may make an oral request, and the FRO shall reduce it in writing.
- The request shall be stamped "Received" by the FRO, indicating the date and time of the receipt of the written request, and the name, rank, title and position of the FRO shall be signed by the FRO and a copy thereof shall be produced and given to the requesting party. In case of e-mail requests, the same shall be acknowledged by e-mail indicating the date and time of the receipt of the request, and the name, rank, title and position of the FRO or the public officer who actually received it. The same shall also be printed for record-keeping purposes. The FRO shall input the details of the request on the Request Tracking System and allocate a reference number.
- The FRO or their duly authorized employee shall ensure that the FOI Request Form is correctly filled up and may request for

additional information to facilitate the Bureau in complying with the request. The FRO or the duly authorized employee may not refuse to accept the FOI request unless for reasons provided in this Manual.

- **Period to Respond:** The Bureau must respond to requests promptly, within seven (7) working days from the date of receipt of the complete request for information in case of complex issues. However, if the request involves a simple request, the Bureau must respond within three (3) working days from the date of receipt of the complete request for information. A working day is any day other than a Saturday, Sunday, or a day which is declared a national public holiday in the Philippines. In computing for the period, Art. 13 of the Civil Code shall be observed.

The date of the receipt shall be:

- The date when the request was physically delivered to the Bureau
- The date when the request is received by mail by the Bureau, or
- The date when the request is electronically received by the Bureau, provided that, when the request has been emailed to a Bureau's employee who is absent and this has generated an "out of office" message with instructions on how to re-direct the message to another contact, then it shall be the date when the request is electronically delivered to that contact.

Provided, that in cases where the request was electronically made to an absent/unavailable FRO and this has generated a message with instructions on how to re-direct the message to another contact, the date of receipt will be the day the request is electronically received by that contact.

The period may be extended whenever the request requires extensive search of the records facilities of the Bureau, examination of voluminous records, or in case of the occurrence of fortuitous events or other analogous cases. The FDM shall inform the FRO, and the FRO shall notify the requesting party of the extension, setting forth the reasons for such extension. In no case shall the extension exceed twenty (20) working days, unless exceptional circumstances warrant a longer period.

Initial Evaluation

After receipt of the request for information, the FRO shall evaluate the contents of the request by applying the Multi-Track Processing and the subsequent provisions.

- **Requested information is not in the custody of Bureau** - If the requested information is not in the custody of the Bureau, following referral and discussions with the FDM, the FRO shall undertake the following steps:
 - If the records requested refer to another department, agency, bureau, or office, the request will be immediately transferred to such appropriate department through the most expeditious manner and the transferring office must inform the requesting party that the information should not be held within the 7 working day limit. The 7 working day requirements for the receiving office commences the day after it received the request.
 - If the records refer to an office not within the coverage of E.O. No. 2, the requesting party shall be advised accordingly and will be provided with the contact details of that office, if known.
- **Requested information is already posted and available on-line** – Should the information being requested is already posted and publicly available in the Bureau’s website, data.gov.ph or foi.gov.ph, the FRO shall inform the requesting party of the said fact, and immediately provide them with the website link where the information is posted
- **Requested information is substantially similar or identical to the previous request** – Should the requested information be substantially similar or identical to a previous request by the same requester, the request shall be denied. However, the FRO shall inform the applicant of the reason for such denial within the 7-day period prescribed by this Manual.

Transmittal of Request by the FRO to the FDM

After receipt of the request for information, the FRO shall evaluate the information being requested to the FDM within one (1) working day from receipt of the written request. The FRO shall record the date, time and name of the FDM who received the request in a record book with the corresponding signature of acknowledgement of receipt of the request.

Role of FDM in processing the request

Upon receipt of the request for information from the FRO, the FDM shall assess and clarify the request if necessary. He shall refer the request to the appropriate officer of the Bureau who shall make all necessary steps to locate and retrieve the information requested and submit the same to the FDM within three (3) working days. The FDM will review the information requested to ensure it is responsive to the FOI request and that the disclosed information is compliant with all relevant laws and regulations. Afterwards, the FDM shall submit the complete information requested to the FRO within six (6) working days upon receipt of such request by the FRO from the requesting party.

If the request involves a simple request, the FDM shall refer the request to the appropriate officer of the Bureau who shall make all necessary steps to locate and retrieve the information requested and submit the same to the FDM within one (1) working day.

The FRO shall note the date and time of receipt of the information from the FDM and report to the Commissioner, in case the submission is beyond the 6-day period.

If the FDM needs further details to identify or locate the information, he shall, through the FRO, seek clarification from the requesting party as provided in this Manual. The clarification shall stop the running of the 7-day period and will commence the day after it receives the required clarification from the requesting party.

If the FDM needs further that a record contains information of interest to another office, the FDM shall consult with the agency concerned on the "disclosability" of the records before any final determination.

The FDM may deny the FOI request on any of the grounds for denial stated in this manual.

Approval or Denial of the Denial of the Request

The FDM may either approve or deny the request for information. The action may either be:

- Full Denial by the Bureau to release any records in response to a FOI request, because, for example, the requested information is exempt from disclosure in its entirety or no records responsive to the request could be located.
- Full Grant or approval by the Bureau to disclose all records in full in response to a FOI request
- Partial Grant/Partial Denial by the Bureau to disclose portions of the records in response to a FOI request, but must deny other portions of the request.

In cases where the FDM is on official leave, or is otherwise incapable of fulfilling his duties, the Commissioner may delegate such authority to another official.

In case of approval, the FRO shall ensure that all records that have been retrieved and considered be checked for possible exemptions, prior to actual release.

Should the request be approved, but compliance thereto necessitates that reproduction and photocopying of documents, the FRO shall notify the requesting party within the prescribed period that the request was granted and the requesting party is directed to pay the applicable fees, if any. No notice is required if there are no applicable charges.

In case of denial of the request wholly or partially, the FRO shall, within the prescribed period, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the provided shall be deemed a denial of the request to information. All denied FOI requests shall pass through the Office of the Commissioner or to their designated official for his information.

Role for FRO to transmit the information to the requesting party

Upon receipt of the requested information from the FDM, the FRO shall collate and ensure that the information is complete. He shall attach a cover/transmittal letter signed by the Commissioner or the designated official, and ensure the transmittal of such to the requesting party.

The FRO shall notify the requesting party of the availability of the requested documents/information which may be transmitted by

any way the FRO deems suitable and/or expedient. The requesting party may also pick-up the requested materials in the PIAD Office.

Grounds for Denial

Access to information shall be allowed except when the information falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence, including but are not limited to the following:

- Information covered by Executive Privilege:
 - Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings
 - Matters covered by deliberative process privilege, namely:
 - Advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage or information pertaining to the decision-making of executive officials
 - Information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.
- Privileged information, confidential matters relating to national security, defense or international relations:
 - Information, record, or document that must be kept secret in the interest of national defense or security
 - Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs
 - Patent applications, the publication of which would prejudice national security and interests
- Information concerning law enforcement and protection of public and personal safety:
 - Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would:
 - Interfere with enforcement proceedings
 - Deprive a person of a right to a fair trial or an impartial adjudication

EO 2 s. 2016, Section 4, Par. 1

- Disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, or
- Unjustifiably disclose investigative techniques and procedures
- Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law
- When disclosure of the information would put the life and safety of an individual in imminent danger
- Any information given by informants leading to the recovery of carnapped vehicles and apprehension of the persons charged with carnapping
- All proceedings involving application for admission into the Witness Protection Program and the action taken thereon
- Information deemed confidential for the protection of the privacy of persons and certain individuals as minors, victims of crimes, or the accused. These include:
 - Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, personal information or records, including sensitive personal information, birth records, school records, or medical or health records.

Sensitive personal information as defined under the Data Privacy Act of 2012 refers to personal information:

- About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations
- About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings
- Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns
- Specifically established by an executive order or an act of Congress to be kept classified.

cf. Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (s. 2016)", November 24, 2016

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government.

- Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence
- Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
 - Records of child and family cases
 - Children in conflict with the law from initial contact until final disposition
 - A child who is a victim of any offense under the Anti-Child Pornography Act of 2009, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity
 - A child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name address, telephone number, school, or other identifying information of a child or an immediate family of the child
 - Cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member

- Trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person
- Names of victims of child abuse, exploitation or discrimination
- Disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons
- Records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents
- Names of students who committed acts of bullying or retaliation
- First time minor drug offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependents under the voluntary submission program; and records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the Comprehensive Dangerous Drugs Act of 2002, as amended
- Identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing
- Information, documents or records known by reason of official capacity and deemed as confidential, including those submitted or disclosed by entities to governmental agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative regulatory or quasi-judicial powers
 - Trade secrets, intellectual property, business, commercial, financial and other proprietary information
 - Data furnished to statistical inquiries, surveys, and censuses of the Philippine Statistics Authority (PSA)
 - Records and reports submitted to the Social Security System by the employer or member

- Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities
- Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under the condition of anonymity
- Applications and supporting documents filed pursuant to the Omnibus Investments Code of 1987
- Documents submitted through the Government Electronic Procurement System
- Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the Electronic Commerce Act of 2000
- Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the Philippine Mining Act of 1995 and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates
- Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies
- The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto
- Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis
- Certain information and reports submitted to the Insurance Commissioner pursuant to the Insurance Code
- Information on registered cultural properties owned by private individuals
- Data submitted by a higher education institution to the Commission on Higher Education (CHED)
- Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals
- Information of which a premature disclosure would:
 - In the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution, or

- Be likely to significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal
- Records of proceedings or information from proceeding which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:
 - Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*
 - Matters involved in an Investor-State mediation
 - Information and statements made at conciliation proceedings under the Labor Code Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC)
 - Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto
 - Information related to investigations which are deemed confidential under the Securities Regulations Code
 - All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission
 - Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the Comprehensive Dangerous Drugs Act of 2002
 - Investigation report and the supervision history of a probationer
 - Those matters classified as confidential under the Human Security Act of 2007
 - Preliminary investigation proceedings before the committee on decorum and investigation of government agencies
 - Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential

- Matters considered confidential under banking and finance laws, and their amendatory laws:
 - RA No. 1405 (*Law on Secrecy of Bank Deposits*)
 - RA No. 6426 (Foreign Currency Deposit Act of the Philippines) and relevant regulations
 - RA No. 8791 (The General Banking Law of 2000)
 - RA No. 9160 (Anti-Money Laundering Act of 2001)
 - RA No. 9510 (Credit Information System Act)
- Trade Secrets, intellectual property, commercial, financial and other proprietary information

- Confidential Business Information, unless 1) the notifying entity consents to the disclosure, or 2) the document or information is mandatorily required to be disclosed by law or by a valid order of a court of competent jurisdiction or of a government or regulatory agency
- Sensitive Personal Information, unless
 - the data subject has given his or her consent,
 - the processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract,
 - the processing is necessary for compliance with a legal obligation to which the personal information controller is subject,
 - the processing is necessary to protect vitally important interests of the data subject, including life and health,
 - the processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate,
 - the processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution
- Other exceptions to the right to information under laws, jurisprudence, rules and regulations
 - Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:

Office of the President of the Philippines, Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (s. 2016)", November 24, 2016, p. 2; cf. Republic Act 1405 otherwise known as "Bank Secrecy Law"

cf. Office of the President of the Philippines, Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (s. 2016)", November 24, 2016, p.6

Republic Act No. 10667, otherwise known as "Philippine Competition Act"

Republic Act No. 10173, otherwise known as "Data Privacy Act of 2012"

Office of the President of the Philippines, Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (s. 2016)", November 24, 2016, p. 2

- When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements
- Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules)
- Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012)
- Testimony from a government official, unless pursuant to a court or legal order
- When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
 - Any purpose contrary to morals or public policy, or
 - Any commercial purpose other than by news and communications media for dissemination to the general public
- Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested
- Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts
- Requested information pertains to comments and disclosures on pending cases in judicial proceedings
- Attorney-client privilege existing between government lawyers and their client

Remedies in Case of Denial

A person whose request for access to information has been denied may avail himself of the remedy set forth below:

Administrative FOI Appeal to the Bureau's Central Appeals and Review Committee

The written appeal must be filed by the same requesting party within fifteen (15) calendar days from the notice of denial or from the lapse of the period to respond to the request

- Appeal of the FDM decision shall be made by filing a written appeal to the Commissioner within fifteen (15) calendar days from the notice of denial

- The Commissioner shall make a final decision on the appeal, based on the recommendation of the Review Committee. Failure to decide within thirty (30) working day period shall be a deemed a denial of the appeal
- The denial of the appeal by the Commissioner or the lapse of the period to respond to the request may be appealed further to the Office of the President under Administrative Order No. 22, s. 2011

Upon exhaustion of Administrative FOI Appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

Request Tracking System

The Bureau shall establish a system to trace the status of all request for information received by it, which may be paper-based, on-line or both.

Fees

No Request Fee – The Bureau shall not charge any fee for accepting requests for access to information.

Reasonable Cost of Reproduction and Copying of the Information – The FRO shall immediately notify the requesting party in case there shall be a reproduction and copying fee in order to provide the information. Such fee shall be the actual amount spent by the Bureau in providing the information to the requesting party. The schedule of fees shall be posted by the Bureau.

Exception from Fees – The Bureau may exempt any requesting party from payment of fees, upon requesting stating the valid reason why such requesting party shall not pay the fee.

Administrative Liability

Non-Compliance with FOI

Failure to comply with the provisions of this Manual shall be grounds for the following administrative penalties

- 1st Offense – Reprimand
- 2nd Offense – Suspension of one (1) to thirty (30) days
- 3rd Offense – Dismissal from the service

The penalties provided for in this Order shall be without prejudice to other criminal, administrative or civil liability that may arise pursuant to the provisions of applicable law violated.

Procedure

The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.

Public Service Contractor

All requests for information made to the Public Service Contractor, including but not limited to the information which relates to the official function and mandate of the Bureau within their custody, shall be forwarded to the Bureau for processing in accordance with this Order. Public Service Contractors are not allowed to disclose any information obtained in relation to their contract with the Bureau.

Annual FOI Report

The Bureau shall file with an Annual FOI report with the Presidential Communications Operations Office (PCOO) detailing the administration of the FOI. Annual FOI Reports contain detailed statistics on the number of FOI requests and appeals received, Processed Requests and Processed Appeals, and requests which remain pending with the Bureau including Frequently Requested Information. The Deputy Commissioner for IAG shall prepare the report for consideration of the Commissioner.

Periodic Review

Unless otherwise provided, this FOI manual shall be reviewed every three (3) years and be amended or revised, if necessary.

Repealing Clause

This FOI manual specifically amends or repeals previously issued CAOs and CMOs which are inconsistent with the provisions herein stated.

Separability Clause

If any part of this FOI manual is declared unconstitutional or contrary to existing laws, the other parts not so declared and shall remain in full force and effect.

Effectivity

This FOI manual shall take effect on 13 December 2019.

The Office of the National Administrative Register (ONAR) of the UP Law Center shall be provided three (3) certified copies of this CMO.

CMC 276-2019

Issue Date: December 10, 2019

From the letter sent by Sung Tae-Kon, Director-General, FTA Implementation Bureau, Korea Customs Service, dated November 4, 2019

To whom it may concern,

First of all, I'd like to appreciate your effort to implement Korea-ASEAN FTA.

Up until now, issuing authorities of Korea (Korea Customs Service & Korea Chamber of Commerce & Industry) have been using the same reference number even in the newly issued CO after correcting the initially issued one.

However, we inform you that starting from November 19th 2019 the newly issued CO will be offered with the new reference number after correction, in recognition that the corrected CO is actually a new CO.

We anticipate this change will largely contribute to the trade between the two parties as well as the implementation of Korea-ASEAN FTA.

CMC 277-2019

Issue Date: December 6, 2019

With reference to the letter dated November 19, 2019 from Noralyn Jubaira-Baja, Assistant Secretary, Department of Foreign Affairs, all concerned are informed regarding Note SCA/2/19 (22) dated October 11, 2019 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida and associated individuals, group, undertakings and entities.

The Note Verbale includes the amendment of **ANJEM CHOUDARY** on the sanction list of individuals and entities subject to the assets freeze, travel ban and arms embargo.

Furthermore, action take on this information will be included in PH's implementation reports for onward transmittal to the appropriate United Nations Security Council Sanctions Committee.

For your information and guidance.

CMC 278-2019

Issue Date: December 6, 2019

With reference to the letter dated November 19, 2019 from Noralyn Jubaira-Baja, Assistant Secretary, Department of Foreign Affairs, all concerned are informed regarding Note SCA/2/19 (09) dated October 30, 2019 from the Chair of the Security Council Committee pursuant to resolution 1518 (2003) concerning Iraq.

The Note Verbale includes the deletion of two (2) entities, namely: STATE ORGANIZATION FOR IRRIGATION PROJECTS AND STATE ORGANIZATION FOR LAND RECLAMATION on the sanction list of individuals and entities subject to the assets freeze, travel ban and arms embargo.

Furthermore, action taken on this information will be included in PH's implementation reports for onward transmittal to the appropriate United Nations Security Council Sanctions Committee.

For your information and guidance.

MEMORANDUM 2019-12-014

Issue Date: December 6, 2019

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) the Tariff Commission issued Advance Rulings (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued 28 November 2019, for various imported articles, and the same were submitted and reviewed by the Office, summarized as follows:

TCC. NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2019 RATES OF DUTY
19-438	"LAMONS® RING TYPE JOINT GASKETS"	7326.90.99	MFN – 15% Ad Valorem ATIGA – Zero*
19-461	"EYLEA (AFLIBERCEPT)"	3002.15.00	MFN – 1% Ad Valorem
19-470	"522153 SPM TASTEPRINT SL"	2106.90.98	MFN – 1% Ad Valorem
19-476	"PANASONIC COMMERCIAL REFRIDGERATOR, MODEL: SRR-K1581SA"	8418.69.90	MFN -%% Ad Valorem AJCEPA – Zero* PJEPA – Zero*
19-538	"CHANGAN 100 P TRUCK, MODEL: QL10503HARY"	8704.21.29	MFN – 30% Ad Valorem ACFTA – 5% Ad Valorem*
19-544	"ADJUSTABLE LEG THUMB, PART CODE: W0343-8DV00"	3926.90.99B	MFN – 15% Ad Valorem ATIGA – Zero*
19-546	"PRESSURE SENSOR U, PART CODE: W024T-04310"	9026.20.30	MFN – Zero ATIGA – Zero*
19-550	"BOON EDAM® LIFELINE SPEEDLANE SWING"	8479.89.39	MFN – 1% Ad Valorem ATIGA – Zero*
19-554	"SR CAST LC1600"	3816.00.90	MFN – 5% Ad Valorem
19-555	"SR CAST 1550"	3816.00.90	MFN – 5% Ad Valorem

***Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).**

MEMORANDUM 2019-12-015

Issue Date: December 10, 2019

Pursuant to the provisions of Section 1603 9f) of the Customs Modernization and Tariff Act (Republic Act 10863), the Tariff Commission issued Advance Rulings (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued 02 - 04 December 2019, for various imported articles, and the same were submitted and reviewed by the Office, summarized as follows:

TCC. NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2019 RATES OF DUTY
19-460	"ENTRASOL PLATINUM CHOCOLATE FLAVOR"	2106.90.99	MFN – 7% Ad Valorem ATIGA – Zero*
19-478	"PANASONIC COMMERCIAL REFRIDGERATOR, MODEL: SUR-K1871SA"	8418.69.90	MFN – 5% Ad Valorem AJCEPA – Zero* PJEPA – Zero*
19-492	"BLUEBIRD EF500"	8515.12.00	MFN – Zero
19-493	"HONEYWELL™ DOLPHIN CT50"	8517.12.00	MFN- Zero
19-494	"ZEBRA™ TC56"	8517.12.00	MFN – Zero
19-513	"AAA® GLUCOSE SYRUP A301"	1702.30.20	MFN – 3% Ad Valorem ATIGA – Zero*
19-528	"RECODAN CM 221-M"	3824.99.99	MFN 0 3% Ad Valorem ATIGA – Zero*
19-551	"SAMSUNG GALAXY S10e LED VIEW COVER, Model: EF-NG970PWEGWW"	4202.32.00	MFN – 15% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-574	"CARDINAL HEALTH™ JACKSON-PRATT® SILICONE FLAT DRAINS"	9018.39.90	MFN – 1% Ad Valorem
19-576	"ALBERDINGK® REFINED LINSEED OIL"	1515.19.00	MFN – 1% Ad Valorem

***Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).**

MEMORANDUM 2019-12-028

Issue Date: December 29, 2019

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863), the Tariff Commission issued Advance Rulings (AR) on Tariff Classification with Tariff Classification Circulars (TCC/AR) issued 09 – 11 December 2019, for various imported articles, and the same were submitted and reviewed by the Office, summarized as follows:

TCC. NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2019 RATES OF DUTY
19-409	"SAMSUNG SmartThings MULTIPURPOSE SENSOR"	9031.80.90	MFN – Zero ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-517	"L-HISTIDINE"	2933.29.00	MFN – 1% Ad Valorem
19-530	"Vitamin Mineral Premix"	2106.90.73	MFN – 1% Ad Valorem ACFTA – Zero*
19-537	"CHANGAN 100 P TRUCK, MODEL QL10403EARY"	8704.21.29	MFN – 30% Ad Valorem ACFTA -5% Ad Valorem*
19-553	"CHASSIS FITTED WITH ENGINE"	8706.00.19	MFN – 10% Ad Valorem AJCEPA – Zero* PJPEPA – Zero*
19-580	"NEMA® NEX 10 BAR EXPANSION VESSELS (VERTICAL)"	8479.89.40	MFN – 1% Ad Valorem
19-578	"HOCKLEY PY-PRO SUPER"	3803.91.90	MFN – 3% Ad Valorem
<i>*Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).</i>			

ABOUT US

Nague Malic Magnawa & Associates Customs Brokers (NMM) is a general professional partnership of customs brokers duly registered by the Securities and Exchange Commission and the Bureau of Customs. As the first general professional partnership of customs brokers registered with SEC and BOC, it complies with RA 9280, or the Customs Brokers Act of 2004. It has offices in Metro Manila and Cebu, and brokers in Clark, Subic, Davao, Cagayan de Oro, Batangas, and other major ports and special economic zones in the Philippines.

To learn more about the company, please visit our website at:

<http://www.nmmcustomsbrokers.com/>

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