

Philippines 2000

14 April 2003

Administrative Order
No. **53**
Series of 2003

SUBJECT : OMNIBUS GUIDELINES IN THE MANAGEMENT AND PROCESSING OF DONATIONS

RATIONALE:

Donations are received from both foreign and local sources by the Department of Social Welfare and Development (DSWD) or by social welfare and development (SWD) agencies . Donations are commodities intended to benefit the programs and projects these agencies manage. These are facilitated/processed pursuant to existing laws governing donation to effect release from the Bureau of Customs.

The DSWD, in recognition to the participation of SWD agencies in providing interventions to alleviate, ease, and/or mitigate a distressed, stressful and/or critical situation affecting persons, families, and groups or communities, certifies these agencies for exemption from the payment of import duties as provided for in Section 105 paragraph "I" of the Revised Tariff and Customs Code of the Philippines (TCCP).

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

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

This Omnibus Guidelines in the Management and Processing of Donations is formulated to amend existing rules and regulations and to provide a unified direction in the processing and management of donations.

SECTION 1. COVERAGE AND APPLICABILITY. This Omnibus Guidelines covers and applies only to the following:

- Foreign donations under Section 105 (I) of the Revised Tariff and Customs Code of the Phils.
- Foreign donations for the DSWD Under the General Appropriations Act
- Local donations from the Bureau of Customs pursuant to PMO 23 and Section 2610 of the Revised TCCP

SECTION 2. LEGAL BASES. These guidelines are hereby promulgated by the DSWD based on the following legal mandates:

1. Revised Tariff and Customs Code of the Philippines as amended, indicates the following provisions:
 - (a) Section 105 paragraph “1”, states that “Imported articles donated to or for the account of any duly registered relief organization upon certification by the Department of Social Welfare and Development (DSWD) or the Department of Education as the case may be shall be exempt from the payment of import duties”;
 - (b) Section 1205 provides that “Except those provided for in Section One Hundred and Five of said Code, all importations by the government for its own use or that of its subordinated branches or instrumentalities, or corporations, agencies or instrumentalities owned or controlled by the government, shall be subject to the duties, taxes, fees and other charges provided for in this Code”;
 - (c) Section 2610 (Disposition of Unsold Articles for Want of Bidders specific to the last sentence of 2nd paragraph) provides that “If the article is suitable for shelter or consists of foodstuffs, clothing materials and medicines, then that article shall be given to government charitable institutions through the Department of Social Welfare and Development”;
2. Republic Act No. 4653, otherwise known as “An Act to Safeguard the Health of the People and Maintain the Dignity of the Nation by Declaring it a National Policy to Prohibit the Commercial Importation of Textile Articles Commonly Known as Used Clothing and Rags”, Section 1, provides that it shall be unlawful for any person, association or corporation to introduce into any point in the Philippines textile, articles commonly known as used clothing and rags except when these are imported under paragraph “1” of Section 105 of Republic Act No. 1933, Tariff and Customs Code of the Philippines;
3. President Memorandum Order No. 23, Series of 1992, Section 1 provides that “All forfeited used clothing shall be immediately turned over by the Bureau of Customs (BOC) to the Department of Social Welfare and Development, as soon as the forfeiture decision becomes final and executory”;
4. General Appropriations Act, Section 13 provides that “National Internal Revenue Taxes and Import Duties of National Government Agencies including the Light Rail Transit Authority (LRTA), Home Development Mutual Fund (HDMF), National Food Authority (NFA) and Specialty Hospitals, national internal revenue taxes and import duties payable by national government agencies to the Nation Government arising from foreign donations, grants and loans are deemed automatically appropriated”.

SECTION 3. DEFINITION OF TERMS – For purpose of this Administrative Order, the following terms shall be defined as:

- (a) Relief – is the provision of interventions to alleviate, ease and/or mitigate a distressed, stressful and/or critical situation affecting persons, families, groups or communities.
- (b) Donated Imported Articles - are food and non-food items, except used clothing, that can be used to respond to any situation affecting disadvantaged or distressed individuals and families in order to meet their basic needs.
- (c) Non-Commercial Quantity of Relief Goods – refers to the volume of food and non-food items that are donated, not in excess of the amount needed by the beneficiaries as specified in the relief distribution plan of the organization, as approved by the DSWD Field Office(s) concerned.
- (d) Duly Registered Relief Organization – is an organization duly registered, licensed or accredited by DSWD.
- (e) Outer Port – is any port of entry within the Philippines other than the Port of Manila (POM), Manila International Container Port (MICP) and Ninoy Aquino International Airport (NAIA).
- (f) Packing List – an itemized list of goods/articles with corresponding volume/ units sent to recipient of goods.
- (g) Approved Plan - is a duly notarized plan of distribution of donated goods, prepared by the agency concerned, confirmed by the local social welfare office and endorsed by the DSWD Field Office.
- (h) Donation for the DSWD are commodities which the Department receive from both foreign and local sources, intended to benefit the Department and/or the programs and projects it managed. These donations are facilitated/processed pursuant to existing laws governing donation to effect release from the Bureau of Customs.
- (i) Forfeited goods – are commodities consisting of food and non-food articles, seized and confiscated by operatives of the Bureau of Customs which remains unsold after at least two public biddings and are channeled to other offices of the national government for official use.

TITLE I
FOREIGN DONATIONS UNDER SECTION 105 (I) OF THE REVISED
TARIFF AND CUSTOMS CODE OF THE PHILS.

SECTION 4. GENERAL GUIDELINES - The following general guidelines shall govern all foreign donations consigned to relief organizations:

- (a) Only duly registered relief organizations may apply for a certification for duty free entry of foreign donations.
- (b) An organization applying for duty free certification shall be charged a facilitation fee of P1,000.00 or 1% declared value of shipment.
- (c) The Local Government Units (LGUs) need not go through the DSWD as their importations are covered by Sections 1205 of the Tariff and Customs Code of the Philippines (TCCP) which provides that all importations by the government, for its own use, or that of its subordinate branches and instrumentalities, owned and controlled by the government, shall be subject to duties, taxes, fees and other charges provided for in the TCCP.
- (d) The duly registered organization shall consult with the concerned DSWD Field Offices for the confirmation and approval of their plan of distribution before negotiating for, or accepting any foreign donations. The concerned DSWD Field Offices shall confirm and approve the plan of distribution, stating the specific purposes, areas of distribution, and the kind and volume of goods relevant to the identified purposes.
- (e) The concerned DSWD Field Offices shall forward all applications to the Standards Bureau. The latter shall review and evaluate such request before any appropriate action is endorsed or recommended by it to the Undersecretary In-charge for Policy and Programs. Whenever appropriate, the Undersecretary In-charge for Policy and Programs shall then endorse such request for the entry of the foreign donations into the Philippines free of duty to the Department of Finance (DOF).
- (f) In cases where an organization operates nationwide, said organization shall secure approval from each Field Office having jurisdiction over the area where the distribution of goods shall take place. The DSWD shall not allow organizations with specific areas of operation, to expand their area of coverage for the purpose of accepting foreign donations.
- (g) Items not listed in the packing list or in excess of the approved plans shall not be released to the consignee. After compliance with the pertinent provisions of the Tariff and Customs Code of the Philippines, as amended, and other approved laws, rules and regulations (under Section 3602. Various Fraudulent Practices Against Customs Revenue) the same shall be forfeited in favor of the Philippine Government. Notice on this shall be given by the

DSWD to the Bureau of Customs (BOC) and the Department of Finance (DOF), subject to existing laws.

- (h) Each shipment should not exceed a quarter's requirement of the organization's relief program, except when there is a state of calamity that requires a bigger volume of goods.
- (i) Goods subject of request for duty free entry shall be assessed and endorsed by the DSWD Field Office where the duly registered relief organizations are based.
 - i. Goods that are subject of applications for entry into the Philippines free of duty shall be limited to non-commercial quantity of relief commodities that are necessary to accomplish the objectives of the social welfare and development programs and services.
 - ii. Importation of all goods shall be supported by the required documents as mentioned in Section 4 of this Administrative Order, including contracts/agreements if there are any, and shall not violate existing laws or policies and guidelines governing such importation.
 - iii. If goods to be donated are medicines, a certification by the Bureau of Food and Drugs (BFAD) of the Department of Health (DOH) is required, stating the purpose of the medicines and the fact that the same may be used by the intended beneficiaries without the need of a prior prescription and that these are safe for human consumption.
 - iv. All the subject goods shall be for free distribution exclusively to the identified clients of the duly registered relief organization.
 - v. Donation/Importation of used clothing shall be strictly prohibited in order to safeguard the health of the people and maintain the dignity of the nation.
- (j) The DSWD shall transact only with the organizations concerned or their duly authorized representatives. Recipient organizations shall make the necessary representations and follow-up of the request for endorsement from the DSWD.
- (k) Agencies or organizations, to whom a duty free certification is issued, shall submit to the DSWD Field Office concerned a status report of the distribution or utilization of commodities in accordance with approved/submitted plans, indicating: (a) the category and the number of the recipients, (b) areas covered and (c) the purpose. This report must be certified by the duly authorized representatives of DSWD, and/or Local Government Unit Social Welfare Office, and submitted within one (1) month from withdrawal from the Bureau

of Customs. A report of utilization shall be submitted monthly thereafter until all the donated goods are utilized or distributed, as the case may be. Non-submission of the utilization report shall be a ground for refusal of certification for duty-free entry of succeeding donations or suspension of DSWD registration or license certificate .

(l) Foreign donors for resource agencies shall consign their donations only to duly registered relief organization by the DSWD, and in certain cases, to DSWD. Re-consignment of the goods that have already arrived shall not be allowed pursuant to Memorandum Order dated March 21, 1998 issued by the Department of Finance.

(m) All releases, whether or not the port of entry is Manila, shall require the presence and signature of the duly authorized representative of the DSWD.

SECTION 5. STANDARD CONDITIONS – All application for duty-free importation must comply with all the rules, regulations and conditions imposed by the DOF, and in addition, shall be subject to the following conditions:

- (a) All the necessary clearances from the appropriate government agencies shall be secured by the registered relief organization.
- (b) The goods shall be guarded or escorted by the authorized representatives of the DSWD from the Standards Bureau and Administrative Service directly from the Bureau of Customs (BOC) to the warehouse of the duly registered relief organization.
- (c) Foreign donations for release at the Outer Ports shall be under the authority of the Field Office concerned which shall witness the release of goods at BOC, escort goods to NGO warehouse and shall conduct 100% inventory of goods.
- (d) The opening, stripping, inventory and distribution shall be fully documented by DSWD, which shall include photo documentation.
- (e) The distribution of all donations shall be monitored by the DSWD and documented by the donee, using the relief distribution sheets. A notarized copy of the summary report of the distribution, as well as photo documentation, shall be submitted to the DSWD Central Office, through the concerned Field Office, as basis for validating the distribution of donations.
- (f) Such other conditions that the DSWD may impose to ensure that the objectives of this administration Order will be achieved.

SECTION 6. REQUIREMENTS – To facilitate the issuance of certification for duty free release of foreign donation, the following documents (in three (3) copies each),

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shall be submitted to the DSWD at least two weeks prior the scheduled arrival of the donation:

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

SECTION 7. Pursuant of the first paragraph of Section 105 of the Revised of Tariff and Custom Code, "any article sold, bartered, hired or used for purpose other than that they were intended for without prior payment of the duty tax and other charges which would have been due and payable at the time of entry if the article had been entered without the benefit of this section, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs revenue punishable under Thirty Six Hundred and Two, as amended of this Code. Further, paragraph two of Section 3602 of the said Code provides that, ... "in addition to the punitive action of confiscation (forfeiture) of the imported goods the law has provided that the guilty party should also suffer by paying a fine and temporary loss of liberty; and if the offender is an alien, he is subject to deportation after serving his sentence."

Violation of any of the above condition shall bar certification for duty free entry of succeeding donations, and shall subject the organizations to revocation of its DSWD registration and license certificate and/or its concerned officers or members to criminal, civil and administrative sanctions.

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

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TITLE II
FOREIGN DONATIONS FOR THE DSWD UNDER THE GENERAL
APPROPRIATIONS ACT

Foreign donors prefer to send donation to central government agency, thus, course through their donation to the DSWD. Pursuant to Sec. 1205 of the Revised TCCP, Importations by the Government, "all importations by the government for its own use or that of its subordinate branches or instrumentalities, or corporations, agencies or instrumentalities owned or controlled by the government, shall be subject to the duties, taxes, fees and other charges.

Under the General Provisions of the General Appropriations Act, (except when the provision is suspended) National Internal Revenue Taxes and Import Duties of National Government Agencies including the Light Rail Transit Authority (LRTA), Home Development Mutual Fund (HDMF), National Food Authority (NFA) and Specialty Hospitals payable by national government agencies to the National Government arising from foreign donation, grants and loans are deemed automatically appropriated.

SECTION 8. GENERAL GUIDELINES - To facilitate withdrawal of donation from the BOC and in compliance with the provisions of Sec. 1205 of the Revised TCCP and the General Provisions of the General Appropriations Act, the following are hereby promulgated:

- a. The National Operations Office (NOO) shall assess/evaluate appropriateness as well as cost-effectiveness of donations (including donations for Field Offices), and recommends to the Secretary through the office of Undersecretary for Operations, acceptance or rejection of donation.
- b. Bilateral donations facilitated/coordinated by the Phil. Embassies/Department of Foreign Affairs, are automatically accepted, to promote/foster diplomatic ties with donor country/ies.
- c. For rejected donations, donors shall be informed by the DSWD of whatever reason/s of rejection, as a matter of courtesy.
- d. Foreign donations intended for a specific Field Office shall be forwarded to NOO for facilitation/processing at the Bureau of Customs regardless of port of discharge.
- e. DSWD attached agencies with available funds for handling and hauling should facilitate their own consignment, provided that the Central Office is apprised of such.
- f. Except those facilitated thru bilateral/multi-lateral schemes, no donation shall be accepted if the cost of facilitation (handling and hauling) including duties and taxes, is higher than the value of goods/donation.

- g. Consistent with the provisions of R.A. No. 4653, DSWD shall likewise adhere to the “no used clothing donation” policy. This is to support the local garment industry and to prevent health hazards which may be transmitted thru the used clothings.
- h. The DSWD, like all other importers, shall secure from appropriate government agency whatever permits/clearances are required to facilitate withdrawal of donation/importation. Thus, personnel shall be designated for the purpose.
- i. Services of a private brokerage and forwarders shall be strictly limited to foreign donations in bulk cargo and/or with a volume of 3 container vans and above. Hiring of forwarder/hauler for containerize donation that requires flatbed shall be allowed on a case to case basis.

SECTION 9. REQUIREMENTS. To facilitate and effect immediate withdrawal of donation from the BOC, the following documents are required.

- a. From the donor
 - 1. Original bill of lading/Airway bill/Parcel Notice
 - 2. Packing list/invoice declaration
 - 3. Deed of Donation duly authenticated by the Phil. Consular Office from point of origin.
- b. From the donee/recipient
 - 1. Deed of Acceptance
 - 2. Duly Accomplished Certificate of Official Importation
 - 3. Duly Accomplished Certificate of Undertaking
 - 4. Container guarantee (if containerized)
 - 5. Special Power of Attorney (SPA) for Authorized Representative

SEC. 10. POST-FACILITATION PROCESSES. As soon as the shipment/donation is withdrawn from the Bureau of Customs and goods are delivered to the DSWD warehouse (National Resource Operation Center – NROC, for Manila Port releases; FO warehouse for outer port release), the following activities are undertaken:

- 1. NROC/FO conducts 100% inventory of goods/donation received and submits report to Undersecretary in-charge;
- 2. The valuation team monetizes/valuates the goods and submits report to Finance Service and to Resident COA.
- 3. Finance Service enters/records the donation in the books of accounts, in compliance to the provisions of the General Appropriations Act.
- 4. Sending of acknowledgement of receipt donation and report of utilization to donor by NOO/FO.

TITLE III
LOCAL DONATIONS FROM THE BUREAU OF CUSTOMS PURSUANT TO
PMO 23 AND SEC. 2610 OF THE REVISED TCCP

The relentless anti-smuggling activities of the Bureau of Customs operatives resulted to seizure and confiscation of various commodities, consisting of non-food, taxable and highly taxable, regulated and prohibited items.

To promote intensive collection of taxes and to help prevent or suppress smuggling and other fraudulent acts, the Bureau of Customs subject to approval of the Secretary of Finance authorize the official use of articles (which remains unsold after 2 public biddings) by the National Government Pursuant to Sec. 2610 of the TCCP, as amended, if the article is suitable for shelter or consists of foodstuff, clothing materials or medicines, then the article shall be given to government charitable institutions through the DSWD.

To facilitate the transfer/turn over of used clothing at the BOC which do not require bidding prior to transfer, since importation thereof is prohibited per Sec. 1 of RA 4653, PMO No. 23 was issued. This Presidential Memo Order provides for the immediate turn over of used clothing by the BOC to the DSWD after two failed biddings.

SECTION 11. PROCEDURES. To insure proper and optimum use of forfeited/abandoned/seized commodities and prevent its diversion to the domestic market or its illegal use, the following procedures shall be followed:

1. All forfeited/abandoned goods transferred to DSWD (National) by the Bureau of Customs shall be under the direct custody and accountability of Undersecretary for Operations, through the Director, National Operations Office (NOO), while the goods turned over at the Outer Ports shall be that of the DSWD - FO Director concerned. The accountable persons shall then ensure that:
 - 1.1 Commodities are receipted properly with the following documentation as enclosures:
 - 1.1.1 Gate pass to contain seizure identification number, abandoned proceeding number, quantity, volume weight, estimated value, signature of required signatories with typewritten name below respective signatories and other relevant information on the shipment;
 - 1.1.2 Copy of forfeiture/declaration of abandonment;
 - 1.1.3 Certificate of Finality issued by the BOC
 - 1.1.4 Deed of Donation

- 1.2 Commodities are stored properly at NROC (National Level) and DSWD-Field Offices warehouses (Regional Level) separate from the other stocks of the Department and with complete documentation;
 - 1.3 Coordination with the Bureau of Quarantine is effected relative to the requests for fumigation and other sanitation measures particularly on the used clothings/shoes before releasing and distributing same to beneficiaries;
 - 1.4 Commodities are inventoried and repacked into family packages for proper valuation by the DSWD monetization committee for proper accounting and auditing purposes;
 - 1.5 Distribution plan prepared by DSWD Field Office for donated goods/commodities received from the BOC Outer Ports need to be forwarded to the Secretary/Undersecretary for Operation for approval;
 - 1.6 Under no circumstances should the commodities be released for distribution in bales or in original packages;
 - 1.7 Goods are released upon presentation of duly signed release document by the Secretary/Undersecretary for Operations or his/her duly authorized representative with approved work program of distribution;
 - 1.8 Status report on receipts of releases and balances of said commodities shall be submitted within 10 days from receipt and monthly thereafter to the Operations Group for validation, monitoring purposes.
2. The DSWD monetization team shall determine the monetary value of the commodities within five (5) days upon receipt of the transferred commodities at the National Relief Operations Center (NROC) or at any designated warehouse where same is stored. Report of monetization shall be submitted to the Accounting Division, for inclusion in the book of accounts and recording. The Property Division, Internal Control Unit and Office of Undersecretary for Operations and Resident Auditor shall likewise be furnished copy of said report.
 3. The transfer of forfeited/abandoned goods to DSWD by the Bureau of Customs is unconditional such that its allocation shall be based on the established need which may be distributed through the following:
 - 3.1 DSWD Field Office, to include the requirements of LGUs, other Government Units, NGOs and POs operating in their area of coverage; and / or

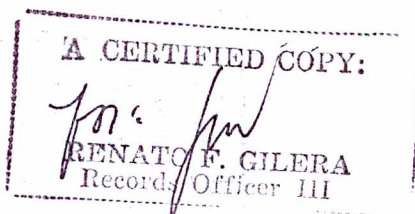
3.2 Social Welfare Agencies, with its disaster relief service, duly accredited by the DSWD

4. Recipient NGOs, LGUs and POs shall submit to DSWD Field Office or the NOO, as the case maybe, status report on receipted commodities for integration in the Regional Report and/or the DSWD Report to the President and Bureau of Customs within two weeks upon receipt of the goods. Duly accomplished Relief Distribution Sheets (RDS) should also be submitted to NOO as supporting documents.
5. Submission of monthly report using the duly prescribed form which form part of this circular shall be on or before the 10th day of the succeeding month of the report period.
6. DSWD Field Offices shall monitor distribution of goods/commodities by the recipients, i.e. LGUs, NGOs, POs including accredited social welfare agencies. The DSWD FOs shall submit status report to NOO including among others, concerns and issues in the commodity utilization 30 days from receipt and monthly thereafter, until all receipted commodities are consumed/distributed. NOO shall validate monitoring done by FOs.
7. Non-compliance of the reporting provision and other requirement of this circular as well as deviations on the utilization as indicated in the approved work plan of distribution shall subject the concerned Field Office or the concerned NGO to established legal sanctions as specified in Section 3602 of the Revised Tariff and Customs Code and /or deprive them from similar opportunities of being a recipient of forfeited/abandoned commodities.

SECTION 12. SEPARABILITY CLAUSE – If any provision of these implementing rules and regulations is held invalid or unconstitutional, the other provisions not so declared shall remain valid and subsisting.

SECTION 13. EFFECTIVITY CLAUSE. This Administrative Order shall take effect immediately and shall supercede all other DSWD guidelines, issuance or their specific provision/s inconsistent herewith.


CORAZON JULIANO-SOLIMAN
DSWD Secretary



NGO

FIELD OFFICE

CENTRAL

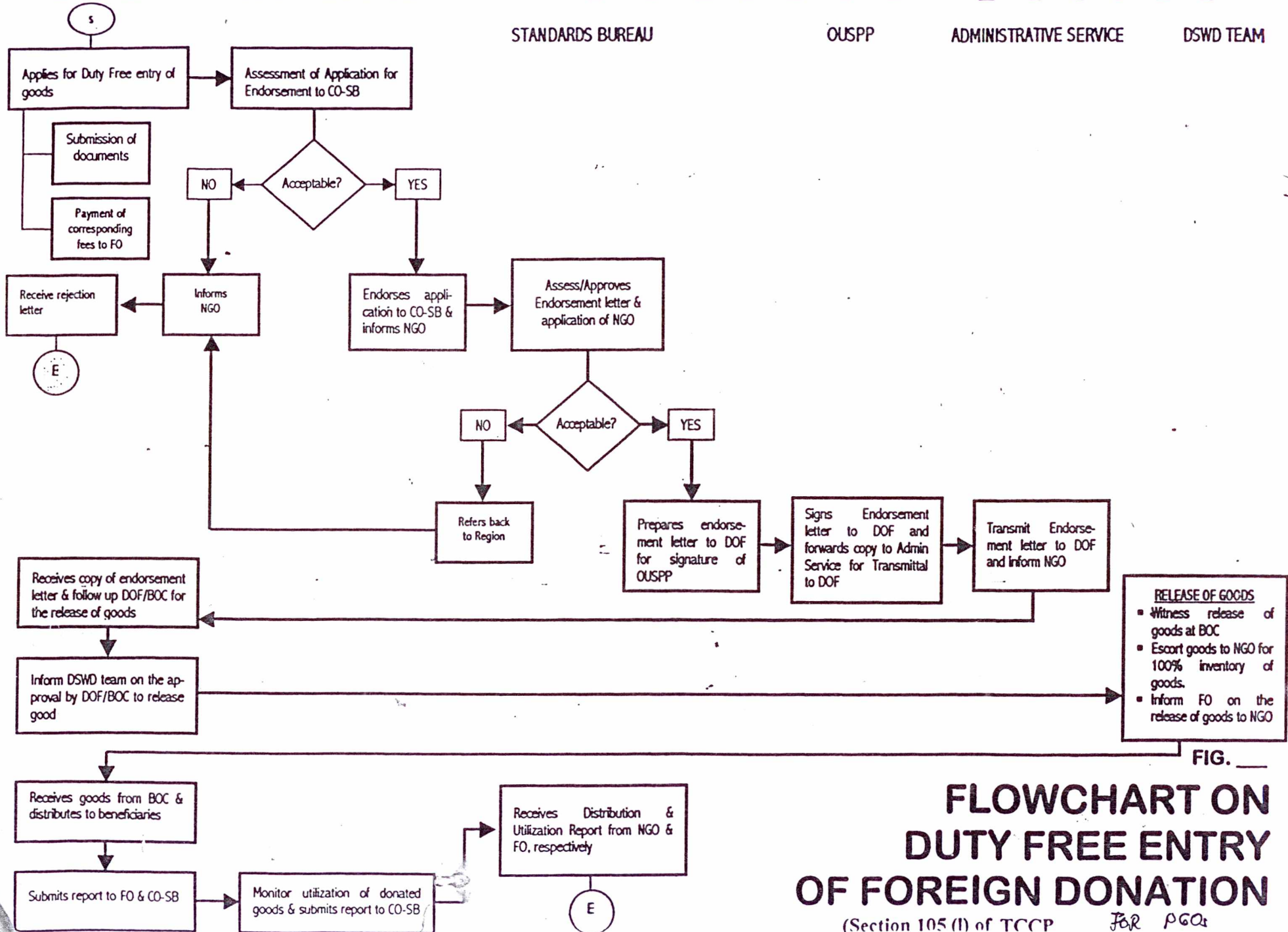
OFFICE

STANDARDS BUREAU

OUSPP

ADMINISTRATIVE SERVICE

DSWD TEAM



- RELEASE OF GOODS**
- Witness release of goods at BOC
 - Escort goods to NGO for 100% inventory of goods.
 - Inform FO on the release of goods to NGO

FIG. ___

FLOWCHART ON DUTY FREE ENTRY OF FOREIGN DONATION

(Section 105 (I) of TCCP For PGOs)

FLOWCHART OF DSWD-OWN (FOREIGN) DONATION

DONOR

CENTRAL OFFICE

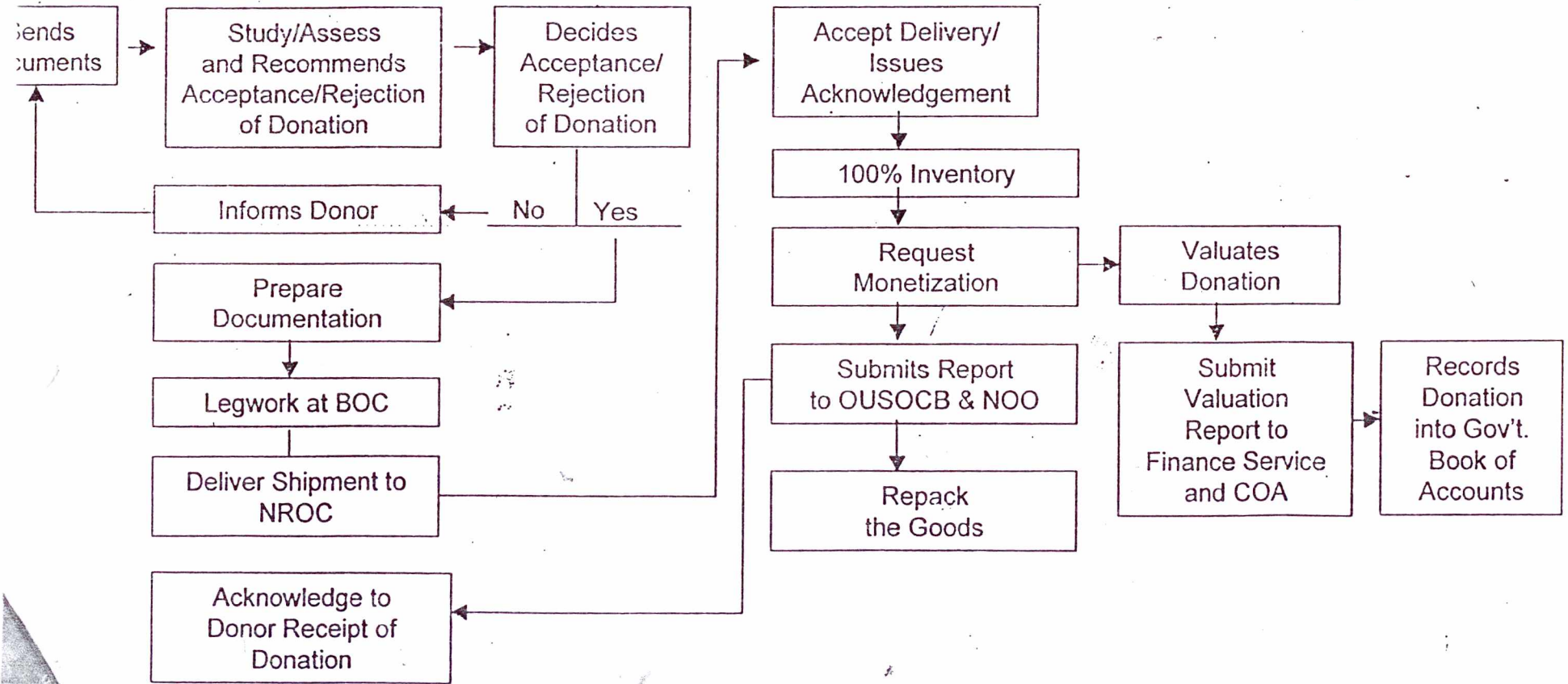
NOO

OUSOCB

NROC

MONETIZATION

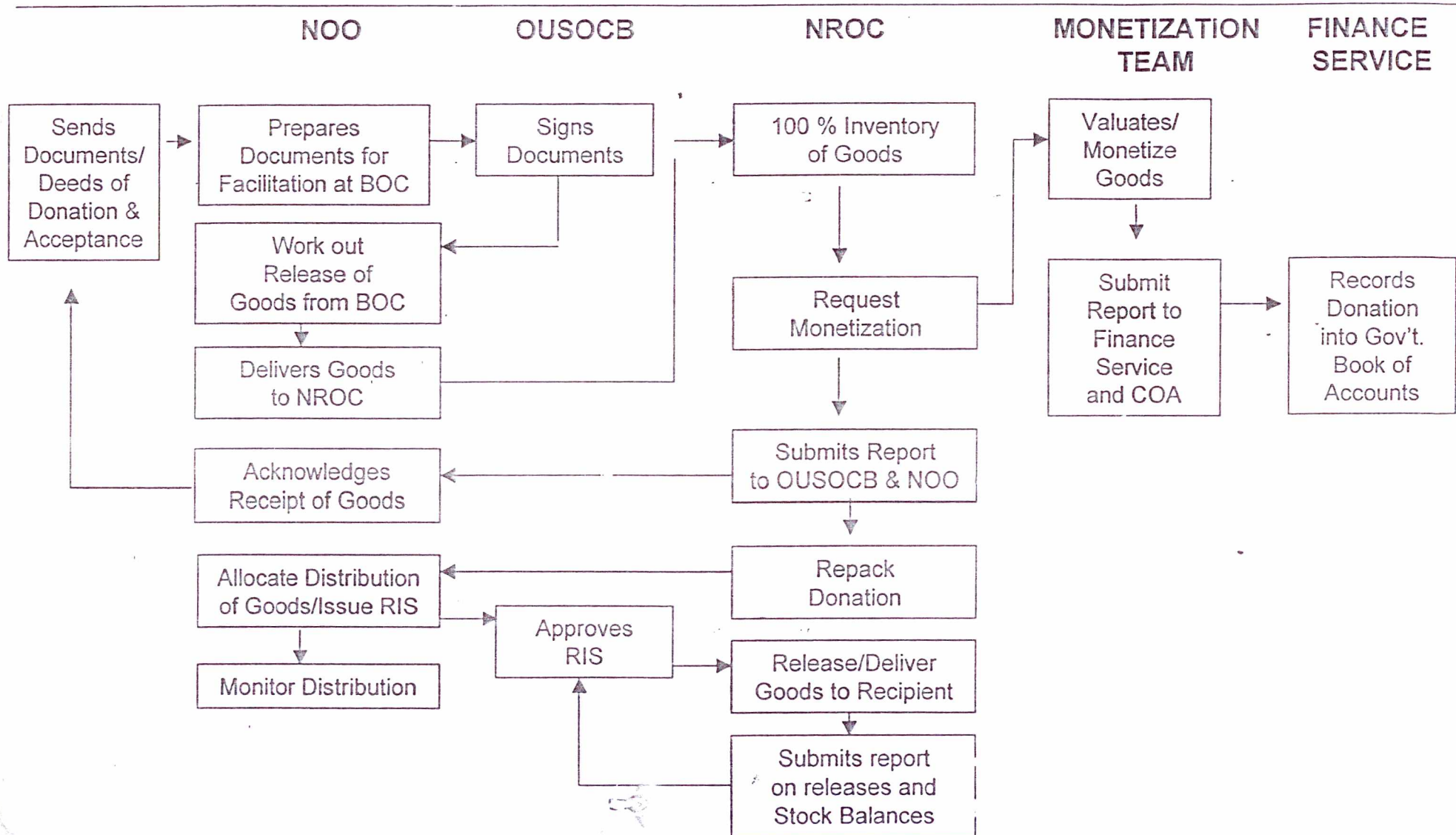
FINANCE SERVICE



FLOWCHART ON BOC DONATIONS AT MANILA PORTS

DONOR

CENTRAL OFFICE



FLOWCHART ON BOC DONATIONS AT OUTER PORTS

