

**CLARIFICATORY GUIDELINES ON
DUTY-FREE IMPORTATION OF BOOKS
(Department Order No. 17-09 [dated 24 March 2009])**

Q1: What are the laws that allow duty-free importation of books?

- (1) **Section 105(s) of the Tariff and Customs Code of the Philippines (TCCP), as amended,**¹ allows duty-free importation of economic, technical, vocational scientific, philosophical, historical, and religious books, including **"educational, scientific or cultural materials covered by the International Agreement on Importation of Educational Scientific and Cultural Materials signed by the President of the Philippines on August 2, 1952,"**² or **other agreements binding upon the Philippines**", provided that they are **not for sale, barter or hire.**

- (2) **Section 12 of Republic Act (RA) No. 8047,** or the **"Book Publishing Industry Development Act"** likewise allows tax and duty-free importation of **books or raw materials to be used in book publishing.**

Q2: Is there an international agreement that allows duty-free importation of books?

YES. This is the **Florence Agreement on the Importation of Educational, Scientific and Cultural Materials** adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) on **17 June 1950** on the importation of **educational, scientific and cultural materials** listed in Annexes A to E of that Agreement.

The President of the Philippines signed the Florence Agreement on **2 August 1952.**

Q3: Is the UNESCO Florence Agreement already incorporated in Section 105(s) of the TCCP, as amended?

YES. Section 105(s) of the TCCP, as amended, already incorporated the UNESCO Florence Agreement. Notably, the law that introduced the present Section 105(s) is Presidential Decree (PD) No. 1464 issued on

¹ The present Section 105(s) is introduced by Presidential Decree (PD) No. 1464 (dated 11 June 1978) or the "Tariff and Customs Code of 1978".

² This is the Florence Agreement on the Importation of Educational, Scientific and Cultural Materials adopted by UNESCO on 17 June 1950.

11 June 1978, or later than the adoption or even the signing by the President of the Philippines of the UNESCO Florence Agreement in 1950 and 1952, respectively.

Q4: What is the legal implication of such incorporation by Section 105(s), TCCP, as amended, of the UNESCO Florence Agreement?

This means that the importation of educational, scientific and cultural materials listed in Annexes A to E of the Florence Agreement shall be subject to the same condition imposed by Section 105(s) of the TCCP, as amended, i.e., that the imported article shall not be for sale, barter or hire.

Q5: So, if the importation of educational, scientific and cultural materials under the Florence Agreement is intended for sale, barter or hire, what would be the effect?

First, the rule is, if the imported items are educational, scientific and cultural materials listed in Annexes A to E of the Florence Agreement and that they are not for sale, barter or hire, then, such importation is subject to 0% rate of duty pursuant to Asean Harmonized Tariff Nomenclature (AHTN) for 2008-2010.

However, if the importation of educational, scientific and cultural materials under the Florence Agreement is intended for sale, barter or hire, then, such importation shall be subject to 1% rate of duty pursuant to AHTN for 2008-2010. If the imported articles are not educational, scientific and cultural materials and they are for sale, barter or hire, then, the same shall be subject to 5% rate of duty pursuant to AHTN for 2008-2010.

Q6: Which office will determine that the importation of educational, scientific and cultural materials is among those listed in the Florence Agreement?

The proper office that should determine is the UNESCO office here in the Philippines. They will issue a Certification addressed to the DOF stating that the imported articles fall under, or among those listed in Annexes A to E of, the Florence Agreement.

Q7: How about importation mentioned in Section 105(s) of the TCCP, as amended, which office will determine that the imported articles are economic, technical, vocational scientific, philosophical and historical books?

The proper office that should determine is the Department of Education (DepEd) or the Commission on Higher Education (CHED). They will issue a Certification addressed to the DOF that the imported articles are indeed economic, technical, vocational scientific, philosophical and historical books.

Q8: If the importation of economic, technical, vocational, scientific, philosophical and historical books mentioned in Section 105(s) of the TCCP, as amended, is for sale, barter or hire, what would be the effect?

First, the rule is, if the imported items are economic, technical, vocational, scientific, philosophical and historical books and that they are not for sale, barter or hire, then, such importation is subject to 0% rate of duty pursuant to AHTN for 2008-2010.

However, if the importation of economic, technical, vocational, scientific, philosophical and historical books is intended for sale, barter or hire, then, shall be subject to 1% rate of duty pursuant to the AHTN for 2008-2010. If the imported articles are not economic, technical, vocational scientific, philosophical and historical books, then, the same shall be subject to 5% rate of duty pursuant to AHTN for 2008-2010.

Q9: What is the coverage of the tax incentives provided for in Sec. 12 of RA 8047, or the "Book Publishing Industry Development Act".

The tax incentives (tax and duty-free importation) provided for in Sec. 12 of RA 8047 cover both importation of books or raw materials to be used in book publishing. In other words, the books or the raw materials to be imported shall be used in book publishing. "Book publishing", as defined in Section 3(g) of RA 8047 is the "process of choosing and making books dealing with everything known to the human spirit, philosophy, religious beliefs, intellectual ideas, and physical word, all the arts and sciences."

Q10: What is the basis in saying that the books to be imported under RA 8047 shall be used in book publishing?

As stated in RA 8047, this is in pursuance of the "policy of the State to promote the continuing development of the book publishing industry, with the active participation of the private sector, to ensure an adequate supply of affordable, quality-produced books not only for the domestic but also for the export market". In fact, during

the Bicameral Conference (Book Development) Committee on Education held on 31 May 1995, the legislators clearly intended that the books to be imported under RA 8047 should be used in book publishing. Congressman Cerilles then explained:

"HON. CERILLES: Thank you, Madam Chairperson, I really would like to support the observation of my colleagues here. But if you look at the title of the Section, this is supposed to be the incentive for Book Development. And the incentive here is the scheme for participants in our program to be assisted by the government in the form of duty-free importation of books, which will be solely used for book publishing. x x x."

Also, the latest enactment by Congress of RA 9521, or the "*National Book Development Trust Fund*" clearly evinces the policy of the state "*for the support and promotion of Filipino authorship especially in science and technology and in subject areas wherein locally authored books are either few or non-existent.*"

Q11: Which office will determine that the importation of books or raw materials under RA 8047 is to be used for book publishing?

The proper office is the National Book Development Board (NBDB) pursuant to its mandate under RA 8047. They will issue a Certification addressed to the DOF that the books or raw materials to be imported shall be used in book publishing; that the importer is duly registered with the NBDB; that the importer is duly authorized by the NBDB to make the importation; and that the NBDB shall certify as to the quality and volume of the imported books and raw materials.

Q12: If the books to be imported are not for book publishing, what would be the effect?

First, the rule is, if the books to be imported are to be used for book publishing, then, such importation is subject to 0% rate of duty pursuant to AHTN for 2008-2010.

However, if such importation is not for book publishing but rather for sale, barter or hire and that the imported articles are educational, technical, scientific, historical or cultural books, then, the same shall be subject to 1% rate of duty pursuant to the AHTN for 2008-2010. If the imported books are not educational, technical, scientific, historical or cultural books and that they are for sale, barter or hire, then, the same shall be subject to 5% rate of duty pursuant to AHTN for 2008-2010.

Q13: What are the remedies of the book importers in case they disagree with the Clarificatory Guidelines on Duty-Free Importation of Books?

They may question the legality and validity of the Department Order before the proper court, particularly the Court of Tax Appeals, by paying the rate of duties under protest. They may also lobby to Congress for the amendment of Section 105(s) of the TCCP, as amended, and Section 12 of RA 8047.