

Republic of the Philippines Department of Finance BUREAU OF CUSTOMS Manila

CUSTOMS MEMORANDUM ORDER NO. 28-96

TO

The District Collectors of Customs,

Port of Subic and NAIA, Collectors of Customs, and All Others Concerned

SUBJECT

Customs Control and Clearance of FEDEX International Express Cargo

Pursuant to Section 608 of the Tariff and Customs Code, as amended, and the Administrative Code of 1987 (E.O. 292), and complementary to CAO 4-93, the following procedures and guidelines governing Customs control and clearance of FEDEX international express cargo are hereby prescribed.

I. OBJECTIVES

- To effectively implement the Memorandum of Understanding between FEDEX and SBMA dated 15 November 1993 which provides, among others, "to relieve FEDEX from Customs regulatory rules and regulations which will unduly restrict FEDEX from operating its international express cargo transportation business".
- 2. To establish simplified and detailed procedures for the smooth, orderly and speedy handling, movement and clearance of FEDEX international express cargo at the Subic Bay Freeport (SBF), Ninoy Aquino International Airport (NAIA) and other international airports/ports in the Customs Territory.

U - ADMINISTRATIVE PROVISIONS

- 1. <u>Definitions</u>. As used in this Order, unless the context provides otherwise, the following terms / acronyms shall mean:
 - a. Customs means the Bureau of Customs and its duly authorized officials and employees.

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- b. Customs Territory refers to the territory of the Republic of the Philippines outside of the perimeter of the Secured Area of the Subic Bay Freeport in which the general tariff and customs laws of the Philippines apply.
- c. Diversion Facility a bonded facility in the Customs Territory contracted by FEDEX for the handling and movement of its international express cargo. (CBW 125 at NAIA, CBW 36 at MCIA, etc)
- d. FEDEX refers to Federal Express Corporation, its branches and their respective employees, agents and independent contractors.
- e. FEDEX aircraft refers to aircraft owned and operated by FEDEX in its international express cargo operations and includes aircraft of vendors under contract with FEDEX.
- f. High Value Shipments shipments whose FOB value is more than USD 200.00.
- g. Hub means the area in the Subic Bay International Airport where the regional distribution center of FEDEX for the Asia-Pacific region is established.
- h. Low Value Shipments shipments whose FOB value is not more than USD 200.00.
- Overgoods articles for which Customs clearance is impossible due to lack of information or which cannot be reshipped due to lack or obliteration of markings or other identification, or whose receipt was refused by the consignee.
- j. Package a closed container or covering in which the contents of a shipment is packed for transport by air or sea.
- k. SPS sirport code for Subic Bay International Airport (SBIA) designated by IATA.
- 1. Shipment (also known as "consignment") one or more packages containing articles or merchandise accepted by the carrier from one shipper at one time and at one address, receipted for in one lot and moving on one air waybill, to one consignee at one destination address. (A shipment of two or more packages moving on one air waybill is called a "multiple package shipment".)

- 2. Hub Facilities. International express cargo of FEDEX shall be handled and shall undergo Customs treatment at the following Facilities at its Hub:
 - a. Transit Facility receiving and handling of its international transshipment cargo for break-down, sorting, build-up and consolidation prior to reshipment to their foreign destinations.
 - Clearance Facility receiving and handling of Philippine import and export cargo.
- 3. Cargo Categories. For customs purposes, FEDEK international express cargo shall be generally categorized as follows:
 - a. DOCS or Documents Shipments Shipments of documents generally considered as business, interoffice or personal (BIP) in character of no commercial value, to include diplomatic shipments in pouches or bags officially scaled containing official documents. It may include printed matter consisting of not more than ten (10) copies per shipment which have no appreciable commercial value.
 - b. NON-DOCS or Non-Documents Shipments Shipments which do not fall under the DOCS category. For customs clearance purposes, the shipments shall be sub-categorized as "low value shipments" and "high value shipments".
- 4. Careo Classification. FEDEX international express cargo shall be generally classified as follows:
 - a. International Transshipment Cargo (ITC) Cargo with both origin and destination outside the Philippines and handled at the Hub solely for transshipment onward to their destination outside of the Philippines.
 - b. Philippine Import Cargo (PIC) Cargo originating from outside of the Philippines destined for consignees located in the Subjc Bay Freeport (SBF) or in the Customs Territory. For customs clearance purposes, these cargo shall be further sub-classified as follows:
 - (1) PIC-SPS Shipments NON-DOCS shipments for final customs clearence at the Hub, and shalfinclude DOCS shipments regardless of destination.
 - (2) PIC-MNL Shipments NON-DOCS shipments for final customs clearance at NAIA.
 - (3) PIC-OPD Shipments NON-DOCS shipments for local transshipment and final customs clearance at Other Ports of Destination indicated on the covering AWB.

c. Philippine Export Cargo (PEC) - Shipments originating from the Subic Bay Freeport (SBF), Special Economic Zones (SEZs) or the Customs Territory for export to consignees overseas.

5. Air Operations Schedule.

- a. FEDEX shall furnish Customs a copy of its air operations schedule and advice Customs at least one (1) week in advance of any change therein. If a particular flight is delayed or canceled, FEDEX shall advice—stoms at least six (6) hours in advance of its estimated time of arrival.
- b. In case of diversion of a flight to NAIA or other international airport which can happen with very little advance warning, FEDEX shall coordinate and work out a fast-track notification system with Customs at NAIA or other international airport to ensure that sufficient personnel are available to accommodate FEDEX international express corgo operational requirements.

6. Tari iac Custonis Operations.

The SBIA tarmac is a restricted area. Customs officers are to refrain from conducting operations in the tarmac except when the situation warrants as when a violation of Customs laws and regulations has been committed or about to be committed.

7. Operational Time Parameters.

As transshipment operations of FEDEX are conducted daily on a 24 hour basis, Curtoms shall staff the Hub with sufficient personnel so as to allow FFDEX to complete its international cargo transshipment operations within the lime parameters reasonably determined by FEDEX from time to time. Assignment of Customs personnel to staff the Hub shall be made in advance, a copy of which shall be furnished FEDEX not less than three (3) days prior to an air operation schedule

8. Overtime Pay and Allowances.

Commencement and termination of overtime service and the rates for such service as well as meal and transportation allowances shall be based on rates prescribed in CAO 7-92. FEDEX may request extension of the prescribed evertime period for Customs personnel to accommodate and service its international express cargo operational requirements.

9. Cargo Manifest Requirement.

- a. In lieu of the standard inward cargo manifest, FEDEX shall maintain electronic records of its international express cargo discharged and processed at the Hub. These records shall include, among others, the following information:
 - (1) Air Waybill (AWB) numbers
 - (2) Origins
 - (3) Destinations
 - (4) Declared nature of articles shipped
 - (5) Date of shipment
- b. Customs shall at any time have full and unrestricted access to scan these records which shall be kept in the database of FEDEX for fifteen (15) days from date of shipment. For verification and audit trail purposes, FEDEX shall keep hard copies of these records for at least one (1) year from date of shipment.
- c. Upon request of Customs, FEDEX shall submit hard copies of the inward cargo manifest of PIC shipments, provided the request is made within the following periods from arrival of a shipment:
 - (1) Within seven (7) days with respect to inward cargo manifest.
 - (2) Within fifteen (15) days with respect to information relating to specific shipments.

III - AIRCRAFT AND CREW FORMALITIES

- 1. Normal aircraft arrival and inspection formalities of FEDEX aircrafts shall be dispensed with. FEDEX shall, upon arrival of its aircraft, deliver to Customs at the Hub the following documents:
 - a. Aircrast General Declaration (GENDEC), and
 - b. Passenger Manifest, if any.

Customs, however, shall meet and conduct normal aircraft arrival and inspection formalities of FEDEX aircraft and station Customs Guards at NAIA or other international airport in the event of a diversion.

2. Crew and passengers of FEDEX aircraft shall accomplish and submit to the Customs Officer upon arrival individual Baggage Declaration for proper customs clearance, except crew members who will remain at the Hub premises and will depart on the same aircraft. Customs may inspect baggage of landing crew members and passengers not in-transit.

- 3. Inasmuch as the FEDEX Hub is located in a secured area at SBIA considered equivalent to a bonded facility,
 - (a) arriving aircraft shall be unloaded immediately on arrival without prior clearance from Customs;
 - (b) there will be no need to assign a Customs Guard to guard each aircraft as its security and its carge will be worked out among FEDEX Security, SBMA Security and Customs; and
 - (c) there shall be no Customs Guard to accompany any cargo arriving at SBIA so long as it is moved only within the Secured Area of SBF.
- 1. Customs law enforcement officers may conduct aircraft surveillance and monitor the activities of persons around the aircraft from either of the Facilities at the Hub, not at the tarmac. They may search the person and equipment of aircraft cleaning crew as well as other suspicious individuals as may be necessary and shall have access to the close circuit surveillance system set up by FEDEX for the purpose.

IV - CARGO CONTROL AND CLEARANCE PROCEDURES OF INTERNATIONAL EXPRESS CARGO

International Transshipment Cargo (ITC).

- a. The cargo shall, after unloading from the aircraft, be brought to the Transit Facility at the Hub where the containers, pallets, bags and other receptacles will be broken down and the individual shipments sorted by destination. After completion of the sorting process, individual shipments will be consolidated in containers, pallets, bags or other receptacles and loaded for reshipment to their destination out of the Philippines on departing FEDEX aircrafts.
- b. ITC shipments at the Hub shall require only the following documentation for their reshipment and departure of the carrying aircraft:
 - (1) Master Air Waybill (MAWB) stating the number of containers, pallets, bags and other receptables and the number of loose pieces, if any, and
 - (2) Aircraft General Declaration (outward).
- c. In the unlikely event that an ITC shipment cannot be reshipped due to lack or obliteration of markings or other identification on the package, it shall be placed in a secured cage in the Transit Facility. FEDEX shall, within twenty-four (24) hours from discovery, notify Customs in writing

of the existence of such overgoods. If overgoods cannot be reshipped within thirty (30) days from its arrival, Customs, after due notice to FEDEX, shall declare the overgoods abandoned to be disposed in the manner provided for by Philippine laws.

d. ITC shipments which arrive or depart the Philippines at NAIA shall be immediately transported overland or by air to the Hub at SBF. The procedures for transshipment are set forth in Part V hereof.

PIC-SFS Shipments (NON-DOCS).

- a. Prior to arrival of these shipments, Customs shall scan and review the electronic inward cargo manifest maintained by FEDEX to select the shipments for examination. At the same time, the designated licenses/customs broker of FEDEX will review same manifest to determine entry type and selection of shipments whose paperwork is to be retrieved for entry processing and other agency review.
- b. Upon arrival, these shipments shall be immediately brought to the Clearance Facility where Customs clearance shall take place. Every package shall undergo X'ray examination at the Facility in the presence of Customs to determine presence of drugs and other prohibited imports. Unless opening of a package is required due to an Alert Notice or to check possible misdeclaration of contents considering the weight and/or outward physical appearance of a package, an X'ray examination or other form of electronic scan shall suffice.
- c. Shipments consigned to SBF enterprises and residents shall be released exempt from duties and taxes if covered by an Import Permit issued by SBMA. If the Import Permit cannot be submitted at the time of importation, the shipment may, if found in order, be conditionally released by Customs by affixing an adhesive tape on the master package with the words "CONDITIONALLY RELEASED, SUBJECT TO SUBMISSION OF IMPORT PERMIT". Customs shall keep a copy of the HAWB and invoice for compliance monitoring, and the consignee informed to submit the Import Permit within two (2) working days from date of release. If the consignee fails to submit on time the required Import Permit, Customs shall send a letter to consignee demanding payment of the duties, taxes and other charges due on the shipment within three (3) days from receipt of the demand letter.

PIC-MNL Shipments (NON-DOCS).

a. These shipments may, at the option of FEDEX or consignee, be cleared by Customs at the Clearance Facility, except those destined for customs bonded warehouses under the jurisdiction of NAIA or the Port of Manila. Existing procedures and documentary requirements for importations into the Customs Territory shall apply and be observed in the clearance of

these shipments. In determining the type of entry, the following guidelines shall be observed:

- (1) Low value shipments, except those requiring import clearance/permit, may be cleared under consolidated informal entry, provided the number of individual shipments for each entry shall not be more than ten (10) with an aggregate value not exceeding USD 200.00. Basic documents to be filed with the entry are the following:
 - (a) HAWB covering each shipment
 - (b) Commercial invoice of each shipment
- (2) High value shipments as well as shipments requiring import clearance/permit (regardless of value) shall be cleared under formal entry procedures. Documents to be filed with the entry are the following:
 - (a) HAWB
 - (b) Commercial invoice
 - (c) Import license/permit, if required
 - (d) SGS CRF for shipments with an FOB value of USD 500.00 or more, unless exempt from the SGS Pre-Shipment Inspection
 - (e) IED with original copy of BCOR for advance duties paid (if any)
- b. Shipments that have insufficient information or documentation to allow proper entry and those for which the consignee wants to be cleared at NAIA shall be transported to NAIA for final customs clearance following procedures for transshipment set forth in Part V hereof.

4. PIC-OPD Shipments (NON-DOCS).

These shipments shall be transshipped to their final destination in the Customs Territory or to NAIA for final transshipment to their final destination in the Customs Territory, following transshipment procedures set forth in Part V hereof.

Documents (DOCS) Shipments.

a. DOCS shipments shall be processed and cleared by FEDEX at the

Clearance Facility using the master air waybill (MAWB) with the DOCS consol manifest as the entry document. FEDEX shall submit a hard copy of the DOCS consol manifest for customs clearance purposes. Prior to release, each package shall be ECCO-scanned by Customs to determine presence of drugs and other prohibited imports. Unless opening of a DOCS package is warranted to check possible misdeclaration of contents considering its weight and/or outward physical appearance, an ECCO scan or other form of electronic scanning shall suffice. DOCS shipments consigned to SBMA-registered enterprises or residents shall not be required to secure an Import Permit unless found to be dutiable.

- b. DOCS shipments consigned/addressed to other persons or entities not entitled to duty and tax-free privilege which are found to contain dutiable articles of low value shall be cleared using BC Form 116 (STATEMENT AND RECEIPTS OF DUTIES COLLECTED ON INFORMAL ENTRY).
- c. DOCS shipments already cleared by Customs shall be consolidated in identifiable containers, bags or other receptacles and segregated from the NON-DOCS shipments. Shipments placed on hold status shall be transferred to a secured cage and proper notation made on the hard copy of the manifest.
- d. Customs cleared DOCS shipment shall, before they are consolidated, be affixed with an adhesive tape carrying the words "CUSTOMS CLEARED" and authorized for release, using the master air waybill (MAWB) and a hard copy of the DOCS consol manifest by stamping the face of the MAWB a rubber-stamp imprint to be signed and dated by the Customs Operations Officer (COO) concerned. Follow wording of sample imprint below.

PORT OF SUBIC Airport Customs Office

RELEASE AUTHORIZED

COO III Date

6. Philippine Export Cargo (PEC).

a. These cargo originating from the Customs Territory or Special Economic Zones (SEZs) for direct exportation from SBF shall undergo final Customs treatment at the Clearance Facility at the Hub before loading on FEDEX aircraft departing from SBIA.

- b. A hard copy of the outward cargo manifest for DOCS and NON DOCS shipments shall be made available to Customs upon demand within three (3) days from date of shipment. Unless this information is requested by Customs within (14) calendar days from date of shipment, FEDEX may purge the information from its electronic database but will keep hard copies thereof for at least one year.
- c. Subject to the conditions set forth in b above, the following information on NON-DOCS shipments shall be made available to Customs:
 - (1) AWR numbers;
 - (2) Commercial Invoices; and
 - (3) Complete manifest information.
- d. Except to assure their exportation from SBF, Customs will not usually inspect or examine export shipments originating from the SBF as well as those already cleared for export in the Customs Territory or SEZs. Upon arrival at the Hub and while awaiting loading on the carrying aircraft, the shipments will remain unopened in their original containers under FEDEX seal: Provided, however, that such containers shall be clearly marked by FEDEX "SHIPPED FROM SUBIC, PHILIPPINES" before their exportation.

V - THANSSHIPMENT DOCUMENTATION AND PROCEDURES

1. A Transfer and Delivery Permit (TDP) shall be used for transshipment operations of FEDEX international express cargo, whether from SBF to the NAIA/Customs Territory or vice-versa. The TDP which FEDEX will provide shall be a printed and serially pre-numbered form (sample format attached), each set to consist of five (5) color-coded copies the final distribution of which shall be-

WHITE - Receiving FEDEX Facility Copy

BLUE - Receiving Customs Copy

GREEN - Feedback Copy for sending Port Collector

PINK - Sending FEDEX Facility Copy

YELLOW - Sending Customs Copy

- 2. In addition to other required information, the TDP shall indicate the number of containers, pallets, bags and other receptacles of the shipments transshipped, its total weight in kilos, and the name of the driver/pilot of the carrier, and shall be accompanied by a Transfer Summary Manifest (TSM) of the shipments. The TDP shall be signed by both the sending and receiving FEDEX and Customs officials concerned with the date and time indicated on their proper box. Separate TSM shall be prepared for International Transshipment Cargo (ITC).
- 3. Customs shall tally and verify the actual cargo against the TSM before loading on the carrier. The carrier shall be sealed with a FEDEX seal before being allowed to depart and shall continue to remain under seal until arrival at destination. Unless otherwise directed by the Commissioner of Customs, transshipment operations of FEDEX cargo shall not require underguarding by Customs.
- 4. Upon arrival of the cargo at its destination, Customs and FEDEX shall together examine the seal and verify the seal number.
 - a. If the seal is intact, Customs shall break and retain the seal for verification purposes.
 - o. If the seal is not intact, FEDEX, in the presence of Customs, shall conduct an inventory/electronic scan of the cargo. If the cargo is found intact and in order, the shipment shall be processed in the regular course of Customs business.
 - c. If a package is missing or there is evidence of tampering of any package resulting in discrepancy in its weight and/or content, FEDEX shall prepare a Cargo Irregularity Report (CIR), copy of which shall be furnished the Collector of Customs concerned. All the other remaining shipments shall be processed without delay in the regular course of Customs business.
- Receiving Customs official shall indicate on the TDP the condition in which the transshipment cargo was received and detach the BLUE copy and Transfer Summary Manifest for reference and record purposes. The WHITE and GREEN copies shall be given to FEDEX which shall transmit the GREEN copy to the Collector of the sending Port within twenty-four (24) after delivery of the cargo. The Collector of the receiving Port shall separately inform the Collector of the sending Port the receipt of the cargo within six (6) hours from delivery. The information feedback may be done by sending FAX copy of the TDP on file, by E-mail or telegram.
- 6. PIC-SFS shipments as well as DOCS shipment from outside of the Philippines and discharged at NAIA from FEDEX or other aircraft shall be initially handled and processed at the FEDEX Facility at NAIA where all DOCS shipments shall be cleared by Customs. The rest of the shipments shall be transshipped to the Hub at SBF for finel Customs clearance, including ITC shipments (if any) for sorting and consolidation prior to their reshipment outside of the Philippines on FEDEX aircrafts.

- 7. Transshipment of international express cargo loaded on FEDEX feeder aircraft between the Hub and NAIA shall be underguarded by Customs only while being transported from the Manila Domestic Airport (MDA) to the FEDEX Facility at NAIA or vice-versa, as the case may be.
- 8. To avoid unnecessary delay, FEDEX shall secure and have ready advance airline decumentation of its ITC shipments to be reshipped at NAIA and have prior arrangement with Customs for its transport from SBF direct to the NAIA tarmac for immediately loading on aircraft departing for a foreign destination. As much as possible, the same arrangement shall be made for ITC shipments discharged at NAIA for transshipment to SBF and reforwarding to a foreign destination at SBIA.
- 9. FEDEX aircrafts or overland carriers used in its transshipment operations shall only be those owned or under contract with FEDEX which shall assume direct responsibility for the security of its cargo while enroute to destination. Such carriers shall be covered with a Common Carrier's Bond in the amount and under the conditions prescribed by SBMA.
- 10. If space is available, co-loading of customs-cleared FEDEX international express cargo on such aircrafts or overland carriers shall be allowed, provided that the co-loaded shipments are properly identified and segregated from the transshipment cargo, the details of which shall be noted on the TDP by the issuing Customs Officer.
- 11. The documentation and procedures set forth herein shall likewise be observed relative to transshipment of PIC-OPD shipments which may be by a direct route or indirectly through the FEDEX Facility at NAIA.
- 12. In cases not specifically provided for herein, Customs shall see to it that transshipment of FEDEX international express cargo is treated expeditiously in line with the objectives of this Order.

VI - GENERAL PROVISIONS

- The provisions of CAO 2-96 shall be observed in determining the dutiable value of imported articles. As clarificatory guidelines in the implementation of CAO 2-96, the determination of the insurance premium and freight for dutiable articles or merchandise shall be determined as follows:
 - a. Insurance premium The amount indicated on the CRF/Invoice/AWB or as verified from appropriate certification submitted in a proper case. In the absence thereof, it shall be computed at 4% of the cost of the imported article determined pursuant to CAO 2-96 but in no case less than 1/2 of 1% (.005) of the cost.

- b. Freight The amount indicated on the CRF/Invoice/AWB or other related shipping document. In the absence thereof, the pro-rata of the freight charged as indicated on the MAWB covering the shipment or the applicable IATA Traffic Conference Rate less 30%, whichever is higher.
- 2. To properly identify shipments and for audit trail purposes, the HAWB number followed by the MAWB number of the shipment shall in all cases be indicated on the AWB box of the entry [e.g., LGS10232990/131-9979 5500 or LGS10232990 (131-9979 5500)] for shipments processed individually. For NON-DOCS shipments processed under consolidated informal entry, only the MAWB number shall be indicated on the AWB box but the HAWB numbers of the individual shipments covered by the consolidated informal entry shall be indicated under the column "Marks and Numbers" on BC Form 177 with the name of the consignee written below the HAWB.

VII - SPECIAL PROVISIONS

- 1. The provisions of CMO 22-95 dated 21 August 1995 shall apply and be observed for shipments initially cleared in the Port of Subic but subsequently entered for consumption in the Customs Territory.
- 2. Thermal Air Waybill (TAWB) used by FEDEX in documenting express cargo shipments may be used for customs entry and clearance purposes. Electronic Commercial Invoice (ECI) issued by FEDEX with the words "CERTIFIED TRUE AND CORRECT" stamped on its face and counter-signed by its duly authorized licensee shall similarly be honored for customs entry and clearance purposes.
- 3. The terms and conditions of transportation on the reverse side of the standard FEDEX Air Waybill constitutes all of the authority, including a power of attorney, required for FEDEX or its authorized representatives and attorneys-in-fact to execute and file all documentation required for the import, export and entry and tax collection in respect of any shipment covered under such AWB.
- 4. Considering the complexities and significance of the operations contemplated herein and to the extent permitted in the discretion vested in Customs under the laws of the Philippines, Customs shall refrain from issuing sanctions against FEDEX international express cargo for minor violations of the Tariff and Customs Code and CAO 4-93. FEDEX, however, shall demonstrate and show willingness to correct its operations in a manner that will substantially preclude such minor violations.
- 5. Considering the urgent nature of FEDEX shipments, Customs personnel are enjoined to process documentation of said shipments with the greatest possible speed and accuracy. Unless necessary due to indications or appearance of irregularity in its documentation, Customs assigned to man the gate at the point of entry and point of exit in the Secured Area shall forego the inspection of

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transshipment cargo of FEDEX in bonded carriers under seal.

- 6. Aircrafts and vehicles imported by FEDEX for use in conducting its business in the SBF and transshipment operations between the SBF and the Customs Territory may be released duty and tax-free if covered by an Import Permit issued by the SBMA. Such aircrafts and vehicles, however, shall be used for no other purpose if brought into the Customs Territory and their use therein shall be subject to Customs regulations and existing regulations of other government agencies concerned.
- 7. Through various and extensive electronics record, FEDEX shall maintain a history on containers and shipments processed at its Hub in the SBF for audit purpose. These records shall be made available within seventy-two (72) hours after date of transshipment to or from SBF, and print-out thereof shall be furnished Customs upon request.

VIII - RESCINDING CLAUSE

This Order supersedes the interim procedures embodied in the Memorandum of this Office to the Subic District Collector dated 02 May 1995. All other memorandum orders and issuances in conflict or inconsistent with this Order or any provision thereof shall be deemed superseded, amended or modified accordingly.

IX - EFFECTIVITY

This Order shall take effect on .

Sept 26, 1886

Commissioner

Annex: TDP Sample Format

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Republic of the Philippines Department of Finance BUREAU OF CUSTOMS

TRANSFER AND DELIVERY PERMIT

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