

**Supreme decree that approves the Regulation of the Law N° 28905
Law of facilitation of the office of donated merchandise originating from the exterior**

**SUPREME DECREE
N° 021-2008-EF**

THE PRESIDENT OF THE REPUBLIC

CONSIDERING:

That, the Law # 28905 - Law of Facilitation of the dispatch of donated merchandise provided from foreign nations, is meant for facilitating the customs dispatch of the merchandise from foreign nations that enter the country in the framework of nonrefundable international cooperation;

That, the Fifth Complimentary and Final Order of the Law #28905, set out that in the period of 30 working days starting the following day of its publication, the Executive Power, by means of the Supreme Decree ratified by the President of the Board of Ministers and the Ministers of Foreign Relations and of Ministers of Economy and Finance, will announce the regulations that correspond with the fulfillment of the Law;

In accordance with what has been established in paragraph 8 of article 118 of the Political Constitution of Peru, Law #29158 - Organic Law of the Executive Power the Fifth Complimentary and Final Regulation of Law # 28905;

DECREES:

Article 1- Approval

To approve the Regulations of Law # 28905 - Law of Facilitation of the dispatch of donated merchandise from foreign countries, that consists of four titles, fourteen articles, three complementary final orders, two complementary transitory orders and one complementary derogation order, whose text forms and integral part of the present Supreme Decree.

Article 2 - Ratification

The present Supreme Decree will be ratified by the President of the Board of Ministers, by the Minister of Foreign Relations and by the Minister of Economy and Finance.

Given in the House of Government, in Lima, on the seventh day of the month of February of the year 2008.

ALAN GARCIA PEREZ
Constitutional President of the Republic

JORGE DEL CASTILLO GALVEZ
President of the Board of Ministers

JOSE ANTONIO GARCIA BELAUNDE
Minister-of-Foreign Relations

LUIS CARRANZA UGARTE
Minister of Economy and Finances

**REGULATIONS OF THE LAW OF FACILITATION OF THE DISPATCH OF
DONATED MERCHANDISE FROM FOREIGN NATIONS**

**TITLE I
GENERAL ORDERS**

Article 1 — Objective

The present regulations have as an objective to regulate Law # 28905, regulating the procedure as the dispatch of donated merchandise from foreign countries that enter the country on the framework of non-refundable international cooperation.

Article 2 — Definitions

For the application of Law # 28905 and of the present regulations, it is understood:

- a) Law #28905: Law of facilitation of the dispatch of donated merchandise from foreign countries.
- b) Restricted Merchandise: The merchandise that for its entrance or departure from the country require the fulfillment of established requirements in the pertinent legislation, which can be: authorizations, licenses, certificates, or sworn statements.
- c) Professional Humanitarian Missions: A group of professionals, technicians, and support personal that come to the country from foreign countries in order to carry out humanitarian and health activities.
- d) Corresponding Sector: Sector that approves the donated merchandise from foreign nations, following correspondence.
- e) Relevant Sector: Sector that grants the permission, authorizations, licenses and registration or other similar documents for the entrance of restricted merchandise into the country.
- f) Proof of Custody: Official document that the Customs Authority extends to the traveler that his/her arrival to the country cannot remove the goods from the custom zone, the goods have been declared and have remained in the custody of the traveler until its final destination or its return to the foreign country.

**TITLE II
PROCEDURE FOR THE APPROVAL OF DONATIONS FROM FOREIGN COUNTRIES**

Article 3 — Sectors that approve donations

The donation of merchandise from foreign nations will be approved by means of Ministerial Resolution of the corresponding Sector, conforming to what has been established in Article 3 of the Regulations for the Inaffectation of General Tax of Sales, Selective Tax of Consumer goods, and Customs Rights of the Donations, approved by the Supreme Decree # 096-2007-EF.

Article 4 – Documents that should introduce the Donor

For the expedition of the Resolution of approval of the donation, the donors should present before the corresponding Sector, the indicated documents in Article 4 of the Regulations for the Inaffectation of the General Sales Tax, Selective Tax of Consumer good and Customs Rights of the Donations, approved by the Supreme Decree # 096- 2007-EF.

Article 5 - Submission of the Application and reparation

If the application presented before the corresponding Sector does not comply with the necessary requirements for the present Regulations and the valid rules, this should be corrected by the Donee in the period of two working days, according to what has been established in Article 125 of Law # 27444 – Law of General Administrative Procedure. If after the application has been presented of the reparation has been filled out, the corresponding Sector requires that you must turn in additional information or documents, the Donee should absolve the requirements in the granted time period, under penalty of denying the declaration of the application.

The omission or error of any non relevant information in the letter or certificate of donation could be made up by the donor or by the donee, by means of a sworn statement, being the transmitter of the statement, responsible of the truthfulness of its content.

Article 6 – Communication to pick-up the Merchandise

Within twenty-four hours of the pick-up of Merchandise, the Customs agent will communicate the fulfillment of said act, by means of sending an email to the official(s) designated by the corresponding Sector, consigning the name of the Donee, their address, the file number of the admittance of the application, the transport document, and the Single Customs Declaration or Simplified Declaration of Import.

For such effect, each Sector will publish in their Institutional Portal the email address of the designated official(s) in order to process the approval applications of the donations, within the time period of five working days of the published present regulations.

Article 7 – Notification

The corresponding Sector will notify via email or will send a copy of the Resolution of the approval or rejection of the donation, within twenty-four hours of having been issued, to the Customs agent where the Dispatch was processed.

Likewise a copy of the Resolution of approval or rejection will be sent to the Donee, to-- the Peruvian Agency of International Cooperation (APCI) and the General Contrataria General of the Republic for their knowledge and the corresponding purposes within the time period of five working days from its issue.

Article 8 – Resolution

The time period elapsed signified in article 2 of Law # 28905, without the Customs agent receiving written communication or email from the corresponding Sector about the approval or rejection of the donation, the donation will be considered approved on behalf of the corresponding Sector and they will regularize the dispatch of the donation for tax purposes and customs purposes.

Article-9- Transparency

The Donations Resolutions, those that were approved as well as those that were denied, should be published by the corresponding sectors in their Institutional Portal, with the time period of ten working days after it has been issued.

TITLE III CUSTOMS DISPATCH

Article 10 - Documentation

For the Customs dispatch of the donated merchandise from foreign countries, that enter the country under the framework of non-refundable international cooperation, the donee should present the following documentation:

- a) Single Customs Declaration of Simplified Declaration of Imports
- b) Approval Resolution of the donation, when said document is specifically issued by the valid rules. In the case that the Resolution is not available, it will be sufficient to present a simple copy of the application of the admitted cargo without observations to the corresponding Sector, or a copy of the observed enclosed written copy of the cargo of reparation, in accordance with article 125 of Law # 27444, which lists the date of receipt, prior constitution of the nominal guarantee or banking financial guarantee.
- c) The transport document (with information on boarding, postal notice, air waybill, or waybill). Or issued proof of custody by the Customs agent, as applicable.
- d) Permission, authorization, licenses, registration or other similar documents issued by the relevant Sectors or corresponding application of receipt of cargo after seven working days have passed in accordance with the first paragraph of article 4 of Law #28905, in case of restricted merchandise.
- e) Other issued requirements by the valid rules so that the inaffected tax of the import of transferred goods without cost can proceed

The Customs dispatch of the arrived goods for humanitarian aid in cases of State of Emergencies due to natural disaster is regulated by Law #29077, Law #29081 and regulations.

Article 11 - Restricted Merchandise

The relevant Sectors should notify via email or by sending a copy of the authorization document or the denied application of admittance of the restricted donated merchandise to the Customs agent where the dispatch was processed, within twenty-four hours of being issued.

Referring to the second paragraph of Article 4 of Law #28905, if a time period passes in which the relevant Sector has not issued permission, authorization, licenses, registration or another document for the admittance of the restricted donated merchandise, the Donee should inform the customs agent where the dispatch was processed of said uncompleted documentation.

Article 12 – Air Health at the International Airport "Jorge Chavez"- Minister of Health

The air health of the Minister of Health emphasized at the International Airport "Jorge Chavez" receives applications and authorizations of many admitted donated merchandise considered to be restricted merchandise that arrive to Peru with accompanied luggage of the Members of Professional Humanitarian Missions, and for the temporary admittance of the equipment and instruments that these missions bring with in order to carry out their activities. ,

Article 13 – Restricted Merchandise declared abandoned

Customs will place at the relevant Sector's disposal the abandoned restricted merchandise.

The relevant Sector has a period of ten working days starting from the day following receipt of notification, in order to execute the withdrawal of the merchandise or to declare the possibility of admittance of the restricted merchandise into the country, under the responsibility of the Sector Title.

If the cited time period expires, and the merchandise has not been picked up by the relevant Sector or a statement has not been issued about the possibility of admittance of the restricted goods to the country, SUNAT will be able to take the goods and/or destroy the corresponding goods under the Mode of allocation.

**TITLE IV
PROFESSIONAL HUMANITARIAN MISSIONS****Article 14 – Documentation**

For the entrance of donated merchandise for welfare that arrives in the country with the accompanied luggage of the members of a Professional Humanitarian Mission, the receiving entity of the donation should present the following documentation:

a) A copy of the communication of our diplomatic missions in the foreign country directed to the Minister of Foreign Relations, informing him of the activities the Professional Humanitarian Mission will carry out in our country, cosigning the complete names of all the members in the mission, number of passports, and professions or occupations of each one of the members who make up the Mission, as well as information about the airline, flight, or method of transportation in which they will arrive and time of arrival.

For such effect, the diplomatic missions should provide the Professional Humanitarian Mission a simple copy of the communication sent to the Minister of Foreign Relations, under the functional responsibility, in the period of two working days of presented application before them.

b.) Single Customs Declaration. When the merchandise has arrived by airplane independently of its FOB value, it can be processed by means of the Simplified Declaration of Imports

c.) The Resolution of approval of the donation, when said document is specifically demanded by the valid rules. In case that the Resolution is not available, it will be acceptable to present a simple copy of the admitted cargo of the application without observations, or a copy of the reparation, according to Article 125 of Law # 27444, which lists the date of receipt, the previous constitution of the nominal guarantee or the bank deposit card or cash.

d.) A simple copy of the Card or Certificate of Donation

e.) Permission, authorization, licenses, registrations or other similar issued documentation by the competent Sectors or a simple copy of the presentation of cargo of the application which lists what has taken place three working days according to the third paragraph of Article 4 of Law # 28905.

In the case the documents in points b), c), or d) of the present article are unavailable, you must then complete Proof of Custody.

FINAL COMPLEMENTARY REGULATIONS

First — Complementary Norms

SUNAT and the corresponding Sectors will be authorized to dictate the norms that are necessary for the best application in the present mechanism.

Second — Automobiles

The Minister of Transportation and Communication should publish in the Institutional Portal within five working days according to the publication of the present Regulations, the requirements that satisfy the application of the corresponding Sector, for the issue of the report refer to article 5 of Law #28905.

Third — Validity

The present Regulations will become valid beginning the day after its publication in the Official Diary "El Peruano".

COMPLEMENTARY TRANSIT REGULATIONS

First — Time Periods

The time period that refers to Article 2 of Law #28905 for the issue of resolution of approval of the donations, as well as the time periods that refer to Article 4 of Law #28905 for the issue of permission, authorization, licenses and registrations or other similar documents, corresponding to the donated merchandise that has been admitted to the donee beginning on the date of publication of Law #28905 and until before the validity of present Regulations, will be computed based on the validity of the present Supreme Decree.

In the case that the donated merchandise encounters a withhold from dispatch from Circstiiie time period reference in article 4 of Law # 28905 will be computed based on the validity of the present Supreme Decree.

Second — Relation of the restricted merchandise

The relevant Sectors should publish in the respective institutional portals, with the period of thirty working days from the publication of the present Regulations, the relations of the restricted merchandise under its range of ability, signifying the procedures and requirements for its importation.

COMPLEMENTARY DEROGATION PROVISION

To remove all the regulations that opposes the present Regulations.