



CUSTOMS GAZETTE

Updates on Customs-Related Matters

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In Brief

Dispute Settlement and Protest - CAO 02-2020 (page 02)

Disposition of Seized, Abandoned and Forfeited Goods in Customs Custody - CAO 03-2020 (page 14)

Redefining the Jurisdictional Limits of the Customs Districts of Zamboanga and Cagayan de Oro - CAO 04-2019 (page 35)

Customs Clearance Procedures on Express Shipments - CAO 05-2020 (page 37)

Implementation of the Modified Goods Declaration Verification System (GDVS) - CMO 01-2020 (page 51)

National Tobacco Administration (NTA) – Issuance of Memorandum Circulars for the Exemption from Filing of Commodity Clearance for Exportation, Importation, and Transshipment of Tobacco Products for Personal Consumption and Tobacco-Free Products - CMC 21-2020 (page 56)

Fertilizer and Pesticide Authority (FPA) Memorandum Circular No. 3-2020: Discontinuance in the Issuance of Certification on Imported Fertilizer Products Intended for Industrial and Other Purposes Other Than Agricultural Use - CMC 30-2020 (page 57)

Renaming the Province of Compostela Valley as the Province of Davao de Oro - CMC 31-2020 (page 58)

Updated Excise Tax Rate of Petroleum Bitumen Under HS CODE 2713.20 in the E2M System - AOCG MEMORANDUM NO. 08-2020 (page 59)

Removal of Excise Tax on HS Code 3004.90.91 - AOCG MEMORANDUM NO. 09-2020 (page 60)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMORANDUM 10-2020 (page 61)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMORANDUM 11-2020 (page 62)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMORANDUM 14-2020 (page 64)

Tariff Commission Circulars/Advance Rulings (TCC/AR) - AOCG MEMORANDUM 15-2020 (page 65)

CAO 02-2020

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Introduction

This CAO prescribes the policies, guidelines and procedures on dispute settlement and protest in the Bureau of Customs (Bureau), pursuant to Sections 114, Chapter 2, Title I; Section 425, Chapter 3, Title IV; Sections 1100 to 1102, Section 1104, Chapter 1, Title XI; Sections 1106 to 1110, Chapter 2, Title XI; Section 1126, Chapter 5, Title XI; Section 1128, Chapter 5, Title XI; and Section 1136, Chapter 9, Title XI of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Scope

This CAO shall cover the right to administrative remedies of an aggrieved importer or exporter pertaining to dispute settlement or protest arising from customs valuation, rules of origin, tariff classification, and other customs issues.

Objectives

- Provide fair and expeditious resolution of dispute settlement and classification, and other customs issues
- Ensure uniformity and consistency in the application of customs rules and regulations on dispute settlement or protest
- Prescribe procedures on administrative remedies which are consistent with the law and the standards set out in the Revised Kyoto Convention (RKC), the World Trade Organization's (WTO) Agreement on Trade Facilitation (ATF), other international trade facilitation agreements, and international customs best practices

Definition of Terms

Advance Ruling – an official written and binding ruling issued by the Bureau on customs valuation, or rules of origin, or by the Tariff Commission on the appropriate tariff classification of goods, prior to importation or exportation, as the case may be

cf. CAO No. 3-2016 "Establishment of an Advance Ruling System for Valuation and Rules of Origin", Section 3.1

Assessment – the process of determining the amount of duties and taxes and other charges due on imported goods and goods for export

cf. CMTA, Title I, Chapter 2, Section 102 (f)

Bureau – the Bureau of Customs

Commissioner – the Commissioner of Customs

Completed Assessment – the stage of the assessment process wherein the principal appraiser has reviewed the findings of the examiner and makes a determination on the duties and taxes to be paid. It shall also include final adjustment in the computation of duties and taxes and submission by the declarant of the additional information or documentation required as accepted by the principal appraiser to complete the declaration within the period provided in Section 403 of the CMTA

Customs Officer – an employee of the Bureau whose duty, not being clerical or manual in nature, involves the exercise of discretion in determining the amount of duties and taxes and other charges due on imported goods or goods for export

cf. CMTA, Title I, Chapter 2, Section 102 (p)

Other Customs Issues – customs issues other than those arising from tariff classification, customs valuation and rules of origin, and other customs-related issues already covered by a dispute settlement process under existing laws, rules and regulations, provided that such issues affect the assessment of duties, taxes and other charges

Protestable Case – any ruling or decision by the District Collector, except the fixing of fines in seizure cases, which is adverse to the importer, consignee or exporter

Release Under Tentative Assessment – a situation wherein the assessment is disputed and pending review, an importer or consignee may put up a cash bond or any sufficient security equivalent to the duties, taxes and other charges that is disputed before the importer or consignee can obtain the release of said goods

Rules of Origin Issue – refer to issues that arise when:

cf. CMTA, Title IV, Chapter 3, Section 425

- In case of imported goods, where the Bureau challenges
 - The authenticity or veracity of the Certificate of Origin (CO); or
 - The matter of whether the imported goods are originating or not from the alleged country or origin; or
- In case of goods for export, the exporter does not agree with the CO issued by the Bureau

Security – any form of guaranty, such as surety bond, cash bond, standby letter of credit or irrevocable letter of credit, which ensures the satisfaction of an obligation to the Bureau

cf. CMTA, Title I, Chapter 2, Section 102 (mm)

Tentative Assessment – the initially assessed duties and taxes based on tariff classification, valuation, rules of origin or other customs issues which is disputed by the importer or consignee

cf. CMTA, Title IV, Chapter 3, Section 425

Tariff Classification Issue – issues that arise when the Customs Officer raises a question on the correctness of the declared tariff classification and reclassifies the goods, with which reclassification the importer or exporter does not agree

Tariff Classification Dispute Ruling – a written order on a disputed tariff classification issued by the Tariff Commission which provides the appropriate classification of imported goods or goods for export under the ASEAN Harmonized Tariff Nomenclature (AHTN)

Valuation Issue – issues that arise when the Customs Officer challenges the customs value declared in the goods declaration and makes his own valuation findings, to which the importer does not agree

General Provisions

- Dispute Settlement may cover the following issues:
 - Tariff Classification
 - Customs Valuation
 - Rules of Origin
 - Other Customs Issues
 - Mixed issues of tariff classification, customs valuation, rules of origin and/or other customs issues

- All dispute settlements arising from issues on tariff classification, customs valuation or rules of origin must not be a subject of a pending application for Advance Ruling or such application has not been resolved as prescribed by law
- The following disputed customs issues may be released under Tentative Assessment:
 - Difficult or highly technical question of tariff classification
 - Difficult or highly technical question relating to the application of customs valuation rules
 - Difficult or highly technical question relating to issues on Rules of Origin and
 - Mixed issues involving Sections 4.3.1, 4.3.2 and 4.3.3
- The Bureau and Tariff Commission may require the taking of samples, laboratory analysis, detailed technical documents or expert advice prior to release of goods under Tentative Assessment
- The Bureau shall establish an ICT-based docketing system for all dispute settlement or protest cases arising from customs valuation, rules of origin, tariff classification, and other customs issues to ensure proper recording, inventory, accounting, monitoring, filing, and other publication
- The Bureau may create a Technical Committee to assist and recommend in resolving dispute settlement issues
- Dispute settlement mechanism shall not apply when the misdeclaration, misclassification or undervaluation is intentional or fraudulent, such as when a false or altered document is submitted or when false statements or information are knowingly made, in which case Section 1400 of the CMTA shall apply. All spurious documents submitted to the Bureau may be used as evidence against the importer in any criminal and administrative case that may be filed as a result thereof.

In cases where the dispute settlement mechanism has commenced and fraud is discovered at any stage, an enforcement issue is deemed to have arisen. The proceedings shall be terminated and a Warrant of Seizure and Detention issued against the shipment.

For purposes of this CAO, an enforcement issue involves discovery of violation/s of the CMTA which would warrant the seizure and forfeiture of the goods such as the introduction of spurious, forged or fraudulent documents resulting to an assessment of duties or taxes lesser than what is legally due.

CAO 03-2016 "Establishment of an Advance Ruling System for Valuation and Rules of Origin"

cf. CMTA, Title XI, Chapter 1, Section 1100-1102

cf. CMTA, Title XI, Chapter 1, Section 1109

cf. CMTA, Title XI, Chapter 4, Section 1113 par. (f), (g), or (l)

When the misdeclaration, misclassification or undervaluation is intentional or fraudulent, such as when a false or altered document is submitted or when false statements or information are knowingly made, a surcharge shall be imposed equivalent to five hundred percent (500%) of the duty and tax due and that the goods shall be subject to seizure regardless of the amount of the discrepancy without prejudice to the application of fines or penalties provided under Section 1401 of the CMTA against the importer and other person or persons who willfully participated in the fraudulent act.

The Bureau shall, in accordance with international standards, utilize ICT to enhance customs control and to support a cost-effective and efficient customs operations geared towards a paperless customs environment

cf. CMTA, Title I, Chapter 2, Section 109

Dispute Settlement Arising from Tariff Classification Issues

- Upon lodgement of goods declaration and before the Completed Assessment, as when the goods are being subjected to documentary check or physical inspection, the Customs Office may raise a question against the correctness of the tariff classification as declared, and reclassify the goods. If the importer does not agree with the reclassification, they may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment, and finally to the District Collector.
- A valid tariff classification dispute exists when the importer does not agree with the tariff reclassification made by the District Collector.
- A Tariff Classification Issue shall be considered difficult or highly technical when:
 - The goods are classifiable under more than AHTN chapter, heading or subheading
 - The product description is not specifically provided for in any AHTN heading or subheading
- If the District Collector finds that the classification issue involves difficult or highly technical questions that require further testing and review, the following procedures shall be undertaken:
 - The District Collector shall accordingly inform the importer that the classification issue involves difficult or highly technical questions

- In such case, the District Collector shall forward the certified true copies of relevant documents such as goods declaration, brochures, Material Safety Data Sheet (MSDS) for chemicals, samples and/or pictures to the Tariff Commission for ruling
- The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations
- Upon receipt of the ruling of the Tariff Commission, the goods shall be finally assessed unless there are other issues involved or the Bureau appeals the ruling of the Tariff Commission to the Secretary of Finance. The District Collector shall collect the additional duties and taxes in case the Tariff Commission resolves to classify the subject goods with higher tariff rate; otherwise, the cash bond or the surety bond shall be refunded or cancelled, as the case may be.
- If the dispute does not involve difficult or highly technical questions on tariff classification and the District Collector adopts the findings of the Customs Officer, the District Collector shall notify the aggrieved importer of his ruling in writing stating his reasons and with a directive to pay the duties and taxes in full based on the reclassification made by the Customs Officer.
- The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO.
- The Commissioner shall render a ruling within thirty (30) days from receipt of the protest. If the Commissioner fails to act on the same, the ruling of the Collector shall be deemed affirmed
- The importer who is aggrieved by the ruling of the Commissioner may submit the matter to the Tariff Commission for a ruling within fifteen (15) days from receipt of the ruling or file an appeal with the Court of Tax Appeals (CTA) within thirty (30) days from receipt.
- In case the ruling of the Tariff Commission is favorable to the importer, the same shall be binding upon the Bureau unless the Secretary of Finance shall rule otherwise.

The imported aggrieved by the order of the Secretary of Finance reversing the ruling of the Tariff Commission may, within thirty (30) days from receipt of an adverse ruling, appeal the same to the CTA.

cf. CMTA, Title IV, Chapter 3, Section 425

cf. CMTA, Title XI, Chapter 2, Section 1110

CMTA, Title XI, Chapter 2, Section 1100

- In case the ruling of the Tariff Commission is adverse to the importer and the same is adopted by the Commissioner, the importer may appeal the decision to the CTA within thirty (30) calendar days from receipt thereof.

Dispute Settlement Arising from Customs Valuation

- Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer may challenge the declaration made by the importer as to the dutiable value of the goods pursuant to Section 707 of the CMTA. If the importer does not agree with the valuation, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector.
- If the District Collector finds that the Valuation Issue involves difficult or highly technical questions relating to the application of customs valuation rules, the following procedures shall be undertaken:
 - The District Collector shall accordingly inform the importer within two (2) days that the Valuation Issue involves difficult or highly technical questions
 - In such case, the District Collector shall require the importer and the Customs Officer to submit position papers to support their declaration or findings, respectively within five (5) days from the receipt of the notice
 - If the nature of the goods permit, the District Collector shall require the taking of samples subject to verification of the Customs Officer concerned to be returned to the importer upon termination of the dispute settlement
 - The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations
 - The District Collector shall resolve in writing the Valuation Issue within fifteen (15) days from submission of the position papers
- If the dispute does not involve difficult or highly technical questions on proper application of methods of valuation and the District Collector adopts the findings of the Customs Officer, the District Collector shall notify within forty-eight (48)

cf. CMTA, Title IV, Chapter 3, Section 425

hours the aggrieved importer of his ruling in writing stating his reasons and with a directive to pay the duties and taxes in full based on the valuation made by the Customs Officer

- In case of a ruling adverse to the importer, the importer shall be liable to pay the additional duties and taxes as adjudged or if the goods are released under the Tentative Assessment, any posted security shall be made to answer for the deficiency in duties and taxes resulting from the ruling
- The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO
- In case the ruling of the Commissioner is adverse to the importer, they may seek reconsideration or appeal the ruling in accordance with this CAO.

Dispute Settlement Arising from Rules of Origin

- Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer tasked to verify the CO may question the authenticity of the document or the accuracy of the information regarding the true origin of the product or certain parts thereof.
- If the importer does not agree with the findings, he may formally request to the District Collector for the verification of the CO from the issuing country.
- The District Collector shall forward the CO to the Assessment and Operations Coordinating Group (AOCG) for verification from the issuing country.
- The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties and the corresponding adjustments in taxes and other charges, if any, as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations
- Upon receipt of the result of the verification from the issuing country, the Deputy Commissioner for AOCG shall forward and same to the District Collector
 - If the issuing country confirms the authenticity or the accuracy of the CO, the corresponding preferential rate shall be applied. The assessment is deemed completed and final upon readjustment based on the resolution of the case involving rules of origin and the Security posted shall be cancelled or erased.

cf. CMTA, Title 1, Chapter 3, Section 425

- If the issuing country finds that the CO was not authentic or accurate, the District Collector shall forfeit the Security posted in case of cash bond or require the importer or pay the applicable duties and taxes equivalent to the amount that is disputed.

Dispute Settlement Arising from Other Customs Issues

- Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer may challenge the declaration made by the importer pertaining to Other Customs Issues. If the importer does not agree with the Customs Officer, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector.
- If the District Collector finds that the issues raised by the Customs Officer affect the Assessment of duties, taxes and other charges, the following procedures shall be undertaken:
 - The District Collector shall require the importer and the Customs Officer to submit position papers to support their declaration or findings, respectively within five (5) days from the receipt of the notice
 - The District Collector shall resolve in writing the issues within fifteen (15) days from submission of the position papers; and
 - The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations. Release under Tentative Assessment may only be allowed if the customs related issue does not involve the integrity, authenticity, or genuineness of any documents submitted in support of the goods declaration.
- If the District Collector adopts the findings of the Customs Officer, the District Collector shall notify within forty eight (48) hours the aggrieved importer of their ruling in writing stating their reasons and with a directive to pay the duties and taxes in full based on the valuation made by the Customs Officer
- The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO

cf. CMTA, Title IV, Chapter 3, Section 425

- The Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner falls to act on the same.
- In case the ruling of the Commissioner is adverse to the importer, he may seek reconsideration or appeal the ruling in accordance with this CAO.

Dispute Settlement Arising from Mixed Issues

- When the dispute involves mixed issues, the District Collector shall resolve the same simultaneously in accordance with the procedure provided under the preceding sections
- In cases where one of the issues involves a question on tariff classification, the District Collector may resolve all other issues without waiting for the resolution on tariff classification by the Tariff Commission. However, when the tariff classification is indispensable to the resolution of the other issues such as valuation, the District Collector shall resolve the same only upon receipt of the tariff classification ruling.

Protest

- The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases arising from tariff classification, valuation, rules of origin or other customs issues, may appeal by way of protest in writing to the Commissioner within fifteen (15) days from receipt of the adverse ruling of the District Collector or, when payment is made as a result of the adverse ruling, within fifteen (15) days from such payment. Otherwise, the action of the District Collector shall be final and conclusive
- A protest filed shall specify the particular ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest
- When a protest is filled in proper form, the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of a Collector shall be deemed affirmed if the Commissioner falls to act on the same.

cf. CMTA, Title XI, Chapter 2, Section 1106

cf. CMTA, Title XI, Chapter 2, Section 1107

Motion for Reconsideration

The importer aggrieved by the ruling of the Commissioner, other than a ruling on tariff classification, may, within fifteen (15) calendar days from receipt of the ruling, file a Motion for Reconsideration with the Commissioner

cf. CMTA, Title XI, Chapter 9, Section 1136

Finality of the Decision

Unless an appeal is made to the CTA in the manner and within the period herein prescribed, the ruling of the Commissioner shall be final and executory

cf. CMTA, Title XI, Chapter 9, Section 1136

Appeal

An importer aggrieved by the decision of the Commissioner may appeal the said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner

cf. CMTA, Title XI, Chapter 9, Section 1136, in relation to Rule 41, Section 3 of the Rules of Court and Neypes vs. CA, G.R. No. 141524

Transitory Provisions

An importer aggrieved by the decision of the Commissioner may appeal the said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner

Publication of Rulings and Confidentiality

- The Bureau and the Tariff Commission shall publish the summaries of rulings on its website taking into account the need to protect commercially confidential information
- All information which is by nature confidential or which is provided on a confidential basis for the purposes of tariff classification, valuation, or other customs issue shall be treated as strictly confidential by the authorities concerned who shall not disclose it without the specific permission of the persons or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings

cf. CMTA, Title XV, Section 1502

- Any information communicated in accordance with the provisions relating to the rules of origin shall be treated as confidential and used for customs purposes only

cf. RKC, Specific Annex K, Chapter 3,
Standard 11

Periodic Review

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

Separability Clause

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

Repealing Clause

This CAO specifically repeals previously issued Orders which are inconsistent with the provisions here stated.

Effectivity

This CAO shall take effect thirty (30) days after its complete publication at the Official Gazette or a newspaper of national circulation.

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

CAO 03-2020

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Introduction

This CAO implements Section 118; Sections 1139 to 1151 of Chapter 10, Title XI, and other related provisions of Republic Act No. 10863, otherwise known as the “Customs Modernization and Tariff Act” (CMTA) and Republic Act No., 10845, otherwise known as the “Anti-Agricultural Smuggling Act of 2016”.

Scope

This CAO shall cover all modes of disposition of seized, abandoned, and forfeited goods by the Bureau pursuant to the provisions of the CMTA.

Objectives

- Provide simplified and streamlined rules and procedures for the disposition of seized, abandoned and forfeited goods by the Bureau pursuant to the provisions of the CMTA
- Provide for the speedy disposition of goods in order to maximize revenues that can be generated, to ensure that goods injurious to public safety and health are properly disposed and to protect the interest of the government
- To utilize information and communications technology (ICT) and other modern techniques in the monitoring and disposition of seized, abandoned and forfeited goods

Definition of Terms

“As is Where Is” – a condition of sale where no warranty is given as to the quality, state and condition of the goods

Bureau – the Bureau of Customs

Customs Officer – as distinguished from a clerk or employee, shall refer to a person whose duty, not being clerical or manual in nature, involves the exercise of discretion in performing the function of the Bureau. It may also refer to an employee

authorized to perform a specific function of the Bureau as provided in the CMTA

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

Electronic Publication – the posting of the notice of public auction in the official website of the Bureau

Forfeiture Fund – the account where all proceeds from public auction after deduction of charges as provided in Section 1143 of the CMTA and subject to the claim of the owner or importer of an impliedly abandoned goods, are deposited

CMTA, Title XI, Chapter 10, Section 1151

Garage Sale – the sale of goods that have not been sold through public auction the value of which does not exceed Php 50,000

Goods – articles, wares, merchandise or any other items which are subject of importation or exportation [note: cf. CMTA, Title I, Chapter 2, Section 102 (x)]. For purposes of this CAO, the term goods shall include other properties including, but not limited to, cargoes, vehicles, vessels or aircrafts seized and forfeited in favor of the government in accordance with the provisions of the CMTA

cf. CMTA, Title XI, Chapter IV, Section 1113

Landed Cost – the total cost of a product delivered at a port of destination, including the production cost plus transportation cost, insurance, brokerage fee, bank charge, duties and taxes and other charges, processing fee, arrastre charge and wharfage duties, if applicable

Notice – posting at a conspicuous place in the customhouse where the goods are located, and to the publication either electronically or in a newspaper of general circulation

cf. CMTA, Title XI, Chapter 10, Section 1141

Offeror – persons or entities tendering bids for the purchase of goods through Negotiated Sale

Outsourcing – any contractual arrangement between the Bureau and a qualified and competent private entity for the latter to perform designated non-sovereign and/or ancillary functions on behalf of the Bureau

CAO No. 10-2019 "Outsourcing of Non-Sovereign Customs Functions to Private Entities," Section 3.4.

Perishable Goods – goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense

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

Private Service Providers – private entities duly contracted/authorized by the Bureau to provide services and/or facilities that will be used by the Bureau in the performance of its function

Small Value Items – goods subject of the floor price the value of which does not exceed Php 50,000.00

General Provisions

Goods Subject to Disposition

Goods in customs custody that are in the following condition and status shall be subject to disposition:

- Abandoned goods with final decree of abandonment
- Goods deemed abandoned pursuant to Section 811 of the CMTA
- Forfeited goods, other than prohibited, restricted and regulated goods after liability have been established by the proper administrative or judicial proceedings in conformity with the provisions of the CMTA
- Goods subject to a valid lien for customs duties, taxes and other charges collectible by the Bureau, after the expiration of the period allowed for payment thereof
- Goods subject of forfeiture proceedings when certified by the Customs Officer as Perishable Goods. Goods certified as perishable may be sold at a public auction within five (5) calendar days after a three (3)-day notice during the pendency of the forfeiture proceedings in the following cases:
 - Upon motion by the importer, or
 - Upon a written Order of the District Collector in order to protect the interest of the government after the importer was given the opportunity to comment.

The proceeds of the sale through public auction of Perishable Goods shall be held in escrow until the final resolution of the forfeiture proceedings

Modes of Disposition

Goods in customs custody that are in the following condition and status shall be subject to disposition:

cf. CMTA, Title XI, Chapter 10, Section 1139 (a)

cf. CMTA, Title XI, Chapter 10, Section 1139 (b)

CMTA, Title XI, Chapter 10, Section 1139 (c)

CMTA, Title XI, Chapter 10, Section 1139 (d)

CMTA, Title XI, Chapter 4, Section 1118

CMTA, Title XI, Chapter 4, Section 1118

- **Public auction** – Public Auction within thirty (30) calendar days after a ten (10)-day notice or in case of Perishable Goods, as certified by the Bureau, within five (5) calendar days after a three (3)-day notice. The Bureau shall proceed to advertise and sell the same at auction upon notice as shall be deemed to be reasonable
- **Donation** – Donation to another government agency after approval of the Secretary of Finance or donation to the Department of Social Welfare and Development (DSWD) in case of goods suitable for shelter, foodstuffs, clothing materials, or medicines
- **Official Use of the Bureau** – Goods subject to disposition, after approval of the Secretary of Finance, and goods which remain unsold after at least two (2) public biddings, may be declared for official use of the Bureau
- **Negotiated sale** – Goods which remain unsold after at least two (2) public biddings, that are not suitable either for official use or donation may be sold through a negotiated sale subject to the approval of the Secretary of Finance and executed in the presence of a Commission on Audit (COA) representative
- **Re-exportation** – Re-exportation as government property of goods not disposed through public auction, donation, and official use, or of goods injurious to public health, as identified by the Board created under section 1145 of the CMTA, upon the Order of the Collector. Re-exportation shall also be done pursuant to international agreements and treaties
- **Destruction or Condemnation** – Destruction or condemnation in an appropriate manner, upon the order of the District Collector, if the Board created under Section 1145 of the CMTA is in the opinion that such are injurious to public health or if such is classified as prohibited in accordance with Section 118 of the CMTA except for paragraph (d) thereof
- **Turn-Over to Proper Government Agencies** – Turn-over to proper government agencies as provided in Section 1146 and Section 1147 of the CMTA

In all modes of disposition, the Bureau shall ensure that other government agencies and the public are invited to witness the disposition of the Goods.

Mandatory Reporting

All ports are required to submit a monthly report to the Office of the Commissioner the status of cargoes which remained unclaimed at the yard for more than ninety (90) days from the

cf. CMTA, Title XI, Chapter 10, Section 1141

cf. CMTA, Title XI, Chapter 10, Section 1144

cf. CMTA, Title XI, Chapter 10, Section 1141

cf. CMTA, Title XI, Chapter 10, Section 1146

cf. CMTA, Title XI, Chapter 10, Section 1141

cf. CMTA, Title XI, Chapter 10, Section 1149

cf. CMTA, Title XI, Chapter 10, Section 1149

cf. CMTA, Title XI, Chapter 10, Section 1145

cf. CMTA, Title XI, Chapter 10, Section 1146

discharge of the last package from the vessel, or in case of goods under Customs Bonded Warehouse (CBW) remained unliquidated or unpaid after the period of one (1) year from the time of arrival, including actions taken thereon.

Public Auction

Place of Disposition

Goods shall be sold or otherwise disposed of at the port where the Goods are located, unless the Commissioner shall direct the transfer of the place of auction to another port. Notwithstanding the foregoing, jurisdiction over disposition of the goods shall remain with the District shall seized and forfeited the same.

cf. CMTA, Title XI, Chapter 10, Section 1140

Floor Price

Floor price of Goods subject to public auction shall not be less than the Landed Cost of the Goods taking into account the normal depreciation of Goods and shall be computed in any of the manner below:

- The domestic wholesale price arrived through backward computation using as basis the average of three (3) canvassed retail prices of similar articles in the usual and ordinary course of trade
- The average of at least three (3) values of similar articles at the time of importation or at least three (3) months prior thereto, plus applicable duties and taxes
- For uniformity and consistency in the setting of floor price, the recommended floor price computed by the District Collector shall be referred to the Imports and Assessment Service (IAS) for proper determination of floor price

Notice of Public Auction

The Notice of Public Auction shall be approved by the District Collector which shall contain the following information:

- Specific time, date and place for public auction
- Lot number, indicating the seizure identification or abandonment proceeding number(s), container number(s), location of goods, and name(s) of consignee
- Specific description of Goods including their quality, condition, volume or quantity and date of arrival. In case of motor

vehicles, the Notice shall specify the year model, make or brand, Vehicle Identification number (VIN), chassis and engine numbers, except when sold as scrap

- The date of manufacture and expiry date, in case of Perishable Goods, shall be stated
- Specific date, time and place for the viewing of all lots or Goods which shall at least be one (1) working day prior to the auction date; and
- The terms and conditions of the public auction, such as, but not limited to, the registration requirements, awarding and payment, offer on an "As Is Where Is" basis.

Publication and Posting of the Notice of Public Auction

The Notice of Public Auction shall be posted at a conspicuous place in the customhouse where the goods are located, and shall be published either electronically or in a newspaper of general circulation. For regulated goods, electronic copy of the Notice of Public Auction shall be sent to the concerned regulatory agency.

cf. CMTA, Title XI, Chapter 10, Section 1141

Who Cannot Participate in Public Auction

- Employees or officials of the Bureau
- Importers or consignees of the Goods being auctioned
- Bidders who fail to pay the winning bid price in any auction conducted by the Bureau twice, and those disqualified by the Ports for other infractions in the last twelve (12) months immediately preceding the date of auction; and
- Offeror/s his or her authorized representative/s who are not present during the opening of the sealed offers

Registration in Public Bidding

Entities or persons interested to participate in every public auction must register with the port concerned and comply with the following requirements:

- Submission of a valid government issued identification
- Payment of non-refundable registration fee of Php 5,000.00 and legal research fee of Php 50.00
- Clearance or registration from the concerned government agencies in case of regulated goods

The names, addresses, TIN and contact numbers of the registrants shall be indicated in the logbook for registered bidders.

Offer on "As Is Where Is" Basis

All goods subject of disposition pursuant to this CAO shall be offered for sale on an "As Is Where Is" basis.

The quantity, number, weight or measurement of the goods subject of sale and/or as listed in the Notice of Public Auction shall be deemed subject to proper determination by Auction and Cargo Disposal Division (ACDD) or equivalent unit prior to delivery. In case any excess is discovered, the winning bidder shall be required to pay for the difference in his bid price, otherwise the excess shall not be deemed included in the sale and shall be returned to the Bureau.

Sealed Bid System

The sealed bids shall be submitted and opened in public by the Auction Committee at a time, date and place specified in the Notice of Public Auction. The highest bid shall be declared as the winner except when Clustering occurs.

cf. CMTA, Title XI, Chapter 10, Section 1141

In case there is a tie for the highest bid, the subject item or lot shall be subjected to another auction through sealed bids among the tied bidders. In case of another tie, the winner shall be determined by toss coin.

In case of multiple sale lots, the opening of the sealed bids, announcement of the winning bidder and payment of fifty percent (50%) of the winning bid price upon announcement of the winning bid, shall be done on a per lot basis. Subsequent sale lots shall not be opened unless the fifty percent (50%) of the winning bid price has been paid or declared a failed bidding.

Clustering System

Clustering occurs when the difference between the highest and the second highest bid is within ten percent (10%) of the highest bid.

An open-bidding shall be conducted among all the bidders who participated per item or sale lot with the highest bid serving as the new floor price. Only bid raised by three percent (3%) more than the new floor price shall be considered and the highest bid in the open bidding shall be declared as the winner. Otherwise, the highest sealed bid shall be declared as the winner.

CAO 10-2007, Section 9

Payment

At the end of each bidding, the highest bidder shall be required to surrender his acknowledgement receipt. Upon announcement of the winning bid, the winning bidder shall pay the bid price less the bond posted. Failure to pay the balance by the winning bidder shall cause the forfeiture of the deposit without prejudice to any sanction that the Committee may impose.

In case such payment has not been made, the subject Goods shall be re-offered within three (3) working days for non-perishable Goods and the next working day for Perishable Goods, unless the Commissioner provides a different period and subject further to compliance with the publication requirements of this CAO.

Cancellation of Public Bidding

Requests for cancellation shall be in writing and addressed to the District Collector or the Office of the Commissioner. Cancellations of auction can only be done upon the order of the District Collector Office of the Commissioner, on any of the following grounds:

- No viewing conducted
- Upon request of the concerned regulating agency
- Other cases or circumstances that would warrant the cancellation of the scheduled public auction

The cancellation order shall be posted immediately by the ACDD in their bulletin board or in other conspicuous place or in the bulletin board within the premises of the port, and in the official website of the Bureau whenever possible. No request for cancellation by any interested bidder shall be allowed unless for valid reasons as determined by the District Collector.

Awarding of Sale

A Certificate of Award shall be given to the winning bidder upon full payment of the bid amount.

Failure to Claim

When the winning bidder fails to claim the items or lots awarded to him within thirty (30) calendar days from the date of award, upon due notice, they shall be deemed to have abandoned said

goods and to have renounced all their rights thereto including forfeiture of all payments made thereon, except upon justifiable reasons, as determined by the District Collector, upon recommendation of the Auction Committee.

Once declared abandoned, the Order of Abandonment can no longer be appealed and the subject Goods shall be disposed of in any of the manner allowed in this Order.

Third Party Auction

In the case of heavy equipments, motor vehicles, Small Value Items, and goods which require appraisal by technical and specialized experts, the sale thereof through public auction may be conducted by a third party auctioneer chosen by the Bureau subject to existing rules and regulations on Outsourcing of Non-Sovereign Functions and in accordance with Section 1151 (a) of the CMTA.

- The rules and regulations on the conduct of the public auction, including pre and post auction shall be determined by the third party auctioneer selected by the Bureau, subject to the approval of the Commissioner of Customs.
- The scope of forfeited and abandoned goods which shall be sold through third party auctioneers may be limited or expanded by the Commissioner.

Failed Bidding

An auction shall be declared as a failed bidding by the Auction Committee when any of the following circumstances occurs:

- When there is no bid
- When the highest bidder fails to comply with any of the payments required under the Payments section hereof, said bidder shall be disqualified from participating further in the public auction and when applicable, the negotiated sale involving the same, without prejudice to the forfeiture of the minimum deposit and any payment made and imposition of other sanctions as may be warranted.

Second Bidding

When a failed bidding is declared the item or sale lot shall be re-offered after five (5) calendar days upon publication in the official website and/or social media page of the Bureau and posting in a

conspicuous place of the port. In case of Perishable Goods, the second auction shall be conducted after three (3) calendar days from posting.

Disposition of Proceeds

The following expenses and obligations shall be paid from the proceeds of the sale in the order provided:

- Customs duties, except in the case of forfeited goods
- Taxes and other charges due the government
- Government storage charges
- Expenses for appraisal, advertisement, and sale of auctioned goods
- Arrastre and private storage charges and demurrage charges; and
- Freight, lighterage or general average, on the voyage of importation, of which due notice shall have been given to the District Collector

cf. CMTA, Title XI, Chapter 10, Section 1141

The Commissioner is authorized to determine the maximum charges to be recovered by private entities concerned under the last two items of this section

CMTA, Title XI, Chapter 10, Section 1143

Forfeiture Fund

All proceeds from sales through public auction after deduction of charges as provided in the Disposition of Proceeds section and subject to the claim of the owner or importer of impliedly abandoned goods as provided in Section 1130 of the CMTA shall be deposited in a Forfeiture Fund.

The Forfeiture Fund shall be in the name of and managed by the Bureau, subject to the usual government accounting rules and regulations, to utilize it for the following purposes:

- To outsource, subject to the rules on government procurement established by law, the management of the inventory, safekeeping, maintenance and sale of Goods enumerated in the Goods Subject to Disposition section of this CAO to Private Service Providers: Provided, that the Bureau shall retain jurisdictional control and supervision over these Goods as well as the operations of the service providers as contracted
- To facilitate customs seizure, abandonment and forfeiture proceedings and the disposition of Goods under the Goods Subject to Disposition section of this CAO, particularly the disposition of Goods other than by public sale

- To enhance customs intelligence and enforcement capability to prevent smuggling, and
- To support the modernization program and other operational efficiency and trade facilitation initiatives of the Bureau

The Department of Finance (DOF) and the Department of Budget and Management (DBM) shall upon the recommendation of the Bureau, issue a joint regulation to implement the provisions of this Section

CMTA, Title XI, Chapter 10, Section 1151

Donation

Goods Subject to Donation

Goods subject to disposition or which remain unsold after at least two public auctions for want of bidders or for lack of an acceptable bid may be donated to another government agency. Provided, that for regulated goods, donation shall be made upon concurrence of the concerned regulatory agency.

CMTA, Title XI, Chapter 10, Section 1141

If the goods are suitable for use as shelter or consists of foodstuffs, clothing materials or medicines, it may be donated to the DSWD.

CMTA, Title XI, Chapter 10, Section 1141

Request for Donations

All requests for donation shall be coursed through the Commissioner who shall endorse the same to the District Collector/s for determination of the availability of the items requested for donation.

Approval of the Secretary of Finance

In order for the donations made pursuant to this CAO to be effective, the approval of the Secretary of Finance shall be secured.

cf. CMTA, Title XI, Chapter 10, Section 1141

For Official Use of the Bureau

Goods subject to disposition or which remain unsold after at least two public auctions and which are suitable for official use to promote intensive collection of taxes and/or help prevent or

suppress smuggling, may be declared by the Commissioner of Customs for official use of the Bureau, subject to the approval of the Secretary of Finance.

CMTA, Title XI, Chapter 10, Section 1141

Negotiated Sale

Committee on Negotiated Sale

A Committee on Negotiated Sale shall be constituted by the Commissioner which shall be composed of the following:

- Chairman, to be chosen from among the Assistant or Deputy Commissioners
- Vice-Chairman, from the Office of the Deputy Commissioner for Assessment and Operations Coordinating Group (AOCG) and
- Three (3) Members, to be chosen by the Chairman

The Committee shall be assisted by a Secretariat which shall provide administrative and technical support. The Chairman shall designate the members of the Secretariat.

Duties and Functions of the Committee

The Committee shall have the following duties and functions:

- Implement of the provisions of this CAO relating to the conduct of negotiated sale
- Conduct an ocular inspection of the sale lots or items
- Reject any or all offers or any part thereof and consider offer/s most advantageous to the interest of the government
- Recommend to the Secretary of Finance the acceptance of the offer/s most advantageous to the interest of the government; and
- Issue orders necessary to implement this CAO

Who Cannot Participate in Negotiated Sale

- Employees or officials of the Bureau
- Importers or consignees of the Goods being auctioned
- Defaulting Offerors unable to comply with the payment requirements under this CAO, and those disqualified by the ports of other infractions in the last twelve (12) months immediately preceding the date of negotiated sale
- Offeror/s or his or her authorized representative/s who are not present during the opening of the sealed offers

- Offeror/s or his or her authorized representative/s who failed to comply with any of the documentary requirements of the Committee on Negotiated Sale

Procedure in Negotiated Sale

- The Offeror shall tender his sealed offer in a format designed for the purpose in a sealed drop box within the prescribed period of time indicated in the Notice of Negotiated Sale. No offer to buy shall be entertained if submitted after the said period of time.

The Offeror must indicate their name and contact number on the face of their sealed offer, for facility in communicating with them.

- The sealed offers shall be opened on the date, time and place indicated in the Notice in the presence of a COA representative and the Offeror in the negotiated sale.

The presence of the Offeror/s or their duly authorized representative during the opening of the sealed offers is required. Otherwise, the offer of the said person or entity shall not be considered.

Payment Procedure

- The Offeror whose offer is considered the most advantageous to the interest of the government shall be required to pay a guarantee cash deposit in an amount equivalent to twenty percent (20%) of the offer within twenty-four (24) hours from receipt of the notice of acceptance of the offer by the Committee, which shall be deposited in a special trust account, prior to referral to the Secretary of Finance for consideration. For this purpose, the District Collector shall open a special trust account.
- The eighty percent (80%) remaining balance shall be paid in full within forty-eight (48) hours from receipt of the notice from the Committee on Negotiated Sale of the approval of the offer by the Secretary of Finance.
- In case of a failed negotiated sale, the subject sale lot may be disposed of according to the other modes of disposition available under this CAO.

In case of failed negotiated sale or failure to comply with any of the payment requirement provided under this Section, the

Offeror shall automatically be disqualified from participating further in any negotiated sale and public auction without prejudice to the forfeiture of any payment/s made thereon.

- When the offer is rejected by the Secretary of Finance, the guarantee cash deposit shall be refunded.

Failed Negotiated Sale

A Negotiated Sale shall be declared as a failed bidding by the Committee on Negotiated Sale when any of the following circumstances occurs:

- When there is no offer
- When the highest Offeror fails to comply with any of the payments required under the Payment Procedure section hereof, said Offeror shall be disqualified from participating further in the negotiated sale thereof, without prejudice to the forfeiture of the cash bond and any payment made and imposition of other sanctions as may be warranted; or
- When the Department of Finance disapproves or rejects the offer of the Offeror

Awarding of Sale

Upon full payment and presentation of the official receipts evidencing payment of the bid price subject of negotiated sale, the Secretariat shall issue a Notice of Award and shall forward the records of the same to the District Collector having jurisdiction over the goods.

Approval or Disapproval by the Department of Finance

A Negotiated Sale shall be subject to the approval or disapproval of the Department of Finance.

Refund of Payment

Payments made by the Offeror which has been disapproved by the Department of Finance shall be refunded within fifteen (15) calendar days from receipt of Notice of Disapproval by the Offeror.

Disposal of Small Value Items

Goods with a value of Php 50,000.00 below or those in the nature of personal effects shall be disposed of through Garage Sale. The

Commissioner, subject to approval by the Secretary of Finance, may adjust the threshold value for Small Value Items. For this purpose, the Commissioner shall issue a separate Customs Memorandum Order (CMO).

Condemnation

Goods Subject to Condemnation

The following goods shall be disposed through condemnation:

- Restricted goods which are highly dangerous to be kept or handled
- Goods that are absolutely prohibited unless the mode of disposition is specifically provided by the CMTA
- Goods that are prohibited by law to be released, unless the mode of disposition is specifically provided by the CMTA
- Goods that have no commercial value; and
- Goods that are injurious to public health

CMTA, Title XI, Chapter 10, Section 1147
(f)

Modes of Condemnation

Goods shall be condemned in the following manner:

- Rendering
- Crushing
- Burning
- Breaking
- Shredding; or
- Any other appropriate method

Detailed Condemnation Plan

Upon receipt of the notice of finality of Order of Forfeiture or Decree of Abandonment, a detailed condemnation plan shall be prepared by the ACDD or equivalent unit of the Port, for the destruction or condemnation of the Goods identified for destruction. The written plan shall contain the following:

- Mode of Condemnation
- Nature of the items or Goods to be destroyed or condemned, including their packaging
- Final order of Forfeiture or Abandonment
- Legal basis or justification for the condemnation of the Goods
- Special or technical requirements needed to ensure the complete destruction and to prevent the subsequent retrieval by persons or even by animals

- Condemnation plan to be in compliance with the requirements to be determined by the appropriate government agency in case of regulated doors
- Notice and invitation to government agencies to witness or supervise the destruction or condemnation process and to ensure that their own regulations on such activities are observed
- The anticipated difficulties with emphasis on the problem of crowd control, looters and scavengers and the general security concerns and contingency measures thereto; and
- Required reports to be submitted after the destruction or condemnation and the signatories thereof

Condemnation Committee

A Condemnation Committee is hereby constituted which shall be composed of the following:

Chairman

- Chief, ACDD or equivalent unit

Vice Chairman

- Chief, Law Division

Members

- Representative, Office of the District Collector
- Representative, CIIS
- Representative, ESS

Functions of the Condemnation Committee

The Condemnation Committee shall perform the following functions:

- Provide formalities and procedures in connection with condemnation, consistent with and in pursuance of this Order
- Evaluate the detailed condemnation plan and make corrections, if necessary
- Evaluate applications for accreditation of contractors
- Choose an accredited contractor to perform the destruction or condemnation of Goods for destruction
- Prepare an Order of Condemnation for the approval of the District Collector; and
- Recommend to the District Collector the imposition of administrative or criminal sanctions as maybe appropriate against any contractor, person or entity found to be violated the CMTA or other related laws, rules and regulations in connection with any condemnation activity

Order of Condemnation

The Condemnation Committee shall cause the preparation of the Order of Condemnation for the approval of the District Collector, containing the information stated in the Detailed Condemnation Plan and the name of the contractor who will perform the destruction or condemnation of Goods.

In selecting the contractor/s that will perform the condemnation, the Condemnation Committee shall observe the following guidelines:

- Only accredited contractors shall be authorized to perform condemnation
- Suspected contractor/s of the port, as well as of other ports, must not be appointed to perform condemnation
- Track record or reputation of the contractor
- For containerized cargoes, the preferred or nominated accredited contractor of the shipping lines shall be given priority

Accreditation of Contractors

Interested contractors shall be accredited by the District Collector of a port, which shall be valid within three (3) years from the date of accreditation, subject to the annual submission of updated documents. The applicant shall submit to the Accreditation Committee of the power the following requirements:

- Letter of Intent (duly signed by the registered owner or authorized representative)
- Company Profile
- List of Services offered
- Diagram of Operation for all the services being offered
- Plant or Facility Layout
- Machineries, Equipment and other facilities owned and located at the facility or plant (with photos)
- For Corporate entities, Articles of Incorporation, By-Laws, and latest General Information Sheet duly received and stamped by the Securities and Exchange Commission (SEC)
- Current Mayor's Permit
- Current Environmental Compliance Certificate (ECC) and allied permits
- Current Transporter Registration Certificate, if applicable

- Updated City or Municipal Environment Certificate
- Duly stamped and received Income Tax Return for two (2) years immediately preceding the application
- Audited Financial Statement for two (2) years immediately preceding the application
- Payment of Accreditation Fee of Php 10,000.00 and Customs Documentary Stamp of Php 265.00
- Posting of annual performance bond in the amount of Php 500,000.00

Disputes and/or Complaints

Disputes and/or complaints pertaining to the decisions or actions of the Condemnation Committee, and approved by the District Collector shall be resolved by the Director of the Port Operations Service, subject to the approval of the Commissioner through the Deputy Commissioner of Assessment Operations and Coordinating Group.

Reportorial Requirements

The accredited contractor shall submit to the District Collector a completion report after every condemnation.

Sanctions

In case the accredited contractor defaults in complying with the condemnation plan, the Accreditation Committee shall recommend the imposition of the following sanctions to the District Collector, to wit:

1st Offense: Suspension for one (1) year

2nd Offense: Suspension for five (5) years

3rd Offense: Perpetual disqualification

The District Collector upon receipt of the recommendation shall immediately issue a suspension or disqualification order against the erring contractor.

This is without prejudice to the revocation of accreditation and filing of appropriate criminal charges in case of diversion or failure on the part of the contractor to dispose of the condemned goods.

Gatepass and Clearance for the Release Condemned Goods

After the approval of the District Collector of the Order of Condemnation, a corresponding gatepass and Notice of Condemnation for the release of Goods will be issued by the Chief of ACDD or its equivalent office to the chosen accredited contractor. The Chief of Piers Inspection Division (PID) or its equivalent unit shall issue transfer note and shall assign a customs guard who will secure the Goods up to its final destination.

Turn-Over to Proper Government Agencies

Turn-Over to Armed Forces of the Philippines (AFP)

Dynamite, gunpowder, ammunition and other explosives, firearms and weapons of war and parts thereof shall be turned over, after finality of the Order of Forfeiture, to the AFP or the Philippine National Police.

Turn-Over to Philippine Amusement and Gaming Corporation (PAGCOR)

Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes, or other Goods when such distribution is dependent on chance including jackpot and pinball machines or similar contrivances, or parts thereof shall be turned over to PAGCOR.

Turn-Over to Philippine Charity Sweepstakes Office (PCSO)

Lottery and sweepstakes tickets, except advertisements thereof, and lists of drawings therein shall be turned over to the PCSO.

Turn-Over to the Philippine Drug Enforcement Agency (PDEA)

Marijuana, opium, poppies, coca leaves, heroin, or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, including opium pipes and parts thereof, of whatever material shall be turned over to the Dangerous Drugs Board (DDB) through the PDEA.

Turn-Over Bangko Sentral ng Pilipinas (BSP)

Any Goods manufactured in whole or in part of gold, silver or other precious metals or alloys and the stamp, brand or mark does not indicate the actual fineness of quality of the metals or alloys.

CMTA, Title I, Chapter 3, Section 118 (d)

Turn-Over of Other Prohibited and Regulated Goods

Whenever deemed appropriate, the Commissioner of Customs may turn-over Goods which cannot otherwise be disposed through the different modes provided under this Order to the concerned agency for proper disposition.

The turn-over shall be made with a corresponding Gate Pass, Clearance and Notice of Turn-Over issued by the District Collector, through the ACDD.

Penal Provision

Violations of this CAO committed by any person, officer, or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provision.

Monitoring and Disposition of Seized, Abandoned and Forfeited Goods

The Management Information System and Technology Group (MISTG) shall devise an Information and Communications Technology (ICT) enabled system for monitoring and disposition of seized, abandoned and forfeited goods in all ports.

Transitory Provision

Pending full implementation of an ICT enabled system that will admit and store electronic documents pertaining to the registration of bidders, accreditation of contractors, and conduct of public bidding or Garage Sale, the Bureau shall, as far as practicable and as existing processes may reasonably allow, implement the provisions of this CAO. Provided that, the

processing of personal information collected during the registration of bidders and accreditation of contractors shall comply with Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012.

Repealing Clause

All other rules and regulations issued by the Bureau which are inconsistent with this CAO are deemed repealed or modified accordingly.

Separability Clause

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

Effectivity

This ORDER shall take effect thirty (30) 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 CAO.

CAO 04-2020

Issue Date: November 29, 2019
UP Law Center Received: January 28,
2020

Introduction

This CAO implements Section 206, Title II, Chapter 2 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), in line with the authority of the Commissioner of Customs, with the approval of the Secretary of Finance, to change the limits of Customs Districts.

Scope

This CAO covers the redefining of jurisdictional limits of the Customs District of Cagayan de Oro and the Customs District of Zamboanga.

General Provisions

Pursuant to Section 206 of the CMTA, the Commissioner, with the approval of the Secretary of Finance, has the authority to change the limits of Customs Districts. Thus, in order to encourage economic development in the Zamboanga Peninsula through increased trade movement and facilitation, the entire Provinces of Zamboanga del Norte, Zamboanga del Sur and Zamboanga Sibugay are hereby restored to and placed under the jurisdiction of the Port of Zamboanga instead of the Port of Cagayan de Oro, to wit:

Tenth. – The District of Cagayan de Oro, comprising the Provinces of Misamis Oriental, Misamis Occidental, Lanao de Norte, Lanao del Sur, Bukidnon, Camiguin Island, and all the islands within the jurisdiction of said provinces, in which Cagayan de Oro City, Misamis Oriental shall be the principal port of entry. Its sub-ports of entry are Iligan City, Lanao del Norte and Ozamiz city, Misamis Occidental;

Eleventh. – The District of Zamboanga, comprising the Provinces of Zamboanga del Norte, Zamboanga del Sur and Zamboanga Sibugay, Basilan Island, Sulu and Tawi-Tawi and all the islands and/or group of islands within the jurisdiction of the said

provinces in which Zamboanga City shall be the principal port of entry. Its sub-ports of entry are Basilan City, Jolo, Sulu, and Tawi-Tawi (Bongao).

Repealing Clause

CAO No. 7-99 and CMO No. 21-89 are hereby deemed repealed, amended and/or modified accordingly.

Separability Clause

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

Effectivity

This CAO shall take effect thirty (30) 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 CAO.

CAO 05-2020

Issue Date: December 3, 2019
UP Law Center Received: January 28, 2020

Introduction

This CAO implements Section 439, Chapter 4, Title IV and other related provisions of Republic Act NO. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

Scope

This covers Express Shipments carried as cargo under a Master Air Waybill (MAWB) consigned to Air Express Cargo Operators (AECO).

Objectives

- Prescribe uniform and simplified procedures in the transport, documentation and clearance of Express Shipments in all Philippine airports
- Ensure border protection by applying internationally accepted best practices
- Maximize the use of Information and Communications Technology (ICT) for purposes of monitoring and generating relevant statistical information relative to Express Shipments

Definition of Terms

Advanced Electronic Manifest – the electronic submission to the Bureau of the Inward Foreign cargo Manifest (IFCM) prior to the arrival of the carrying aircraft

Air Express Cargo Operator (AECO) – a company which provides and arranges fast and rapid transport and delivery of express shipments, by order and in the interest of shippers or consignors, either as a direct common carrier or an indirect air carrier, and as such issues its own air waybill to shippers or consignors of shipments under its solicitation

Customs Memorandum Order (CMO)
No. 46-1998, Section 3.1.2.

Consolidated Inward Foreign Cargo Manifest (CIFCM) – a true and accurate manifest, of all the individual shipments in the consolidation destined and intended to be unloaded at a port entry in the Philippines, submitted as rider to the inward foreign manifest of the carrying vessel or aircraft

cf. CAO No. 01-2016

Electronic Inward Foreign Cargo Manifest (e-IFCM) – the advance, electronic conveyance of freight information to the Bureau prior to the arrival of the shipment at the port of entry

cf. <http://www.farrow.com/article-what-is-emanifest>

Electronic Consolidated Inward Foreign Cargo Manifest (e-CIFCM) – all House Air Waybills of shipments consigned to the ultimate consignees de-grouped or split from the master air waybills of shipments are consignees of which are just nominal such banks, forwarders and consolidators

cf. CMO No. 19-2015, Section 3.3

Express Shipments – consolidated air shipments of goods which are time-sensitive in character, usually under a door-to-door service arrangement with on-time delivery commitment, which are shipped under a MAWB consigned to an AECO

cf. CMO No. 46-1998, Section 3.1.1.

Free Carrier (FCA) – an international commercial term which means that the seller delivers the goods to the carrier or another person nominated by the buyer at the seller's premises or another named place. The parties of this type of sale should specify clearly as possible the point within the named place of delivery, as the risk passes to the buyer at that point

International Commercial Terms 2010

Free On-Board (FOB) – an international commercial term which means that the seller delivers the goods on board the vessel nominated by the buyer at the named port of shipment or procures the goods already delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel and the buyer bears all costs of the moment onwards

International Commercial Terms 2010

High-Value – goods of a commercial nature with FOB or FCA value of Fifty Thousand Pesos (Php 50,000.00) or over

cf. CMTA, Title IV, Chapter 1, Section 402

House Air Waybill (HAWB) – an air waybill covering a single, individual shipment or consignment issued by the freight forwarder or consolidator to a consignor or sender containing the names and addresses, respectively, of both the consignor or sender and the consignee or receiver and the detailed, specific description of good shipped by air

CMO No. 79-90, Section 2.1.5.

Master Air Waybill (MAWB) – an air waybill issued by an air carrier to an international air freight forwarder or consolidator

cf. CAO No. 6-2016

Package – a closed container (i.e. box, carton or envelope) or covering in which the contents of a consignment is packed, ready for shipment or transport

CMO No. 46-98 Section 3.1.4

Prohibited Goods – refer to the following goods, the importation and exportation of which are prohibited:

- Written or printed goods in any form containing any matter advocating or inciting treason, rebellion, insurrection, sedition against the government of the Philippines, or forcible resistance to any law of the Philippines, or written or printed goods containing any threat to take the life of, or inflict bodily harm upon any person in the Philippines
- Goods, Instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises describes or gives direct or indirect information where, how or by whom unlawful abortion is committed
- Written or printed goods, negatives or cinematographic films, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character
- Any goods manufactured in whole or in part of gold, silver or other precious metals or alloys and the stamp, brand or mark does not indicate the actual fineness of quality of the metals or alloy
- Any adulterated or misbranded food or goods for human consumption or any adulterated or misbranded drug or violation of relevant laws and regulations
- Infringing goods as defined under the Intellectual Property Code and related laws
- All other goods or parts thereof which importation are explicitly prohibited by law or rules and regulations issued by the competent authority

Regulated Goods – goods, the importation and exportation of which are subject to regulation and shall only be allowed after securing the necessary clearances, licenses, and any other requirements, prior to importation or exportation. In case of importation, submission of requirements after arrival of the goods but prior to release from customs custody shall be allowed but only in cases provided for by governing laws or regulations

cf. CMTA, Title I, Chapter 3, Section 117

Restricted Goods – the following goods, the importation and exportation of which are prohibited, except when authorized by law or regulation:

- Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, or parts thereof
- Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes or other goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof
- Lottery and sweepstakes tickets, except advertisements thereof and lists of drawings therein
- Marijuana, opium, poppies, coca leaves, heroin or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, except when imported by the government of the Philippines or any person duly authorized by the Dangerous Drugs Board, for medicinal purposes
- Opium pipes or parts thereof, of whatever material
- Weapons of Mass Destruction and goods included in the National Strategic List (NSGL) as provided under Republic Act No. 10679 or the Strategic Trade Management Act (STMA)
- Toxic and hazardous goods under Republic Act No. 6969 or the “Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990”
- Any other goods importation and exportation are restricted

The restriction to import or export the above stated goods shall include the restriction on their transit.

cf. CMTA, Title I, Chapter 3, Section 119,
CAO 6-2016

Establishment of Customs Office

A customs office shall be established in all international airports where Air Express Cargo Operators (AECO) have established offices of hubs.

The District Collector shall ensure that the operations of AECO is fully complemented with the required number of personnel. Overtime services will be provided by the Bureau as the need arises.

The AECO shall pay the Bureau service fees for services rendered in accordance with Sections 1211, 1300 and 1508 of the CMTA.

Submission of Manifest

- A true and complete copy of the e-IFCM shall be electronically sent in advance by the AECO within the following cut-off period:
 - Those coming from Asia – at least one (1) hour before arrival of the aircraft
 - Those coming from continents other than Asia – at least four (4) hours before arrival of the aircraft
- For the purpose of identifying the individual shipments consigned to the ultimate consignees, the e-CIFCM shall also be submitted as a rider to the e-IFCM with the following information:
 - Flight Number
 - Flight Date
 - MAWB Number
 - HAWB Number
 - Shipper Name
 - Shipper Address
 - Consignee Name
 - Consignee Address
 - Number of packages
 - Description of goods
 - Declared Value
 - Gross Weight
 - Registry Weight
 - Marks and numbers of cartons, drums, boxes, crates and other forms of protective packaging
 - Kinds of packages (cartons, boxes, crates, drums, etc.)
 - Country of origin
 - Notify Party
- The cut-off time for the submission of the e-CIFCM are as follows:
 - If the e-IFCM is submitted within the prescribed period, the submission of the e-CIFCM shall be one (1) hour after the arrival of the aircraft
 - If the e-IFCM is submitted late, the e-CIFCM shall be accepted without the penalty provided that the submission in the customs systems shall not twenty-four (24) hours after the e-CIFCM is registered with the Office of the Deputy

Collector for Operations. This same privilege shall apply in case the e-IFCMs are not validated on time (e.g., due to system errors)

- Submission of Supplemental IFCM. Cargoes not listed in the IFCM shall be duly covered by a supplemental manifest which shall be submitted within six (6) hours upon arrival of the aircraft.
- Supplemental IFCM shall be submitted in hard copies and electronic form within the prescribed period mentioned above. Otherwise, the shipments subject of the supplemental IFCM shall be considered unmanifested and subject to seizure proceedings
- Unmanifested goods shall be subject to the penalties of the applicable Customs Order

Customs Clearance Formalities

For purposes of granting immediate release, Express Shipments shall be divided into four (4) categories and cleared under their respective procedures, as follows:

Correspondence and Documents

Refers to those shipments which are Business, Inter-office, or Personal (BIP) in character and have no commercial value. Included under this category are diplomatic pouches with official seal, provided that Correspondence and Documents that are recorded on carrier media shall not be included in this category subject to the following conditions:

- The AECO shall ensure that non-document shipments are not mixed with Correspondence and Documents. Should this occur, the AECO shall provide supporting documents to the Bureau that the non-document shipment was manifested correctly. Any shipment found to contain dutiable goods shall be segregated from Correspondence and Documents and the same shall be filed and cleared separately.
- The detailed e-CIFCM for all Correspondence and Documents shall serve as the goods declaration.
- Prior to release the Bureau shall conduct non-intrusive inspection for shipments classified as Correspondence and Documents
- All Correspondence and Documents shall be placed in a sealed green courier bag

- Documents included in the e-CIFCM for Correspondence and Documents shall be cleared without the payment of duty and tax.
- The Bureau shall utilize risk management techniques in determining criteria for the physical and documentary examination of documents, e.g. weight, volume

De Minimis Shipments

Refers to the value of goods for which no duty or tax is collected.

cf. CAO No. 02-2016, Section 3.2

Prior to the arrival of the shipments and to enable the processing of Express Shipments, the AECO shall submit to the Bureau a detailed e-CIFCM of all De Minimis Shipments with FOB or FCA value of Ten Thousand Pesos (Php 10,000.00) or less.

- The detailed e-CIFCM shall also serve as the goods declaration for all De Minimis Shipments, but Regulated Goods shall be declared separately per HAWB
- The Customs Examiner shall carry out risk assessment on the e-CIFCM submitted by the AECO and tag shipments for physical examination and require submission of clearance or permit from the concerned regulatory agency, if applicable

Low-Value, Dutiable and/or Taxable Express Shipments

Refers to goods with FOB or FCA value of more than ten thousand pesos (Php 10,000.00) but less than fifty thousand pesos (Php 50,000.00).

cf. CMTA, Title IV, Chapter 1, Section 402

Subject to the application of risk-based management techniques, the Bureau shall allow the advanced processing of Low-Value, Dutiable and/or Taxable Express Shipments subject to the following conditions:

- The e-CIFCM shall be submitted to the Bureau prior to the arrival of the goods for purposes of processing information, calculating the amount of duties and taxes payable and for selecting shipments for documentary or physical examination or both, if deemed necessary. The e-CIFCM must also contain the following information:
 - Customs Duty Amount (Duty)
 - Value-added Tax (VAT)
 - Express Clearance Fee
 - Other charges (i.e. fines and penalties)

- A simplified goods declaration containing the information required by the Bureau shall be filed by the AECO prior to the arrival of the goods
- Low-Value, Dutiable and/or Taxable Express Shipments with value of less than Php 50,000.00 may be released prior to the payment of the assessed customs duty, tax and other charges subject to the posting by the AECO of a bank guaranty which shall act as the security deposit as provided under Section 11 of this CAO and provided further that the following are present:
 - The informal entry for Express Shipments sought to be released shall have been duly filed and processed
 - The documentary and/or physical examination of the cargo, if necessary, has been completed, and the duties, taxes and other charges due on the consignment have been properly determined by the Bureau
 - Only such manner of shipments with aggregate assessed duties, taxes and other charges not exceeding the amount guaranteed by an Accredited Agent Bank (AAB) shall be allowed to be released
 - The shipments sought to be released is not subject to any alert or hold order issued by the authorized Alerting Unit of the Bureau
 - The AECO shall submit to the District Collector a notarized written commitment executed by an AAB, guaranteeing to pay the Bureau upon demand whatever customs duties, taxes and other charges assessed on any import not paid by the AECO

High-Value Shipments

Refers to the shipments with an FOB value of Fifty Thousand Pesos (Php 50,000.00) and above.

Each shipment shall be declared individually through the Customs Cargo Clearance System and shall be processed under formal entry.

cf. Guidelines for Immediate Release of Consignments by Customs, WCO, June 2018 Version III

Advance Lodgement and Clearance

The Bureau shall develop a facility to enable the lodgement and clearance of goods declaration for Express Shipments.

Treatment of Split Consignments

Two or more low value non-document express consignment which appears on the CIFCMto have the same shipper and the same consignee, the aggregate value of which amounts to Fifty Thousand Pesos (Php 50,000.00) or more, or its foreign currency equivalent value at the date of arrival of shipment shall be treated as a single consignment and will require the filing of formal entry.

Treatment of Split Consignments

Two or more low value non-document express consignment which appears on the CIFCMto have the same shipper and the same consignee, the aggregate value of which amounts to Fifty Thousand Pesos (Php 50,000.00) or more, or its foreign currency equivalent value at the date of arrival of shipment shall be treated as a single consignment and will require the filing of formal entry.

Establishment of ICT-enabled Clearance and Monitoring System for Express Shipments

The Bureau shall establish a simplified ICT-enabled system for the lodgement, whether pre-arrival or not, clearance and monitoring of all Express Shipments including split consignments.

Mis-sorted or Misrouted Shipments

Mis-sorted or misrouted shipments may be returned to the shipper without payment of duties, taxes and other charges under the following circumstances:

- The Air Waybill (AWB) indicates that the consignee's address is other than the Philippines
- The AWB indicates that the consignee's address is the Philippines, but the labels or markings clearly show that the destination of the shipment is other than the Philippines and the Bureau has verified the same

cf. Section 603, and 604, Chapter 2, Title VI, CMTA

- The Bureau is notified prior to the arrival of the shipment and lodgement of goods declaration that the same is mis-sorted or misrouted
- The shipment is not subject of an alert order or derogatory information and the same is not regulated, restricted or prohibited upon conduct of non-intrusive inspection

The AECO shall re-export the same within twenty-four (24) hours from the arrival of the shipment. The Bureau shall require the AECO to provide a designated and secured area for mis-sorted or misrouted shipments.

The AECO shall also submit electronically a monthly summary for all mis-sorted or misrouted shipments to the Bureau with the following information:

- Arrival Date into the Philippines
- Departure Date from the Philippines
- Export AWB Number
- Export Flight Number
- Correct Destination
- Document showing proof of landing or other evidence of re-exportation

For purpose of recording, the Bureau shall compute the duties and taxes that should have been collected from the shipment had it not been mis-sorted or misrouted.

Security Deposit

In case of Low-value, Dutiable and/or Taxable Express Shipments, the AECO shall deposit and maintain in AAB the amount of not less than Five Million Pesos (Php 5,000,000.00) specifically to guaranty immediate payment by the bank upon demand by the Bureau. In case of default on the part of the AECO to pay the assessed customs duties, taxes, and other charges due on shipments that were released under Section 6.3.3. of this CAO, the Bureau shall deduct the security deposit the payment of the duties, taxes and other charges.

The security likewise covers mis-sorted or misrouted shipments being returned to the shipper. In case of failure to show proof of landing or evidence of re-exportation or that the said shipment

was not re-exported within twenty-four (24) hours from arrival, the amount of duties and taxes which should have been collected shall be deducted from the security by way of penalty.

Accreditation of AECO

The AECO shall be accredited with the Bureau before it can avail of the privileges for handling Air Express Shipments.

The applicant for accreditation shall comply with the following:

- Accreditation by the Bureau as an Importer
- Accreditation by the Bureau as a Customs Facility Warehouse Operator
- Must be accredited by the Civil Aeronautics Board as a freight forwarder
- Proof of membership to a recognized existing international organization for air express operators, e.g. Conference of Asia Pacific Express Carriers (CAPEC)
- Certification as an operator of a global or regional hub for handling of express shipments
- Must have a dedicated air carrier for their use as an Air Express Operator
- Must have integrated end-to-end tracking system
- Must have an IT System capable of interfacing with the Bureau's automated system

Risk Management

The customs officer may, based on internationally-accepted customs administration and risk management principles, conduct non-intrusive inspection for Express Shipments.

Exclusion from Immediate Release

The following importations shall not be entitled to immediate release as Express Shipments:

- Importations declared as "without commercial value", "of no commercial value" or with specific amount but qualified by the phrase "for customs purposes" or analogous phrases.

Hence, the sender, importer, consignee, AECO must declare the specific value of the goods supported by available invoice, receipt or equivalent document. If any, except for Correspondences and Documents classified under Category 1 of the WCO Guidelines for the Immediate Release of Consignments by Customs.

- Goods subject to requirements or conditions imposed by the concerned regulatory agency unless for personal use and within the limits allowed by regulations.

Regulated Goods with *De Minimis* Value shall comply with the requirements of the concerned regulatory agencies. However, when the importations consist of Regulated Goods for personal use and in limited quantity as determined by the implementing regulatory agencies, the same may be processed and released by the Bureau.

- Importations to be entered conditionally free, for warehousing, for transit and/or admission to free zone.

Express Shipment Restrictions

The following shall not be considered as Express Shipments:

- Prohibited and/or Restricted Goods under the Philippine laws
- Dangerous Goods and/or Hazardous substances such as explosives and other hazardous chemicals under RA No. 6969
- Valuable goods such as jewelry, works of art and the like
- Animals, fishes and fowls (live or frozen)
- Foodstuff and highly perishable articles
- Human remains or cadavers
- Money (coins, cash, paper money and negotiable instruments equivalent to cash)

CMO 46-98, Section 4.2

Reportorial System

Expedited clearance and release procedures may be discontinued if an AECO violates or fails to comply with any of the provisions of this CAO.

Sanctions for Violations

Expedited clearance and release procedures may be discontinued if an AECO violates or fails to comply with any of the provisions of this CAO.

In case of failure to supply advance and requisite manifests, the party failing to submit the required information within the period as prescribed under the section on Submission of Manifest shall be subject to the payment of the imposable fines as provided for under this CAO on Vessel and Aircraft Supervision and Control System.

Administrative Sanctions

A customs employee who violates any of the provisions of this Order shall be held administratively liable, in addition to the penal sanctions that may be imposed upon his person.

Penal Provisions

Violations of this CAO committed by any person, officer or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provisions.

Periodic Review

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

Repealing Clause

All other rules and regulations issued by the Bureau which are inconsistent with this CAO are deemed repealed or modified accordingly.

Effectivity

This CAO shall take effect after thirty (30) days from its 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 CAO.

CMO 01-2020

Issue Date: January 6, 2020
UP Law Center Received: January 10, 2020

Introduction

This Order is issued pursuant to Sections 109, 210 and other relevant provisions of Republic Act No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

Scope and Coverage

This Order shall apply to all assessment sections or equivalent divisions in all ports nationwide.

Objectives

- Guide customs officers in the use of the modified GDVS in conjunction with their inherent functions and responsibilities in the assessment of goods
- Prevent corruption by institutionalizing the “Zero Contact Policy” (Section 7 of R.A. No. 11032) and suppress the “suki system” in the cargo clearance process through the random assignment of examiners and appraisers to a given goods declaration
- Provide brokers and importers updates on the status of their respective goods declaration

Definition of Terms

Assessment – the process of determining the amount of duties and taxes and other charges due on imported and exported goods

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

Goods Declaration – a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be observed in the application for the entry of admission of imported good sand the particulars of which the customs administration shall require

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

Goods Declaration Verification System – a web-based application that enables the random assignment of examiners and appraisers to a given goods declaration and provides real-time updates on the status of such declarations

Lodgement – the registration of a goods declaration with the Bureau

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

Suki system – a situation wherein the importer or the broker is frequently choosing a particular examiner or appraiser to conduct the clearance procedure for its shipment. It also refers to a situation where a customs examiner or appraiser is frequently choosing a specific importer or broker in the performance of their assessment functions

Administrative Provisions

- The modified GDVS facility is available via web service
- Display monitors and kiosks are available at the port premises for BOC stakeholders to check and monitor the status and updates of their goods declaration
- A Helpdesk shall be created under the Formal Entry Division (FED) or an equivalent unit of each port to receive the hard copies of additional documents required from an importer or declaration

Operational Procedures

Lodgement of Goods Declaration

An importer or declarant shall lodge the goods declaration through a Value Added Service Provider (VASP) who shall send the goods declaration entry to the E2M.

Entry Processing Unit (EPU) or Equivalent Unit

- The importer or declarant shall submit the hardcopy of the Single Administrative (SAD) and its supporting documents to the EPU or any equivalent unit assigned to receive the documents

- The assigned EPU personnel shall log in to the GDVS using the authorized username and password
- The EPU personnel shall encode in the GDVS the customs reference number, assigned selectivity color, section and duties and taxes.

The EPU personnel shall then click the "SAVE" button on the GDVS screen. The system shall randomly choose the available Customs Examiner who shall process the goods declaration.

- The EPU shall forward the documents to the Section Chief in the case of Port of Manila (POM) and Manila International Container Port (MICP), or to the FED Chief or its equivalent unit for other ports.

Assignment of Goods Declaration

- Assignment of goods declarations for the POM and MICP shall be on a per section basis. When the goods declaration covers various commodities falling under multiple tariff headings, the section assignment may be amended to comply with the existing rules on section assignment, provided that the modification shall be subject to the approval of the FED Chief.

Assignment of goods declaration entries for Ninoy Aquino International Airport Customshouse shall be on a per warehouses basis. For all other ports, assignment of goods declaration shall be within the port.

- Assignment of goods declaration entries shall be one at a time.
- In the event that goods declaration have remained pending due to inaction or if the assigned Customs Examiner or Customs Appraiser will be on-leave the following day, the FED Chief shall randomly re-assign through the system the goods declaration to other available Customs Examiner or Customs Appraiser to prevent delay in the processing of the declaration.

Customs Examiner (COO III)

- A Customs Examiner log-in individually to the GDVS daily to receive the declaration assignment for the day. The Customs Examiner will automatically receive the assigned goods declaration to their dashboard by simply clicking the "REFRESH" button in the GDVS screen.

- The Customs Examiner shall receive the documents from the FED Chief or Section Chief to review the completeness and authenticity of submitted documents of the goods declaration and start the assessment process
- In case additional documents are required or an issue may arise, the Customs Examiner shall select the "COO III IN-PROCESS" status and input the relevant remarks on the entry declaration in the GDVS to inform the importer or declarant. The hard copies of additional documents shall be submitted to the Helpdesk established for that purpose.
- If the Customs Examiner finds the filed goods declaration to be in order, the Customs Examiner shall select the "REGISTERED" status in the GDVS and the system will randomly assign the declaration to an available Customs Appraiser.
- The hardcopies of the goods declaration shall then be forwarded to the Section Chief or equivalent unit to be given to the assigned Customs Appraiser.

Customs Appraiser (COO V)

- A Customs Appraiser shall log-in individually to the GDVS daily to receive the declaration assignment for the day
- The Customs Appraiser shall need to supply their daily target before proceeding and have an assigned declaration
- The Customs Appraiser shall retrieve the assigned documents from the Section Chief or equivalent unit
- In case additional documents are required or an issue may arise, the Customs Appraiser will select the "COO V IN-PROCESS" status and input the relevant remarks on the entry declaration in the GDVS to inform the importer or declarant. The hard copies of additional documents shall be submitted to a Helpdesk assigned for that purpose
- The Customs Appraiser shall assess the payable duties and taxes of the goods declaration and thereafter update the status by selecting "ASSESSED" status in the GDVS

Reports

Reports may be generated using the GDVS, with the format and period of reports to be determined as required under the relevant circumstances.

Liability of BOC Personnel

Those found to be in violation of the provisions indicated in this ORDER shall be subject to administrative action pursuant to Civil Service law, rules and regulations, without prejudice to civil and/or criminal liability, if so warranted under the circumstances.

Repealing Clause

This Order supersedes and modifies CMO No. 17-2018, CMO No. 10-2018, CMO No. 31-2017. Other CMOs, rules and regulations inconsistent with this Order are hereby deemed repealed, superseded or modified accordingly.

Separability Clause

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

Effectivity Clause

This Order shall take effect on 07 Jan 2020.

CMC 21-2020

Issue Date: January 23, 2020

Per the letter dated 26 November 2019 from Mr. Robert L. Seares, M.D., Administrator and Vice-Chairman, NTA Governing Board informing this Bureau on the two (2) recently issued Memorandum Circulars in connection with the exemption from the filing of commodity clearance for exportation, importation, and transshipment of tobacco products for personal consumption and tobacco-free products.

The issued Memorandum Circulars are the following:

- Memorandum Circular No. 003, Series of 2019 that took effect on 01 September 2019. The said MC is for the exemption in the filing of commodity clearance for exportation, importation, and transshipment of certain maximum volume of tobacco products, e-cigarettes, e-juice for personal consumption as follows:
 - Cigarettes – Not exceeding five (5) reams (50 packs), per passenger/consignee
 - Cigars – Not exceeding twenty (20) sticks, per passenger/consignee
 - Snus – Not exceeding ten (10) tins or maximum of two hundred (200) pieces per passenger/consignee
 - E-Cigarettes – Not exceeding two (2) sets of Atomizer device, per passenger/consignee
 - E-juices – Not exceeding 200 mL, per passenger/consignee
 - Parts/Accessories of Atomizer Devices – Not exceeding 100 grams, per passenger/consignee
- Memorandum Circular No. 004, Series of 2019 that took effect on 25 September 2019. MC No. 004 is the exemption of filing of commodity clearance for exportation, importation and transshipment of tobacco free products whether for personal consumption or for sale/distribution as follows:
 - Snus
 - E-Liquid
 - Pod, and
 - Other similar tobacco-free products

For your information, guidance and appropriate action.

CMC 30-2020

Issue Date: January 31, 2020

Pursuant to the 16 January 2020 letter from Wilfredo C. Roldan, Executive Director, Fertilizer and Pesticide Authority (FPA), Department of Agriculture (DA), all concerned are informed of the issuance of FPA Memorandum Circular No. 3-2020, whereby FPA will no longer issue certification to any imported fertilizer products to be used for industrial and other purpose other than the agricultural use. Accordingly, only fertilizer products used for agricultural purposes shall be registered with the FPA and the corresponding certification shall be issued.

Relative thereto, any company intending to import fertilizer products for industrial and other purposes should go directly to the concerned agency to seek the necessary certification being required by the Bureau of Customs.

For your information and strict compliance.

CMC 31-2020

Issue Date: January 31, 2020

Per the letter dated 08 January 2020 from Mr. Jayvee Tyron L. Uy, MPA, Governor, Office of the Governor, Nabunturan, Province of Davao de Oro, pursuant to Section 2 of Republic Act No. 11297 or an *“Act Renaming the Province of Compostela Valley as the Province of Davao de Oro”*, they request that they be referred to as the Province of Davao de Oro and make necessary adjustments in communication, legal documents, and other similar documents.

For your information and guidance.

AOCG MEMORANDUM NO. 08-2020

Issue Date: January 3, 2020

Relative to the recommendation from the Management Information System and Technology Group (MISTG), all concerned are informed on the updated Excise Tax (ET) Rate of Petroleum Bitumen under HS Code 2713.20 from Php 4.00/kg to Php 9.00/kg as implemented in the E2M system effective December 16, 2019.

For your information and guidance.

AOCG MEMORANDUM NO. 09-2020

Issue Date: January 8, 2020

Relative to the recommendation from the Management Information System and Technology Group (MISTG), all concerned are informed on the removal of Excise Tax (ET) under the tariff heading **3004.90.91 - CONTAINING SODIUM CHLORIDE OR GLUCOSE FOR INFUSION** as implemented in the E2M system effective December 16, 2019.

The aforesaid is pursuant to Republic Act (RA) 10963 Section 47, Chapter VI, Title VI of NIRC, excluding the HS Code from the list of products subject to ET, as verified by the Excise Large Tax Division, Bureau of Internal Revenue (ELTD, BIR).

For your information and guidance.

AOCG MEMORANDUM NO. 10-2020

Issue Date: January 15, 2020

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 January 2020, for various imported articles, and the same were submitted and reviewed by the Office, summarized as follows:

TCC. NO.	DESCRIPTIONS OF ARTICLES	2017 AHTN CODE	2019 RATES OF DUTY
19-545	"SUSPENSION HOLDER, PART CODE: W443-9XD00"	3926.90.99B	MFN – 15% Ad Valorem ATIGA – Zero*
19-557	"APTAMIL™ (For the Dietary Management of Cow's Milk Protein Allergy)"	2106.90.89	MFN – 5% Ad Valorem
19-593	"SAMSUNG TOP MOUNT FREEZER with DIGITAL INVERTER TECHNOLOGY 8.4 CU. FT., 237L REFRIGERATOR, Model: RT22FARBDSP/TC"	8418.10.19	MFN – 10% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-617	"MALTODEXTRIN 19 DE MR1"	1702.90.99	MFN – 3% Ad Valorem ACFTA – Zero*
19-618	"GLUCIDEX 19 PREMIUM"	1702.19.00	MFN – 1% Ad Valorem ACFTA – Zero*
19-640	"NEON GREEN CPL-6, Product Code: CC10215091ZB"	3204.19.00	MFN- 1% Ad Valorem ACFTA – Zero*
19-650	"VITAMIN MINERAL PREMIX RM000177 NON-GMO"	2106.90.73	MFN – 1% Ad Valorem ATIGA – Zero*
<i>*Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).</i>			

AOCG MEMORANDUM NO. 11-2020

Issue Date: January 16, 2020

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 03-06 January 2020, 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
19-393	"APTAMIL™ (For the Dietary Management of Colic and Constipation)"	2106.90.89	MFN – 5% Ad Valorem
19-477	"PANASONIC COMMERCIAL REFRIGERATOR, MODEL: SSR-K1881"	8418.69.90	MFN – 5% Ad Valorem AJCEPA – Zero* PJEPA – Zero*
19-480	"PROTECO® ADVANTAGE"	8479.89.39	MFN – 1% Ad Valorem
19-482	"PROTECO® LEADER 4 TA"	8479.89.39	MFN – 1% Ad Valorem
19-488	"PROTECO® ACE 4 TA"	8479.89.39	MFN – 1% Ad Valorem
19-547	"GRIP, Part Code: W0110-8DV10J"	3926.90.99B	MFN – 15% Ad Valorem ATIGA – Zero*
19-572	"WHITE INLAY FOR SMART CARDS"	8504.50.93	MFN – Zero ACFTA – Zero*
19-573	"TRANSPARENT INALY FOR SMART CARDS"	8504.50.93	MFN – Zero ACFTA – Zero*
19-575	"GLOBACID LFPA LIQUID (R)"	3808.94.90	MFN – 3% Ad Valorem
19-584	"DETOX"	2508.10.00	MFN- 1% Ad Valorem
19-588	"SAMSUNG 10.7 CU. FT. TWIN COOLING PLUS TOP MOUNT REFRIGERATOR, Model: RT29K5032SL/TC"	8418.10.19	MFN – 10% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-589	"SAMSUNG REFRIGERATOR, MODEL: RB30N4050S8/TC"	8418.10.19	MFN – 10% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-591	"SAMSUNG TOP MOUNT FREEZER 7.4 CU. FT. REFRIGERATOR Model: RT20K300ASE/TC"	8418.10.11	MFN – 10% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-592	"SAMSUNG SIDE BY SIDE REFRIGERATOR (19.4 cu. ft.), MODEL: RS542NCAESL/TC"	8418.10.19	MFN – 10% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-596	"SAMSUNG TOP MOUNT FREEZER 10 CU. FT. REFRIGERATOR, Model: RT46K6651BS/TC"	8418.10.19	MFN – 10% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-598	"SAMSUNG SIDE BY SIDE DIGITAL INVERTER REFRIGETRATOR (19.4 cu. ft.), MODEL: RS54N3003S8/TC"	8418.10.19	MFN – 10% Ad Valorem ATIGA – Zero* ACFTA – Zero* AKFTA – Zero*
19-599	"SMEG FAB50 SERIES REFRIGERATOR"	8418.10.19	MFN – 10% Ad Valorem

19-600	"SMEG CLASSIC MICROWAVE OVEN, Mode: FMI320X"	8516.50.00	MFN – 3% Ad Valorem
19-601	"SMEG LINEA MICROWAVE OVEN, Model: SF4101MSK"	8516.50.00	MFN – 3% Ad Valorem
19-602	"SMEG CLASSIC MICROWAVE OVEN, Model: SF4309MXK"	8516.50.00	MFN -3% Ad Valorem ACFTA – Zero*
19-603	"SMEG DRIP FILTER COFFEE MACHINES"	8516.71.00	MFN -3% Ad Valorem ACFTA – Zero*
19-612	"FLAVOR COCOA POWDER WTSOL"	1806.90.90	MFN – 7% Ad Valorem ATIGA – Zero*
19-631	"ZINC SULPHATE HEPTAHYDRATE"	2833.29.90A	MFN – 1% Ad Valorem
19-632	"YELKIN® GOLD LECITHIN"	2923.20.10	MFN – 1% Ad Valorem ATIGA – Zero*
<i>*Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).</i>			

AOCG MEMORANDUM NO. 14-2020

Issue Date: January 21, 2020

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 14-15 January 2020, 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	2020 RATES OF DUTY
19-579	"SAMSUNG 4.0 HP FLOOR STANDING AIRCONDITIONER, MODEL: AF36MV1MAEENTC"	8415.10.10	MFN – 10% Ad Valorem ACFTA – 5% Ad Valorem* AKFTA – 5% Ad Valorem* ATIGA – Zero*
19-604	"SMEG SIDE BY SIDE REFRIGERATOR, MODEL: SBS660X6"	8418.10.19	MFN – 10% Ad Valorem AKFTA – Zero*
19-605	"SMEG SIDE BY SIDE REFRIGERATOR, MODEL: SBS662X6"	8414.10.19	MFN – 10% Ad Valorem AKFTA – Zero*
19-614	"NESCAFE AROMATICO (500 grams)"	In-Quota 0901.21.10A	In-Quota MFN - 40% Ad Valorem ATIGA – Zero*
		Out-Quota 0901.21.10B	Out-Quota MFN – 40% Ad Valorem ATIGA – Zero*
19-645	"OIL MIX 120"	1517.90.69	MFN – 3% Ad Valorem ATIGA – Zero*
19-649	"ACETIC ACID GLACIAL 99% (FOOD GRADE)"	2915.21.00	MFN – 3% Ad Valorem ATIGA – Zero*
19-652	"CISCO WEBEX® BOARD 85, MODEL: CS-BOARD85S-G-K9"	8517.62.59	MFN – Zero
19-653	"CISCO WEBEX™ BOARD 70 S, MODEL: CS-BOARD70S-G-K9"	8517.62.59	MFN- Zero
19-654	"CISCO WEBEX™ ROOM 70 G2, MODEL: CS-ROOM70DG2-K9"	8517.62.59	MFN - Zero
19-655	"CISCO® DX80, MODEL: CP-DX80-K9"	8517.62.59	MFN - Zero
19-658	"GUARDICATE™"	38.24.99.99	MFN – 3% Ad Valorem

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

AOCG MEMORANDUM NO. 15-2020

Issue Date: January 30, 2020

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 17 December 2019 to 17 January 2020, 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	2019/2020 RATES OF DUTY
19-459	"ENTRASOL PLATINUM VANILLA FLAVOR"	2106.90.99	MFN – 7% Ad Valorem ATIGA – Zero*
19-613	"NESCAFE® DOLCE GUSTO® LATTE MACCHIATO CARAMEL (168.8g)"	In-Quota 0901.21.20A	In-Quota MFN - 40% Ad Valorem
		Out-Quota 0901.21.20B	Out-Quota MFN – 40% Ad Valorem
19-616	"HALAL PURIFIED CHICKEN FAT"	1501. 90.00	MFN – 3% Ad Valorem
19-648	"NESCAFE® DOLCE GUSTO® AMERICANO (128g)"	In-Quota 0901.21.20A	In-Quota MFN – 40% Ad Valorem ATIGA – Zero*
		Out-Quota 0901.21.20B	Out-Quota MFN – 40% Ad Valorem ATIGA – Zero*
19-651	"SAFIZYM® GP60"	3507.90.00	MFN – 3% Ad Valorem

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

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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