

**NMM**

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Customs Brokers

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COMPLIANCE BEYOND BORDERS

# CUSTOMS GAZETTE

**Updates on Customs-Related Matters**

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# In Brief

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# CAO 09-2020

Issue Date: February 20, 2020

## ***Introduction***

This CAO implements Sections 102 to 109, Chapter 2, Title I; Sections 400 to 416 Chapter 1, Title IV; Sections 419 to 422, Chapter 2, Title IV; Sections 423 to 436, Chapter 3, Title IV; Sections 700 to 708, Chapter 1, Title VII; Sections 1506 to 1507, Title XV and Sections 1610 to 1611, Chapter 3, Title XVI pursuant to Sections 204 and 1800 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

## ***Scope***

This CAO shall apply to all importations entered for consumption through a Formal Entry Process, whether or not subject to payment of duties and taxes.

## ***Objectives***

- Prescribe the procedures in the customs clearance of imports covered by goods declaration for consumption through a Formal Entry Process, that are aligned with international standards and best practices

## ***Definition of Terms***

**Air Waybill (AWB)** – a transport document for airfreight used by airlines and international freight forwarders which specifies the holder or consignee of the bill who has right to claim delivery of the goods when they arrive at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to airlines and carriers, a description of the goods, and applicable transportation charges

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

**Alert Order** – a written Order issued by the Commissioner, District Collector, or other customs officers authorized in writing by the Commissioner after the Lodgement of Goods Declaration and before their actual release from customs custody, on the basis of Derogatory Information regarding possible non-compliance with the CMTA and other laws, rules and regulations enforced by Customs

CAO No. 7-2019 "Prelodgement and Control Order and Alert Order, Section 3.1

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

cf. CMTA, Title I, Chapter 2, Section 102(f); cf. Revised Kyoto Convention (RKC), General Annex, Chapter 2 “Definitions”, E2/F19

**Authorized Agent Bank (AAB)** – banks authorized by the Bureau to collect payment of duties, taxes and other charges

Manual on Cargo Clearance, Definition of Terms, page vii

**Accredited Cargo Surveying Company (ACSC)** – a surveying company possessing a duly approved accreditation issued by the Committee for Accreditation of Cargo Surveying Companies (CACSC)

CMO No. 18-2010 on “Procedure for Bulk and Break Bulk Cargo Clearance Enhancement Program Mandated Under Administrative Order No. 243 as amended by AO No. 234-A”, Section 2.1.

**Bill of Lading (BL)** – a transport document issued by shipping lines, carriers and international freight forwarders or non-vessel operating common carrier for water-borne freight. The holder or consignee of the bill has the right to claim delivery of the goods at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to shipping lines and carriers, a description of the goods, and applicable transportation charges

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

**Break Bulk Cargo** – non-containerized general cargo stored in boxes, bales, pallets or other individual units to be loaded onto or discharged from vessels, not shipped in containers or in bulk

CMO No. 18-2010 on “Procedure for the Bulk and Break Bulk Cargo Clearance Enhancement Program Mandated under Administrative Order No. 243 as amended by AO No. 243-A”, Section 2.4.

**Bulk Cargo** – cargoes in a mass of one commodity not packaged, bundled, or otherwise packed

CMO No. 18-2020 on “Procedure for the Bulk and Break Bulk Cargo Clearance Enhancement Program Mandated under Administrative Order No. 243 as amended by AO No. 243-A,” Section 2.3.

**Clearance** – the completion of customs and other government formalities necessary to allow goods to enter for consumption

cf. CMTA, Title I, Chapter 2, Section 102(k); cf. RKC General Annex, Chapter 2 “Definitions”, E5/F9

**Commercial Quantity** – the quantity of a given kind or class or articles which are in excess of what is compatible with or commensurate with a person’s normal requirements for personal use

CAO No. 06-2016 on “Conditionally Tax and/or Duty Exempt Importation of ‘Returning Residents’ and Overseas Filipino Workers (OFWs)”, Section 3.4.

**Conditionally Tax and/or Duty-Exempt Importation** – goods exempt from the payment of import duties and/or taxes upon compliance with certain formalities prescribed under pertinent customs issuances

cf. CMTA, Title VIII, Chapter 1, Section 800, 1st paragraph

**Consignee** – the party appearing in the transport document to whom delivery may be lawfully made in accordance with the contract of carriage

CANO No. 01-2007 on “Penalties Related to Inward Foreign Manifest and Consolidated Cargo Manifest”, Glossary of Terms, Section 2.7.

**Customs Broker** – any person who is a bona fide holder of a valid Certificate of Registration or Professional Identification Card issued by the Professional Regulatory Board and Professional Regulation Commission pursuant to Republic Act No. 9280, as amended, otherwise known as the “Customs Brokers Act of 2004”

CMTA, Title I, Chapter 2, Section 102(n)], as further amended by Republic Act No. 9853. As used in this CAO, Customs Broker shall mean those registered and authorized to transact with the Bureau in behalf of the importer pursuant to CAO No. 5-2019.

**Declarant** – any person who makes a goods declaration or in whose name a goods declaration is made, as enumerated in this CAO. Further, in the processing of goods declaration under the Formal Entry Process, the declarant must be accredited and registered with the Bureau and authorized to electronically lodge the goods declaration.

cf. RKC, General Annex, Chapter 2 “Definitions”, E14/F7

**Deferred Payment, Government Account (DPGA)** – the approval and processing of tax expenditures subsidies on National Internal Revenue Taxes and import duties payable or assumed by departments, bureaus, and other offices of the National Government including constitutional offices enjoying fiscal autonomy, and state universities and colleges

cf. Department of Finance, Department of Budget and Management Joint Circular No. 1 dated April 30, 2014

**Discharge of Last Package** – the completion of the unloading of the entire shipment from the international carrier which is the reckoning period within which to lodge the goods declaration

**Discharge Port Survey (DPS) Report** – a report issued by an ACSC for bulk or break bulk cargo after the conduct of a survey at the port of discharge

CMO No. 18-2010 on “Procedure for the Bulk and Break Bulk Cargo Clearance Enhancement Program Mandated under Administrative Order No. 243 as amended by AO No. 243-A”, Section 2.6.

**Due Notice** – the notification to the owner, importer, consignee or interested party to lodge or file, pay, claim, or mark by the Collector of Customs through:

- Electronic notice sent to the registered electronic mail address of concerned accredited importers;
- Registered mail or personal service; or
- Public posting in bulletin boards or other conspicuous places within the customhouse in case of unknown consignees.

**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 and provides the detailed list of cargo (freight) on board a vessel or aircraft giving the commercial particulars of the goods, such as transport document numbers, consignors, consignees, marks and numbers, number and kind of packages, weight, descriptions, quantities of the goods and destination

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

cf. WCO Glossary of International Terms

**Entry** – the act, documentation and process of bringing imported goods into the customs territory, including goods coming from free zones

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

**Examination of Goods** – the physical, documentary, or non-intrusive inspection of goods to ensure that the nature, origin, condition, quantity, value and tariff classification of the goods are in accordance with the particulars furnished in the goods declaration and other supporting documents

cf. RKC, General Annex, Chapter 2, "Definitions", E17/F27

**Formal Entry Process** – the cargo clearance process for imported shipments considered to be of commercial nature which are those in excess of FOB or FCA value limitation for information entry and those for which the informal entry process may not be used, subject to the exceptions provided under the CMTA

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

**Free Carrier (FCA)** – the seller delivers the goods to the carrier of another person nominated by the buyer at the seller's premises or another named place. The parties are well advised to specify clearly as possible the point within the named place of delivery, as the risk passes to the buyer at the point

cf. CAO No. 02-2016 on "Imported Goods with De Minimis Value Not Subject to Duties and Taxes", Section 3.3.

**Free on Board (FOB)** – 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 from that moment onwards

cf. CAO No. 02-2016 on "Imported Goods with De Minimis Value Not Subject to Duties and Taxes", Section 3.4.

**Free Zone** – special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 79-16, as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone; Poro Point Freeport Zone, John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No. 9490, as amended; the Cagayan Special Economic Zone and Freeport under Republic Act no. 7922; the Zamboanga City Special Economic Zone, under Republic No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law

**Freely Importable Goods** – goods that may be freely imported into the Philippines without need for import permits, clearances or licenses, unless otherwise provided by law or regulation

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

cf. CMTA, Title I, Chapter 3, Section 116

**Goods** – articles, wares, merchandise and any other items which are subject of importation

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

**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 or admission of imported goods and the particulars of which the customs administration shall require

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

**Goods Entered for Consumption** – goods entered for domestic or local use

**Importation** – the act of bringing in of goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission

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

**Inadvertent Error** – a mechanical, electronic or clerical error committed unintentionally by the Importer and occurred notwithstanding the maintenance of internal controls necessary to avoid such errors

CAO No. 01-2019 on "Post Clearance Audit and Prior Disclosure Program", Section 3.6.

**Load Port Survey (LPS) Report** – a report issued by an ACSC for bulk or break cargo to be imported into the Philippines. The report shall be submitted to the Bureau directly from an ACSC in a secure electronic format.

**Lodgement** – the electronic registration of a goods declaration with the Bureau, in a manner prescribed under customs laws, rules and regulations

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

**National Single Window (NSW)** – the system that enables a single submission of data and information that is synchronously processed by other Departments and Agencies of the government, resulting in a single point of decision for the release of cargoes by the Bureau

cf. EO No. 482, s.2005 on "Creating the National Single Window Task Force for Cargo Clearance"

**Non-Regular Importer** – one importation for the period of 365 days from date of approval by the District Collector of the port

**Online Release System (OLRS)** – the electronic transmission to deliver instruction messages from the Bureau to the concerned operator of the facilities handling the goods which include terminal operators, off-dock container yard-container freight station (CY-CFS) operators, and warehouse operators, granting these entities authority to release the goods to the rightful owner

cf. Manual on Cargo Clearance Procedure, page ix

**Port of Entry** – a domestic port open to both domestic and international trade, including principal ports of entry and supports of entry. A principal port of entry is the chief port of entry of the Customs District wherein it is situated and is the permanent station of the District Collector of such port. Supports of entry are under the administrative jurisdiction of the District Collector of the principal port of entry of the Customs District. Port of Entry as used in this CAO shall include airport of entry

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

**Prohibited Goods** – shall 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 reason, 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 alloys;
- Any adulterated or misbranded food or goods for human consumption or any adulterated or misbranded drug in violation of relevant laws and regulations;
- Infringing goods as defined under the Intellectual Property Code and related laws; and
- 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 118

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



**Release of Goods** – the action by the Bureau to permit goods undergoing clearance to be placed at the disposal of the consignee or holder of the covering BL or AWB concerned upon compliance with legal formalities and payment of duties, taxes and other charges in case of dutiable imports

cf. CMTA, Title I, Chapter 2, Section 102(kk); cf. RKC, General Annex, Chapter 2 "Definitions", E24/F20

**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 pipes thereof, of whatever materials; and
- Any other goods the importation of which is restricted, e.g. Weapons of mass destruction and goods included in the National Strategic Goods List (NSGL) as provided under Republic Act No. 10697 or the Strategic Trade Management Act (STMA) and Toxic and Hazardous goods under Republic Act No. 6969 or the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990"

cf. CMTA, Title I, Chapter 3, Section 119

CAO 6-2016 on "Conditionally Tax and/or Duty-Exempt Importation of Returning Residents and Overseas Filipino Workers(OFWs)"

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

**Return** – the findings made by the customs officer after examination as to the description, appraisal and classification of goods

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

CMTA, Title I, Chapter 2, Section 102(mm); cf. RKC, General Annex, Chapter 2 "Definitions", E26/F17

**Single Administrative Document (SAD)** – an internationally used form as customs declaration or goods declaration, designed to standardize customs documents, harmonize codification and simplify procedures in international trade exchanges

cf. UNCTAD, ASYCUDA

**Supplemental Declaration on Valuation (SDV)** – the form prescribed by the Bureau and accomplished under oath containing information pertaining to the circumstances surrounding the import transaction such as on the existence or non-existence of relationship between the buyer and the seller, payment of royalties or license fees, provision for assists, and/or any other adjustments to the price paid or payable as provided in this CAO

cf. A Brief Presentation by Philippine Customs at the WTO Seminar on Technical Assistance on Customs Valuation at Geneva, 6-7 November 2002

**Tax Credit Certificate (TCC)** – certification duly issued to the grantee-importer named therein by the Commissioner or his duly authorized representative acknowledging that the grantee-importer named therein is legally entitled tax credit, the money value of which may be used in payment or in satisfaction of any of his customs duty or tax obligations or may be converted as a cash refund

CAO 4-2019 on "Duty Drawback, Refund and Abatement", Section 3.4.

**Tax Debit Memo (TDM)** – the document authorizing the utilization of the TCC as payment for customs duties or tax obligations of the grantee-importer. A TCC cannot be utilized as payment for duty or taxes without a duly approved TDM

CAO 4-2019 on "Duty Drawback, Refund and Abatement", Section 3.5.

**Tax Exemption Indorsement (TEI)** – an indorsement from the Revenue Office (RO) of the Department of Finance (DOF) evidencing exemption of a particular importer from payment of duties and/or taxes on his importations.

**Tentative Assessment** - shall refer to the provisional character of the assessment in case of:

cf. CMTA, Title IV, Chapter 3, Sections 425 and 426.

- Provisional goods declaration pending completion by the declarant on the additional information or document required to complete the goods declaration within the period provided; or
- An importation whose goods declaration is under dispute pending its resolution.

**Tentative Release** - the physical release of goods under tentative assessment.

## General Provisions

- **When Importation Begins and Deemed Terminated.**  
Importation begins when the carrying vessel or aircraft enters the Philippine territory with the intention to unload therein. Importation is deemed terminated when:
  - The duties, taxes and other charges due upon the goods have been paid or secured to be paid at the port of entry and legal permit for withdrawal has been granted; or
  - In case the goods are deemed free of duties, taxes and other charges, the goods have legally left the jurisdiction of the Bureau.
- **Goods Liable for Duties and Taxes.** All goods, when imported into the Philippines, shall be subject to duty and tax upon importation, including goods previously exported from the Philippines except the following:
  - Those considered as *de minimis* importations pursuant to Section 423, Chapter 3, Title IV of the CMTA;
  - Those that are conditionally tax and/or duty-exempt importations under Section 800, Chapter 1, Title VIII of the CMTA;
  - Importations under the customs bonded warehousing system subject to conditions of Section 812, Chapter 2, Title VIII;
  - Goods for admission into Free Zones;
  - Relief consignments under Section 120 and 800 (m) of the CMTA;
  - Stores under Sections 818 to 821, Chapter 4, Title VIII of the CMTA; and
  - Goods granted exemption privileges under other laws.
- **Entry of Imported Goods.** All goods imported into the Philippines shall be entered through a customs office at a Port of Entry, or may be admitted to or removed from a Free Zone, as the case may be.

Imported goods shall be deemed “entered” in the Philippines for consumption when the goods declaration is electronically lodged, together with any required supporting documents in the BOC electronic cargo clearance system portal.

- **Importations by the Government.** Except those which are considered as conditionally tax and/or duty-exempt importations, all importations by the government for its own use or that of its subordinate branches or instrumentalities, or corporations, agencies owned or controlled by the government, shall be subject to duties, taxes, fees and other charges

CMTA, Title 1, Chapter 2, Section 103.

cf. CMTA, Title I, Chapter 2, Section 104, 1st paragraph

cf. CMTA, Title IV, Chapter 1, Section 400.

cf. CMTA, Title I, Chapter 3, Section 115.

cf. CMTA, Title IV, Chapter 1, Section 406

- **Owner of Imported Goods.** The following shall be deemed owners of imported goods:
  - Consignee;
  - Holder of the negotiable BL, AWB, or other equivalent transport document if duly endorsed by the consignee therein or if consigned to order, duly endorsed by the consignor; and
  - Underwriters of abandoned goods and salvors of goods saved from wreck at sea, coast, or in any area of the Philippines
- **Liability for Duties and Taxes.** Unless relieved by laws and regulations, the importer or owner shall be liable for duties, taxes, fees and other charges plus interests, if any, due for each importation. Such liability constitutes a personal debt of the importer or owner to the government and shall be discharged only upon full payment. It also constitutes a lien on the imported goods which may be enforced while such goods are under customs' custody
- **Documentary Requirements.** Unless and until the Bureau is operating in a paperless environment, the printout of the SAD signed by the declarant and the customs broker, if any, and duly notarized, must be submitted to the Formal Entry Division (FED) or its equivalent office or unit, together with the following documents which shall form an integral part of the Goods Declaration:
  - Duly accomplished SDV form. The Bureau shall require the submission of the SDV in the prescribed form or the printed electronic copy thereof and should be notarized, until such time the SDV is incorporated in the customs system;
  - Duly endorsed BL or AWB, or in the absence thereof, a written order (Delivery Order, Telex Release or Release Order) by the carrier or agent of the vessel or aircraft;
  - Commercial invoice, letter of credit or any other verifiable commercial document evidencing payment; in cases where there is no sale for export, by any commercial document indicating the commercial value of the goods;
  - Packing list, or the commercial invoice, provided, it contains the itemized specific information; and
  - Documents as may be required by rules and regulations, such as:
    - Import authority, permit, clearance or license for imported goods listed in the official list of regulated goods as posted in the BOC website. For this purpose, the Bureau shall periodically update the official list of regulated goods;

cf. CMTA, Title IV, Chapter 1, Section 404

cf. CMTA, Title IV, Chapter 1, Section 405.

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

- Sanitary and Phytosanitary Import Clearance (SPSIC);
- Authority to Release Imported Goods (ATRIG);
- Certificate of Origin (for various Free Trade Agreements and Economic Partnership Agreements) or other Proof of Origin such as Invoice Declaration by Certified Exporter when the Self Certification System is availed of by contracting countries and Origin Declaration by Approved Exporter for PHEFTA FTA;
- Advance Ruling, if the ruling was applied in the lodgement of the goods declaration;
- LPS or DPS report for bulk or break bulk importations;
- TEI, if applicable; and
- Other documents as may be required by the Bureau or existing regulations.

To enhance customs control and support a cost-effective customs operations geared towards a paperless customs environment, the Bureau shall, after due consultation with directly affected parties and stakeholders, develop and implement an ICT-enabled customs cargo clearance system based on international standards. Towards this end, the Bureau shall communicate, exchange and process trade- and logistics-related information in the national and international level through the NSW facility for the efficient and prompt clearance of goods and commodities in a technology-neutral and secured infrastructure for business, industries, and government.

- **Acceptability of Electronic Documents.** For purposes of customs procedures, electronic documents, permits, licenses or certificates shall be acceptable and shall have the legal effect, validity or enforceability as any other document or legal writing. Provided, that when the prescribed requirements are duly complied with, the Bureau shall:
  - Recognize the authenticity and reliability of electronic documents;
  - Transmit approval in the form of electronic data messages or electronic documents; and
  - Require and/or accept payments and issue receipts acknowledging such payments through systems using electronic data messages or electronic documents.

Electronically submitted goods declaration shall be governed by Republic Act No. 8792, otherwise known as the "Electronic Commerce Act of 2000" and its Implementing Rules and Regulations. Such declarations when printed and certified by a competent customs officer as a faithful reproduction of the

cf. CMTA, Title I, Chapter 2, Section 109, 1st, 2nd, 3rd and last paragraphs.

CMTA, Title I, Chapter 2, Section 109, 5th paragraph

electronic submission shall be considered as actionable documents for purposes of prosecuting a declarant if the declarations are found to be fraudulent.

CMTA, Title IV, Chapter 1, Section 412, last paragraph.

- **Methods of Valuation.**

- **Sequential Application of Valuation Method.** Imported goods shall be valued in accordance with the provisions of Transaction Value System – Method One of this CAO whenever the conditions prescribed therein are fulfilled.

Where the customs value cannot be determined under the provisions of Transaction Value System – Method One of this CAO, it is to be determined by proceeding sequentially through the succeeding sections under which the customs value can be determined. Except as provided, it is only when the customs value cannot be determined under the provisions of a particular section that the provisions of the next section in the sequence can be used.

If the importer does not request that the order of Deductive Value – Method Four and Computed Value – Method Five of this CAO be reversed, the normal order of the sequence is to be followed. If the importer so requests but it is impossible to determine the customs value under Computed Value – Method Five of this CAO, the customs value shall be determined under Deductive Value – Method Four of this CAO.

When the customs value cannot be determined under Transaction Value System – Method One through Computed Value – Method Five, it may be determined under Fallback Value – Method Six of this CAO.

- **Transaction Value System – Method One.** The transaction value shall be the price actually paid or payable for the goods when sold for export to the Philippines adjusted in accordance with the provisions of this section. Provided that:
  - There are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:
    - Are imposed or required by law or by Philippine authorities;
    - Limit the geographical area in which the goods may be resold; or
    - Do not substantially affect the value of the goods.
  - The sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued; and

cf. CMTA, Title VII, Chapter 1, Section 700.

- The buyer and the seller are not related, or where the buyer and the seller are related, that the transaction value is acceptable for customs purposes under the provisions hereof.

For the purposes this CAO, persons shall be deemed related only if:

- They are officers or directors of one another's businesses;
- They are legally recognized partners in business;
- There exists an employer-employee relationship between them;
- One of them directly or indirectly controls the other;
- Both of them are directly or indirectly controlled by a third person;
- Together they indirectly or directly control a third person; or
- They are members of the same family, including those related by affinity or consanguinity up to the fourth civil degree.

Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this CAO if they fall within any of the eight (8) cases cited in the preceding paragraph.

In a sale between related persons, the transaction value shall be accepted as basis for customs valuation whenever the importer demonstrates that such value closely approximates one of the following occurring at or about the same time:

- To the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:
  - Commissions and brokerage fees except buying commissions;
  - Cost of containers;
  - Cost of packing, whether for labor or materials;
  - Value, apportioned as appropriate, of the following goods and services: materials, components, parts and similar items incorporated into the imported goods; tools; dies; moulds and similar items used in the production of imported goods; materials consumed in the production of the imported goods; and engineering, development, artwork, design work

and plans and sketches undertaken elsewhere than in the Philippines and necessary for the production of imported goods, where such goods and services are supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods; and

- Amounts of royalties and license fees related to the goods being valued that the buyer must pay either directly or indirectly, as a condition of sale of the goods to the buyer.
- Value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
- Cost of transport of the imported goods from the port of exportation to the port of entry in the Philippines;
- Loading, unloading and handling charges associated with the transport of the imported goods from the country of exportation to the port of entry in the Philippines; and
- Cost of insurance.

All additions to the price actually paid or payable shall be made only on the basis of objective and quantifiable data.

◦ **Transaction Value of Identical Goods – Method Two.**

Where the dutiable value cannot be determined under method one, the dutiable value shall be the transaction value of identical goods sold for export to the Philippines and exported at or about the same time as the goods being valued. For purposes of this section, "Identical goods" refer to goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearances shall not preclude goods otherwise conforming to the definition from being regarded as identical.

If in applying this section, more than one transaction value of identical goods are found, the lowest value shall be used to determine the customs value.

◦ **Transaction Value of Similar Goods – Method Three.**

Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the transaction value of similar goods sold for export to the Philippines and exported at or about the same time as the goods being valued. For purposes of this section, "Similar goods" refer to goods which, although not alike in all respects, have like characteristics and similar component

cf. CMTA, Title VII, Chapter 1, Section 701.

cf. CMTA, Title VII, Chapter 1, Section 702.



materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, its reputation and the existence of a trademark shall be among the factors to be considered in determining whether goods are similar.

If in applying this section, more than one transaction value of similar goods is found, the lowest value shall be used to determine the customs value.

- **Deductive Value – Method Four.** Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the deductive value unless otherwise requested by the importer as provided in Sequential Application of Valuation Method of this CAO. The deductive value which shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Philippines, in the same condition as when imported, in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons not related to the persons from whom they buy such goods, subject to deductions for the following:
  - Either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;
  - The usual costs of transport and insurance and associated costs incurred within the Philippines;
  - Where appropriate, the cost of:
    - Transport of the imported goods from the port of exportation to the port of entry in the Philippines;
    - Loading, unloading and handling charges associated with the transport of the imported goods from the country of exportation to the port of entry in the Philippines; and
    - Insurance.
  - The customs duties and other national taxes payable in the Philippines by reason of the importation or sale of the goods.

If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued in the Philippines in the conditions they were imported, the customs value shall, subject to the conditions set forth in the preceding paragraph, be based on the unit price at which the

cf. CMTA, Title VII, Chapter 1, Section 703.

imported goods or identical or similar imported goods sold in the Philippines in the condition they were imported and at the earliest date after the importation of the goods being valued, but before the expiration of ninety (90) days after such importation.

If neither the imported goods nor identical nor similar imported goods are sold in the Philippines in the condition as imported, then, if the importer so requests, the dutiable value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Philippines who are not related to the persons from whom they buy such goods, subject to allowance for the value added by such processing and deductions provided under subsections hereof.

- **Computed Value - Method Five.** Where the dutiable value cannot be determined under the preceding method, the dutiable value shall be the computed value of the sum of:
  - The cost or the value of materials and fabrication or other processing employed in producing the imported goods;
  - The amount for profit and general expenses equal to that usually reflected in the sale of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Philippines;
  - The freight, insurance fees and other transportation expenses for the importation of the goods;
  - Any assist, if its value is not included under the above; and
  - The cost of containers and packing, if their values are not included under subsections hereof.

The Bureau shall not require or compel any person not residing in the Philippines to produce for examination, or to allow access to, any account or other record for the purpose of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value may be verified in another country with the agreement of the producer and provided that said producer will give sufficient advance notice to the government of the country in question and that the latter does not object to the investigation.

cf. CMTA, Title VII, Chapter 1, Section 704

cf. CMTA, Title VII, Chapter 1, Section 705.

- **Fallback Value – Method Six.** If the dutiable value cannot be determined under the preceding methods described above, it shall be determined by using other reasonable means and on the basis of data available in the Philippines. If the importer so requests, the importer shall be informed in writing of the dutiable value determined under method six and the method used to determine such value.

No dutiable value shall be determined under method six on the basis of:

- The selling price in the Philippines of goods produced in the Philippines;
  - A system that provides for the acceptance for customs purposes of the higher of two (2) alternative values;
  - The price of goods in the domestic market of the country of exportation;
  - The cost of production, other than computed values, that have been determined for identical or similar goods in accordance with method five hereof;
  - The price of goods for export to a country other than the Philippines;
  - Minimum customs values; or
  - Arbitrary or fictitious values.
- **Ascertainment of the Accuracy of the Declared Value.** The Bureau has the right to ascertain the truth and accuracy of any statement, document or declaration presented for customs valuation purposes. When a declaration has been presented and when the Bureau has reason to doubt the truth or accuracy of the particulars or of documents produced in support of such declaration, it may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of this CAO.

If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon posting of a sufficient security in an amount equivalent to the duties and taxes, if any, as may be determined subject to the CAO on Dispute Settlement and Protest, Provided, that prohibited goods shall not be released under any circumstance.

cf. CMTA, Title VII, Chapter 1, Section 706.

CMTA, Title VII, Chapter 1, Section 707

cf. CAO No. 02-2020 on "Dispute Settlement and Protest"

If after receiving further information, or in the absence of a response, the Bureau still has reasonable doubts on the truth or accuracy of the declared value, it may deem that the customs value of the imported goods cannot be determined under method one, without prejudice to an importer's right to appeal pursuant to Section 1104, Chapter 1, Title XI of the CMTA. Before taking a final decision, the Collector of Customs shall communicate to the importer, in writing if requested, the grounds for doubting the truth or accuracy of the particulars or documents produced and give the importer a reasonable opportunity to respond. When a final decision is made, the Bureau shall communicate its decision and the grounds therefor in writing.

- **Rules on Classification.** Classification of goods and its tariff nomenclature shall be governed by the principles under the General Rules for the Interpretation (GRI):
  - **Rule One (1).** The titles of sections, chapters and subchapters are provided for easy reference only. For legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and/ provided such headings or notes do not otherwise require, according to the following provisions:
    - **Rule Two (2).**
      - Rule 2(a) — any reference in a heading to the goods shall be taken to include a reference to the same in their incomplete or unfinished form or state: Provided, that the incomplete or unfinished goods have the essential character, as presented, of the complete or finished goods. It shall also be taken to include a reference to the same, in their complete or finished form or state (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.
      - Rule 2(b) — any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.
    - **Rule Three (3).** When by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two (2) or more headings, classification shall be effected as follows:

- Rule 3(a) — the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two (2) or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
- Rule 3(b) — mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of their essential character, insofar as this criterion is applicable.
- Rule 3(c) — when goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration;
- **Rule Four (4).** Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.
- **Rule Five (5).** In addition to the foregoing provisions, the following Rules shall apply with respect to the goods referred to therein:
  - Rule 5(a) — camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain specific goods or set of goods, suitable for long-term use and presented with the goods for which they are intended, shall be classified with such goods when of a kind normally sold therewith. The Rule does not, however, apply to containers which give the whole its essential character; and
  - Rule 5(b) — subject to the provisions of Rule 5(a), packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.
- **Rule Six (6).** For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any

related subheading notes and, mutatis mutandis, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of the Rule, the relative section and Chapter Notes also apply, unless the context otherwise requires.

cf. CMTA, Title XVI, Chapter 3, Section 1610.

- **Tariff Nomenclature and Rates of Import Duty.** The provisions of Section 104 on Rates of Import Duty of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines of 1978, as amended, specifically providing for the tariff sections, chapters, headings and subheadings and the rates of import duty, shall still apply and shall supplement the CMTA. There shall be levied, collected and paid upon all imported goods the rates of duty indicated thereon except as otherwise specifically provided for in the CMTA: Provided, that the maximum rate shall not exceed one hundred per cent (100%) ad valorem.

The rates of duty provided or subsequently fixed pursuant to Sections 1608 and 1609, Chapter 2, Title XVI of the CMTA be subject to periodic investigation by the Tariff Commission and may be revised by the President, upon the recommendation of the National Economic Development Authority (NEDA).

It shall also apply to all products, whether imported directly or indirectly, of all foreign countries, which do not discriminate against Philippine export products. An additional one hundred per cent (100%) across-the-board duty shall be levied on the products of any foreign country which discriminates against Philippine export products.

cf. CMTA, Title XVI, Chapter 3, Section 1611.

- **Rates of Exchange.** For the assessment and collection of customs duty on imported goods and for other purposes, the value of the goods quoted in foreign currency shall be converted into the currency of the Philippines at the current rate of exchange specified or published, from time to time, by the Bangko Sentral ng Pilipinas (BSP) and as circularized by the Bureau.
- **Effective Date of Rates of Import Duty.** Imported goods shall be subject to the import duty rates under the applicable tariff heading that are effective at the date of importation or upon withdrawal from the warehouse for consumption (i.e. upon lodgement of the goods declaration for consumption). In case of withdrawal from free zones for introduction to the customs territory, the duty rate at the time of withdrawal shall be applicable on the goods admitted, whether withdrawn in its original or advanced form.

cf. CMTA, Title VII, Chapter 1, Section 708.

cf. CMTA, Title I < Chapter 2, Section 105, 1st. paragraph

## ***Lodgement of Goods Declaration***

- **Who may be a Declarant.** A declarant is any person who makes 2 goods declaration or in whose name a goods declaration is made, and may be:
  - The importer, being the holder of the BL or AWB;
  - A customs broker acting under the authority of the importer or from a holder of the bill; or
  - A person duly empowered to act as agent or attorney-in-fact for each holder of the bill consistent with international standards and customs best practices.
- In case the importer is a juridical person, a responsible officer who must be an official of the business, shall be authorized to sign the goods declaration as declarant on its behalf.
  - For corporations, the responsible officer must be authorized by the Board of Directors to sign as the declarant on its behalf, as shown by the corporate secretary's certificate.
  - For partnerships, the responsible officer must be authorized by the partners, as shown by the certification of the managing partner.
  - For sole proprietorships, the declarant may be the owner or a responsible officer of the business authorized under oath by the owner.
- **Rights and Responsibilities of the Declarant.** The declarant shall be responsible for the accuracy of the goods declaration and for the payment of all duties, taxes and other charges due on the imported goods.

The Customs Broker shall likewise be responsible for the accuracy of the goods declaration but shall not be responsible for the payment of duties, taxes and other charges due on the imported goods.

The declarant shall sign the goods declaration, even when assisted by a Customs Broker, who shall likewise sign the goods declaration.

- **Electronic Lodgement.** No entry of imported goods shall be allowed unless the goods declaration has been lodged with the Bureau. All goods declaration shall be lodged through the BOC portal which allows the declarant to accomplish, submit and register goods declaration online at anytime, anywhere following a prescribed format.

cf. CMTA, Title I, Chapter 2, Section 106

cf. CMTA, Title I, Chapter 2, Section 107;  
cf. RKC, General Annex, Chapter 3(b)  
"The declarant", Section 3.8.

cf. Republic Act No. 9280, Article IV,  
Section 30.

cf. RKC, General Annex, Chapter 3(a)  
"The Goods declaration", Section 3.11  
and 3(b) Section 3.21.

The period to lodge the goods declaration may, upon written request, be extended on valid grounds for another fifteen (15) calendar days subject to the approval of the Collector of Customs, as may be authorized by the Commissioner.

Provided, that the request is made before the expiration of the original period within which to lodge the goods declaration and is based on the following grounds:

- Fraud committed against the owner, importer or consignee;
- Accident;
- Mistake
- Excusable negligence;
- Force Majeure;
- Technical issues as certified by the Management Information System Technology Group (MISTG);
- Other analogous circumstances.

Request for extension shall be acted upon within seven (7) working days otherwise the request for extension shall be deemed approved. The 15-day extension period to lodge the goods declaration shall retroact to the day immediately after the expiration of the original period. No further extension shall be allowed.

The right to request for an extension to lodge a goods declaration before the expiration of the original period, if applicable, shall be without prejudice to the option of the importer to lodge provisional goods declaration.

- **Advance Lodgement and Clearance.** The Bureau shall develop a facility to enable the lodgement and clearance of goods declaration prior to the arrival of the goods, i.e., express shipments, or for those enrolled in any of the trade facilitation programs of the Bureau, i.e. Super Green Lane (SGL) Program, Authorized Economic Operator (AEO) Program, and Bulk and Break Bulk Cargo Clearance and Enhancement Program (BBCCCEP).
- **Forms and Types of Goods Declaration.**
  - **Goods Declaration for Consumption.** Goods of commercial nature with FOB or FCA value of Fifty Thousand Pesos (Php50,000.00) and above shall be entered through a goods declaration for consumption and cleared under the Formal Entry Process.
  - **Declaration of Goods that is Part for Consumption and Part for Warehousing.** Goods covered by one (1) BL or AWB which are meant in part for consumption and in part for warehousing may both be entered simultaneously for release at the Port of Entry.

cf. CMTA, Title IV, Chapter 1, Section 407, 3rd paragraph; cf. RKC, General Annex, Chapter 3(b) "The Goods declaration", Sections 3.23 and 3.24.

Republic Act No. 11032 "Ease of Doing Business Act", Section 9 (b)(1)

cf. CMTA, Title IV, Chapter 1, Section 409.

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

cf. CMTA, Title IV, Chapter 1, Section 410.



- **Contents of Goods Declaration.** Except as otherwise provided for in the section of this CAO covering the rules on provisional goods declaration, all goods declaration shall contain the following:
  - Name of consignee;
  - Name of the importing vessel or aircraft;
  - Country of origin;
  - Port of departure;
  - Port of destination;
  - Date of arrival;
  - The number and marks of packages, or the quantity, if in bulk;
  - The nature and correct commodity description of the goods contained therein.

The description of goods in the goods declaration must be sufficient and specific in detail to enable the goods to be identified for customs valuation, statistical purposes, and classification to the appropriate tariff heading and subheading, and in such other particulars necessary for the proper assessment and collection of duties and taxes. The quantity and value of each of the several classes of goods shall be separately declared according to their respective headings and subheadings and the totals of each heading and subheading shall be duly shown;

- The value of the goods for customs valuation purposes. This may include goods imported but not covered by sale, such as goods on consignment or lease, samples, or donations, covered by a consignment, pro forma invoice, or other non-commercial invoice;
  - The quantities in the weights or measures of the goods shipped;
  - Adjustments, as may be required in determining the transaction value; and
  - Such other Information as may be required by rules and regulations
- **Statements to be provided in the Goods Declaration.** The goods declaration shall, under penalties of falsification or perjury, contain the following statements:
    - The invoice and goods declaration contain an accurate and faithful account of the prices paid or payable for the goods, and other adjustments to the price actually paid or payable, and that nothing has been omitted therefrom or concealed; and

cf. CMTA, Title IV, Chapter 1, Section 411; cf. RKC, General Annex, Chapter 3(a) "the Goods declaration," Section 3.12

cf. CMTA, Title IV, Chapter 1, Section 413; cf. CAO No. 08-2007 on "Description of Imported Articles in Tariff Terms".

cf. CMTA, Title IV, Chapter 1, Section 414

cf. CMTA, Title IV, Chapter 1, Section 411.

- To the best of the declarant's information and belief, all the invoices and BLS or AWBs relating to the goods are the only ones in existence and that these documents are in the same state as when they were received by the declarant, and the declaration thereon are in all respects genuine and true.

cf. CMTA, Title IV, Chapter 1, Section 412, 1st paragraph, subparagraphs a and b.

It shall be the responsibility of the declarant to disclose and declare all relevant and applicable data and information in order to determine the proper duties, taxes and other charges due and payable.

- **Provisional Goods Declaration.** Provisional goods declaration may be allowed in order to facilitate trade and to prevent goods from being declared abandoned. The Bureau shall assign a specific code to identify that the goods declaration is provisional in nature upon lodgement. Goods declaration shall be considered full and complete insofar as supporting documents and information are concerned if the declarant does not indicate the provisional nature of such lodgement.
  - Lodgement of provisional goods declaration may be allowed in the following circumstances:
    - When no regulatory permit, clearance or license has been presented at the time of lodgement, provided that the importer has timely filed his application for such permit, clearance or license pursuant to the policy of the concerned regulatory agency;
    - In case of relief consignment;
    - When the TEI has not been issued, provided an application has already been filed at the time of lodgement; or
    - Any other situation where the declarant lacks certain information or document to make a complete goods declaration provided it is not due to the declarant's negligence or fault.
  - Lodgement of provisional goods declaration may be allowed provided the following documents are presented:
    - Pro-forma invoice;
    - Duly endorsed BL or AWB, or in the absence thereof, a written order by the carrier or agent of the vessel or aircraft;
    - Advanced copies of Certificate of Origin, if applicable;
    - Duly notarized undertaking by the declarant that the other supporting documents required pursuant to

cf. CMTA, Title I, Chapter 2, Section 107.

cf. CMTA, Title IV, Chapter 1, Section 403; cf. RKC, General Annex, Chapter 3(a) "Goods declaration format and contents", Section 3.13.

CMTA, Title I, Chapter 4, Section 120

this CAO shall be submitted within forty-five (45) calendar days from lodgement of provisional goods declaration. The 45-day period may be extended for another 45 calendar days for valid reasons upon approval of the written request by the Collector of Customs.

CMTA, Title I, Chapter 4, Section 120.

Request for extension shall be acted upon within seven (7) working days otherwise the request for extension shall be deemed approved. The 45-day extension period to submit the required documents shall retroact to the day immediately after the expiration of the original period. No further extension shall be allowed.

Republic Act. No. 11032 "Ease of Doing Business Act", Section 9 (b)(1)

The original grounds for filing a provisional goods declaration should be the same reasons for the extension of the period to submit the required document. Further, the request for extension of period to submit the required documents shall be under pain of falsification for untruthful narration of facts; and

- Other documents as may be found necessary by the Bureau.
- Effects of provisional goods declaration.
  - If the Collector of Customs accepts a provisional goods declaration, the duty and tax treatment of the goods shall not be different from that of goods with complete declaration;
  - Tentative assessment of duties, taxes and other charges on goods covered by a provisional goods declaration shall be completed upon final readjustment and submission by the declarant of the additional information or documentation required to complete the goods declaration within forty-five (45) calendar days from the lodgement of the provisional goods declaration, subject to extension period of another forty-five (45) calendar days for valid reasons
- The conditional release of goods under provisional goods declaration shall be governed by the following rules:

cf. CMTA, Title IV, Chapter 1, Section 403, 2nd paragraph; cf. RKC, General Annex, Chapter 3(b) "The Goods declaration", Section 3.14.

cf. CMTA, Title IV, Chapter 3, Section 426

In cases where regulatory agency through its existing regulations allows the submission of permit, clearance or license after arrival of the goods but prior to release from customs custody, e.g., Bureau of Internal Revenue (SIR) Authority To Release Imported Goods (ATRIG), Bureau of Product Standard (BPS), Import Commodity Clearance (ICC), National Telecommunications Commission (NTC)

- In case of regulated shipments, the conditional release of goods shall not be permitted unless the regulatory agency concerned allows such release subject to the following conditions:
  - Goods delivered to the importer's premises for storage and shall not be disposed until the required permit, clearance or license is issued and submitted to the Bureau within the prescribed period; and
  - A specific and sufficient security shall be required to cover the duties, taxes and other charges of the goods except in case of importers enrolled in any of the trade facilitation programs of the Bureau where a general security or an undertaking may be required in lieu of a security.
- In all other cases, the conditional release of goods provisionally declared shall be subject to the following rules:
  - A specific and sufficient security shall be required to cover the amount of duties, taxes and other charges that shall be collected when the lacking information or document is not submitted within the prescribed period.
  - In case of highly compliant importers such as those enrolled in any of the trade facilitation programs of the Bureau or when the ground for provisional goods declaration does not affect the final computation of duties, taxes and other charges, no security shall be required for the conditional release of the goods,
- Effects of the non-compliance with the conditions for the release of goods under provisional goods declaration.
  - In case the declarant fails to submit the required permit, clearance or license from the regulatory agency within the prescribed period, the regulated goods shall be subject to seizure, provided due notice is given to the declarant.
  - In case of release under the provisional goods declaration due to the lack of import documents to assess the correct duties, taxes and other charges, any security posted or undertaking submitted subject to forfeiture for failure of the declarant to submit the required supporting documents or information within the prescribed period; Provided

In cases where regulatory agency through its existing regulations allows the submission of permit, clearance or license after arrival of the goods but prior to release from customs custody, e.g., Bureau of Internal Revenue (SIR) Authority To Release Imported Goods (ATRIG), Bureau of Product Standard (BPS), Import Commodity Clearance (ICC), National Telecommunications Commission (NTC)

cf. CMTA, Title XV, Section 1507

cf. CMTA, Title XV, Section 1506

cf. CMTA, Title XV, Section 1507

that due notice is given to the declarant, and without prejudice to any other legal remedy to recover duties, taxes and other charges that may be due on the importation.

- **Amendment of Goods Declaration by Declarant.** A declarant may amend the goods declaration that has already been lodged provided, that the request to amend the goods declaration, together with the intended amendments, must be received prior to final assessment or examination of goods.

cf. CMTA, Title IV, Chapter 1, Section 408, cf. RKC, General Annex, Chapter 3(b) "The Goods declaration", Section 3.27.

Amendment of the goods declaration may be allowed based on the following grounds:

- Inadvertent error;
- Amendment of e-IFCM; or
- Mistakes or omissions in good faith in the lodgement of the goods declaration without any fraudulent intent.

## ***Examination***

- **Application of Risk Management.** The Bureau shall apply risk management in determining the nature and level of risks of imports using selectivity parameters as may be determined by the Bureau.
- **Examination of Goods.** Examination of goods, when required by the Bureau, shall be conducted immediately after the goods declaration has been lodged.
- **Types of Examination of Goods.**
  - Documentary check or the verification of completeness and authenticity of documents including submission of the required import permits, clearances or licenses, if any.
  - Non-intrusive inspection or the inspection by use of x-ray scanners or any other non-intrusive equipment
  - Physical examination of the goods to ascertain that the actual nature, origin, condition, quantity, value and tariff classification of the goods are in accordance with the particulars declared in the goods declaration
- **Physical Examination of Goods.**
  - **Grounds for the Conduct of Physical Examination**
    - The goods are electronically selected for physical examination;
    - The goods are subject of an Alert Order issued by the competent authority;

cf. CMTA, Title IV, Chapter 2, Section 420, 1st paragraph

cf. RKC, General Annex, Chapter 2 "Definitions", E17/F27

cf. CMTA, Title IV, Chapter 2, Section 420.

- When the declaration is selected for documentary check only but there are issues and controversies surrounding the goods declaration and the import clearance process;
  - It is directed in writing by the Commissioner on account of a derogatory information, in which case the shipment is considered alerted or subject to pre-lodgement control of the Bureau;
  - The importer or declarant requests for the examination of the goods; or
  - When the image result after non-intrusive inspection raises suspicion of irregularity that requires further physical examination.
- **Request for Examination by the Importer or Declarant.**  
The importer or declarant may request the physical examination of the goods in the following instances:
- Prior to lodgement of goods declaration, upon justifiable grounds, as may be determined by the Commissioner; or
  - After lodgement of goods declaration, when there are issues and controversies surrounding the goods declaration and import clearance process, unless the shipment is selected for physical examination or is subject of an Alert Order.

The request for examination shall be made in good faith and the expenses thereof shall be borne by the importer. In case the request is made to cover up any violation of the CMTA or other rules and regulations implemented by the Bureau, the importer shall be subject to penalties and/or seizure and forfeiture as provided under the CMTA.

- **Conduct of Physical Examination.**
- The Bureau shall ensure that the conduct of physical examination of goods shall be done in the correct and expeditious manner with due consideration to the surrounding circumstances. Priority in the examination shall be given to live animals, perishable goods and other goods requiring immediate examination.
  - The Bureau may require the declarant to be present or to be represented at the examination of the goods or to render any assistance necessary to facilitate the examination.
  - Whenever necessary, a system of coordination and joint examination of goods shall be established by the Bureau and other regulatory agencies under existing laws and regulations.

cf. CMTA, Title IV, Chapter 1, Section 408, cf. RKC, General Annex, Chapter 3(b) "The Goods declaration", Section 3.27.

cf. CMTA, Title IV, Chapter 1, Section 419, 2nd paragraph; cf. RKC General Annex, Chapter 3(a) "Time required for examination of goods", sections 3.33 to 3.35 and Chapter 3(b) "Presence of declarant at examination of goods", Sections 3.36 to 3.37

- The extent of the physical examination shall depend on whether the goods are containerized, bulk or break bulk, loose, refrigerated, in liquid or solid form, in crates or special containers, to be discharged at the pier or for shipside transfer, dangerous, and such other conditions which may be hazardous to the health and safety of those conducting the examination.
  - The Bureau shall take samples of the goods only when needed to establish the tariff description and value of goods declared or to ensure compliance with the CMTA. Samples drawn shall be as minimal as possible.
  - When the Bureau requires laboratory analysis of samples, detailed technical documents or expert advice, it may release the goods before the results of such examination are known after posting of sufficient security by the declarant.
- **Physical Examination in the Absence of the Declarant or Their Duly Authorized Representative.** In exceptional circumstances, physical examination of goods in the absence of the declarant or authorized representative may be allowed under the following valid and justifiable grounds:
- Despite due notice, the declarant or his authorized representative fails to be physically present;
  - Unknown or fictitious consignee; or
  - Conduct of controlled delivery, subject to the approval of the Commissioner.

The conduct of physical examination shall be under the authority of the Collector of Customs. The Office of the Commissioner and concerned offices must be informed of the date, time and place of the scheduled examination to witness the said examination.

In all cases of physical examination under this section, the Bureau shall take the necessary steps to ensure that the entire proceeding is captured on video for documentation and record-keeping purposes.

- **Examination at Consignee's Premises or Warehouse.** Physical examination of an alerted shipment shall be conducted at consignee's warehouse or premises in cases when the importation is consigned to an importer enrolled in any of the trade facilitation programs of the Bureau. In case where the Bureau does not have the necessary facility to conduct the examination without causing damage to the

cf. CMTA, Title IV, Chapter 1, Section 419, last paragraph; cf. RKC, General Annex, Chapter 3(c) "Sampling by Customs", Section 3.38.

cf. CMTA, Title IV, Chapter 3, Section 431; cf. RKC, General Annex, Chapter 3, "Release of goods", Section 3.42.

CAO No. 03-2019 Customs Jurisdiction and Exercise of Police Authority, Section 4.8.

shipment, the examination may be conducted at the consignee's warehouse or special facility, subject to the conditions as may be Imposed by the Bureau. Examination of bulk and break-bulk shipment shall be examined pursuant to the Rules on Bulk and Break-bulk Cargo Clearance Enhancement Program (BBCCEP).

- **Duties of Customs Officer Tasked to Examine the Imported Goods.** In the examination, classification, and valuation of the goods, the customs officer shall:
  - Determine whether the packages for examination and their contents are in accordance with the goods declaration, invoice and other pertinent documents;
  - Take samples of the imported goods for examination or laboratory analysis when necessary;
  - Acknowledge and sign a receipt for any sample taken and retained during examination; and
  - Report whether the goods have been correctly declared as to value, quantity, measurement, weight, tariff classification, and not imported contrary to law.

Failure on the part of the customs officer to perform the above duties shall be penalized in accordance with Section 1431, Chapter 2, Title XIV of the CMTA.

- **Customs Expenses Constituting Charges on Goods.** The cost of examination shall be for the account of the importer. All expenses incurred by the Bureau for the handling or storage of goods and other necessary operations shall be chargeable against the goods, and shall constitute a lien thereon.

cf. CMTA, Title IV, Chapter 2, Section 421

cf. CMTA, Title IV, Chapter 2, Section 422.

## Assessment

- **Assessment.** For purposes of assessing duties, taxes and other charges on imported goods, the customs officer shall classify, value, and determine the duties, taxes and other charges to be paid. The customs officer shall prepare and submit an assessment report as established under the CMTA.
- **Tentative Assessment.** Assessment shall be deemed tentative when:
  - Assessment is based on a provisional goods declaration filed by the declarant.

cf. CMTA, Title IV, Chapter 3, Section 424

The assessment shall be completed upon final readjustment and submission by the declarant of the additional information or documentation required to complete the goods declaration within the prescribed period

cf. CMTA, Title IV, Chapter 3, Section 426



- The duties and taxes initially assessed are subject of a valid dispute on the grounds of valuation, tariff classification issues, rules of origin or protest case involving the same, and other customs issues.

The assessment shall be completed upon final readjustment based on the resolution of the disputed issues.

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

- **Completed Assessment.** The Bureau shall issue Final Assessment Notice (FAN) to the importer signifying that the assessment is complete. The FAN shall serve as payment instruction to the AAB to debit the amount of duties, taxes and other charges from the account of the importer. Assessment shall be deemed final fifteen (15) calendar days after receipt of the AN by the owner, importer or consignee.

cf. CMTA, Title IV, Chapter 3, Section 429.

## Payment

- **Mode of Payment and Terms of Trade.** Subject to existing laws and rules on foreign currency exchange, the internationally accepted standards and practices on the mode of payment or remittance covering import transactions, including standards developed by international trading bodies such as the International Chamber of Commerce (ICC) on trading terms (incoterms) and on international letters of credit such as the Uniform Customs and Practice for Documentary Credits (UCPDC) shall be recognized.
- **Payment.** Customs duties, taxes and other charges payable can only be paid through the following modes:
  - Cash payment through debit from the importer's nominated account/s in an AAB.

cf. CMTA, Title IV, Chapter 1, Section 415.

Fines, surcharges and other charges must be paid in cash unless allowed under the electronic payment system.

- Non-cash payment through any of the following:
  - TDM issued by the BOC.

AABs shall not accept TCCs as payment for customs duties and taxes.

- DPGA.

Procedures for the non-cash payments through TCCs. TDMs or DPGA shall be governed by separate regulations to be issued by the Commissioner.

Letter of credit requiring the deposit of the full amount of duties due on importation shall no longer be required except when otherwise required for certain commodities.

- **Final Payment for Cash Payment.** The final payment will be debited by the concerned AAB from the designated debit account upon receipt of the final payment instruction from the Bureau via the electronic payment portal, subject to the bank's confirmation and security procedures for payment instructions.
- **Transmittal of Payment Confirmation.** In all cases of cash payment instruction received from the Bureau's customs cargo clearance system, the AABs should complete the collection and thereafter transmit a payment confirmation to the electronic payment portal unless there is no sufficient balance in the debit account.
- **Abandonment.** If no payment confirmation is received within fifteen (15) calendar days from the date of receipt by the AAB of the payment instruction, then the importer or consignee shall be deemed to have failed to claim their importation after lodging the goods declaration rendering the same liable to abandonment.
- **Legal Interest for Unpaid Duties, Taxes and Other Charges.** Unpaid duties, taxes and other charges, shall incur a legal interest OF twenty per cent (20%) per annum computed from the date of final assessment under the appropriate section of this CAO, when payment becomes due and demandable. The legal interest shall likewise accrue on any fine or penalty imposed.

Upon payment of the duties, taxes and other charges, the Bureau shall issue the necessary receipt or document as proof of such payment.

CMTA, Title XVIII, Section 1803.

cf. CAO No. 10-2008 on "Payment Application Secure System Version 5.0 (PASS5), Section 4.2.3, last sentence

cf. CAO No. 10-2008 "Payment Application Secure System Version 5.0 (PASS5), Section 4.2.4

cf. CAO No. 10-2008 on "Payment Application Secure System Version 5.0 (PASS5), Section 4.2.5.

cf. CMTA, Title I, Chapter 2, Section 104, 2nd and 3rd paragraphs.

## Release

- **Release of Imported Goods**
  - **Release of goods Under the On-Line Release System (OLRS).** Goods shall be released only after payment of duties and taxes and other charges, or posting of appropriate security covering the same, in case of tentative release by reason of tentative assessment including any fine or surcharge, if applicable, and all pertinent rules and regulations have been complied with. The Bureau shall electronically transmit the release instructions via Online Release System (OLRS) to the terminal facility, off-dock or off-terminal CFW operator, for the delivery of the goods to the consignee

cf. CMTA, Title IV, Chapter 3, Sections 431, 1st sentence and 436

cf. Manual on Cargo Clearance Procedure, page 42.

- **Release of Goods without Production of Bill of Lading or Air Waybill.** No customs officer shall clear the goods for delivery to any person without the submission of the BL or AWB covering the goods, except on written order of the carrier or agent of the vessel or aircraft, in which case neither the government nor the customs officer shall be held liable for any damage arising from wrongful delivery of the goods; Provided, that when the clearance for the delivery of goods is made against such written order, the customs officer shall require the submission of a copy of the bill.
- **Release of Goods upon Order of Importer.** An importer may issue a written authorization for the release of goods stored in a customs facility warehouse to another person. Such authorization shall not relieve the importer from liability for duties, taxes and other charges due on the goods unless the person to whom the release was authorized assumes such liability, as evidenced by a written agreement between the importer and his assignee.
- **Withholding Release of Goods Pending Satisfaction of Lien.** When the Collector of Customs is duly notified through a lawful order of a competent court of a lien for freight, lighterage or general average upon any imported goods, the Collector of Customs shall withhold the release of the goods unless the claim has been paid or secured. In case of disagreement, the Collector of Customs may release the goods after payment of the freight and lighterage due on the quantity or weight landed as actually determined.
- **Non-Liability for Misdelivery of Goods.** Any customs officer who releases goods to the consignee or lawful holder of the BL or AWB shall not be for any defect or irregularity in its negotiation unless the customs officer has notice of the defect or irregularity.
- **Post Release Readjustment of Appraisal and Classification.** Returns made by the customs officers that are finally passed upon and approved or modified by the Collector of Customs or Commissioner, shall not be altered except:
  - Within one (1) year after payment of the duties, upon statement of error in conformity with Section 912, Chapter 2, Title IX of the CMTA, as approved by the Collector of Customs;
  - Within fifteen (15) calendar days after such payment, upon request for reappraisal or reclassification addressed to the Commissioner by the Collector of Customs, if the appraisal or classification is deemed to be low;

cf. CMTA, Title IV, Chapter 3, Section 433

cf. CMTA, Title IV, Chapter 3, Section 434

cf. CMTA, Title IV, Chapter 3, Section 435

cf. CMTA, Title IV, Chapter 3, Section 432.

- Upon request for reappraisal and/or reclassification, in the form of a timely protest or dispute addressed to the Collector of Customs by the interested party if the latter should be dissatisfied with the appraisal or return; or
- Upon demand by the Commissioner after the completion of compliance audit.
- **Period of Limitation.** In the absence of fraud and when the goods have been finally assessed and released, the assessment shall be conclusive upon all parties three (3) years from the date of final payment of duties and taxes, or upon completion of the post clearance audit.

cf. CMTA, Title IV, Chapter 3, Section 427.

cf. CMTA, Title IV, Chapter 3, Section 430

## ***Dispute Mechanism***

Issues dealing on purely Valuation, Classification, Rules of Origin, and other matters relating to the assessment of goods shall be settled under dispute settlement and shall be governed by the CAO providing for the rules on Dispute Settlement and Protest.

## ***Alert Orders***

Valuation issues arising from the introduction of forged or spurious document and other enforcement issues shall be subject of Alert Orders and shall be governed by the provisions of CAO No. 07-2019.

Alert Orders may be issued by the Commissioner, District Collector or any customs officer authorized in writing by the Commissioner.

In cases when the importation is consigned to an importer enrolled in any of the trade facilitation programs of the Bureau, only the Commissioner may issue and Alert Order. The physical examination shall be conducted at consignee's warehouse or premises, subject to conditions as may be imposed by the Bureau.

## ***Penal Provision***

Any person who makes or attempts to lodge, process and clear imported goods by means of false or fraudulent statements, including non-disclosure in the Revised SDV Form in the existence of any relationship between the buyer and the seller and payment of other costs that should be included in the price paid

or payable for the imported goods, shall be subject to sanctions and penalties provided under section 1401, Chapter 1, Title XIV of the CMTA and other applicable penal provisions.

### ***Transitory Provision***

Pending full implementation of a comprehensive system that will admit and store electronic commercial documents, including methodologies for authentication thereof, the existing procedure on the submission of documentary requirements by the declarant shall apply. The Bureau shall accept the submission of the documentary requirements herein stated.

### ***Periodic Review***

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

### ***Repealing Clause***

This CAO specifically amends or repeals previously issued CAOs and CMOs which are inconsistent with the provisions here stated.

### ***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 from its publication at the Official Gazette or a newspaper of national circulation.

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

# CAO 10-2020

Issue Date: May 11, 2020

## ***Introduction***

This CAO implements Sections 1113 to 1117, Sections 1119 to 1125, Chapter 4 and Sections 1126 to 1128, Chapter 5 of Title XI and other relevant provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

## ***Scope***

This CAO covers all properties subject to seizure and forfeiture as enumerated under Section 1113 found to be in violation of the CMTA.

## ***Objectives***

- Identify the properties subject to Seizure and Forfeiture;
- Set forth the conditions in effecting Seizure and Forfeiture or release of seized items; and
- Establish a uniform procedure in seizure and forfeiture cases including the rules on settlement, redemption and other remedies.

## ***Definition of Terms***

**Alert Order** - a written order issued by the Commissioner, District Collector, or other customs officers authorized in writing by the Commissioner after the Lodgement of goods declaration and before their actual release from customs custody, on the basis of derogatory information stated in this CAO regarding possible non-compliance with the CMTA and other laws, rules and regulations enforced by Customs.

**Coastwise Trade** - the business of transferring either merchandise or passengers between two seaports in the Philippines.

CAO 7-2019 Pre-Lodgement Control Order and Alert Order.

cf. Commissioner of Customs vs. Arnaldo Borres, et. al. (G.R. No. 12687 November 28, 1959)

**Commercial Quantity** – the quantity for a given kind or class of articles which are in excess of what is compatible with and commensurate to the person’s normal requirements for personal use.

cf. CAO No. 02-2016 “Imported Goods with De Minimis Value Not Subject to Duties and Taxes”, Section 3.1.

**Common Carrier** - persons, corporations, firms, or association engaged in the business of carrying or transporting passengers or goods or both, by land, water or air, for compensation, offering their services to the public.

cf. Civil Code of the Philippines, Article 1732.

**Constructive Customs Custody** - the situation where, falling short of physical seizure or possession, the Customs Officers and the owner of the goods enter into a written agreement after the inventory to the effect that the goods, subject of a Letter of Authority (LOA), shall not be removed or disposed of pending disposition or resolution on the issue of whether proper payment of duties and taxes has been made.

cf. CAO 03-2019 (Customs Jurisdiction and Exercise of Police Authority)

**Decision** - the disposition of the main forfeiture case by the District Collector or Commissioner based on merits.

**Decisions Adverse to the Government** - the disposition of the main forfeiture case based on merits, which resolves that there is no violation of the law that will warrant the Forfeiture of the seized articles, and consequently allows the release of the articles subject of a Warrant of Seizure and Detention (WSD) without payment of additional duties and taxes, interests, penalties and/or surcharges.

cf. CAO No. 09-1993.

**Deputized Officer** - officers or members of the Armed Forces of the Philippines (AFP) or other selected national law enforcement agencies covered by a written order signed by the Commissioner of Customs authorizing them to assist in the exercise of customs police authority, particularly the power to search, seize, and arrest in specified areas outside of customs premises.

**Free Officer (FCA)** – an international commercial term covered by the Incoterms rules developed by International Chamber of Commerce (ICC) 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.

cf. CAO No. 02-2016 “Imported Goods with De Minimis Value Not Subject to Duties and Taxes”, Section 3.3.

**Free on Board (FOB)** - international commercial term covered by the Incoterms rules developed by International Chamber of Commerce (ICC) which means that the seller delivers the goods on board the vessel nominated by the buyer at the named point of shipment, or procures the goods already delivered.

CAO No. 02-2016 “Imported Goods with De Minimis Value Not Subject to Duties and Taxes”, Section 3.4.

**Forfeiture** - the acquisition of ownership by the government for an established violation of CMTA as a result of the forfeiture proceedings.

**Fraud** - acts knowingly, voluntarily and intentionally committed or omitted which prejudice the interest of the government, e.g. submitting fake or spurious document, making material untruthful statement(s) or committing any other analogous act(s) or omission(s).

**Goods** - articles, wares, merchandise and any other items which are subject of importation or exportation.

**Held Baggage Receipt (HBR)** - shall refer to a receipt issued by a customs officer acknowledging that the baggage is temporarily held in custody by the Bureau for undeclared dutiable goods and/or declared dutiable goods pending payment of duties and taxes, verification of documents, or compliance with customs laws, rules and regulations.

**Interlocutory Order** - the orders of the District Collector or Commissioner involving incidental matters that does not dispose of the case completely but leaves something to be decided upon.

**Landed Cost** - the sum of the customs value including the total cost of the product, transportation cost and insurance plus applicable customs duty and other taxable charges such as but not limited to brokerage fee, bank charge, other charges, processing fee, arrastre charges and wharfage dues, if applicable.

**Misclassification** - the use of insufficient or wrong description of the goods or the use of erroneous tariff heading/s and sub-heading/s resulting in deficiency between the duty and tax that should have been paid and the duty and tax actually paid; and/or to avoid compliance with government regulations related to the entry of Regulated, Prohibited or Restricted goods into Philippine Customs territory.

**Misdeclaration** - a false, untruthful, erroneous or inaccurate declaration as to quantity, quality, description, weight or measurement of the goods resulting in deficiency between the duty and tax that should have been paid and the duty and tax actually paid; and/or to avoid compliance with government regulations related to the entry of Regulated, Prohibited or Restricted goods into Philippine customs territory.

CMTA, Title 1, Chapter 2, Section 102

cf. Australian Professional Realty, Inc., et al vs. Municipality of Padre Garcia Batangas Province (G.R. No. 183367)

CAO 1-2020 "Fines and Surcharges for Clerical Errors, Misdeclaration, Misclassification and Undervaluation, Section 3.9.



There is **Misdeclaration as to the Quantity of Goods** when there is a difference in the number of the Goods as declared in the Goods Declaration and the quantity as found after physical examination of the Goods.

There is **Misdeclaration as to the Quality of Goods** when there is a difference in the characteristics of the Goods as declared in the Goods Declaration and the quality as found after physical examination of the Goods (*e.g. declared as USED but found out as BRAND NEW or declared as Off-Quality, Remnants Fabrics but found as Whole, First Class, Best Quality Fabrics, among others*).

There is **Misdeclaration as to Description of Goods** when there is a difference in the descriptive nature and identity of the Goods as declared in the Goods Declaration and the description as found after physical examination of the Goods (*e.g. product code, item code, make, model, series, displacement, version, among others*).

There is **Misdeclaration as to the Weight of Goods** when there is a discrepancy in the actual weight as declared in the Goods Declaration and the weight as found after physical examination and weighing of the Goods.

There is **Misdeclaration as to the Measurement of Goods** when there is a difference in the size, length, width, height or volume of the Goods as declared in the Goods Declaration and the measurement as found after physical examination of the Goods.

**Notice of Appeal** - a document evidencing an aggrieved party's intention to seek redress to a Decision which shall indicate the parties to the appeal, specify the judgment or final order on the merits or part thereof appealed from, and state the material dates showing the timeliness of the appeal.

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

**Quashal** - a recall of a WSD when the ground for the issuance of thereof is found to be non-existent or ceased to exist.

**Seizure** - the actual or constructive taking or bringing into custody the goods, things or chattels by virtue of a WSD issued by the Collector of Customs for violation of the CMTA.

CAO 1-2020 Fines and Surcharges for Clerical Errors, Misdeclaration, Misclassification and Undervaluation, Section 3.10.

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

**Summary Proceedings** - an abbreviated administrative proceeding wherein only position papers are required to be submitted in lieu of the conduct of a formal hearing.

**Undervaluation** - situation when the declared value fails to disclose in full the price actually paid or payable; or any dutiable adjustment to the price actually paid or payable; or when an incorrect valuation method is used; or the valuation rules are not properly observed; resulting in a discrepancy in duty and tax to be paid between what is legally determined as the correct value against the declared value.

**Warrant of Seizure and Detention (WSD)** - an order in writing, issued in the name of the Republic of the Philippines, signed by the District Collector of Customs directed to the Enforcement and Security Service (ESS) or any Deputized Officer of a national law enforcement agency, commanding them to seize any properties subject to Forfeiture pursuant to Section 1113, Chapter 4, Title XI of the CMTA.

CAO No. 01-2019 "Post Clearance and Prior Disclosure Program", Section 3.16.

CMTA, Title XI, Chapter 4, Section No. 1117.

## General Provisions

- **Properties Subject to Seizure and Forfeiture.** Properties which are imported or exported under the following circumstances shall be subject to Seizure and Forfeiture:
  - **Goods**
    - Goods which are fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard, or container freight station under customs supervision,
    - Goods the importation or exportation is effected or attempted contrary to law;
    - Goods of prohibited importation or exportation;
    - Goods which, in the opinion of the District Collector, have been used or were entered to be used as instruments in the importation or exportation of prohibited goods;
    - Unmanifested goods found on any vessel or aircraft, if manifest therefor is required;
    - Goods sought to be imported or exported without going through a customs office, whether the act as consummated, frustrated, or attempted;

cf. CMTA, Title XI, Chapter 4, Section No. 1113.

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (e)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (f)

CMTA, Title XI, Chapter 4, Section No. 1113 (f)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (f)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (g)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (I-1).

- Goods found in the baggage of a person arriving from abroad and undeclared by such person
- Goods sought to be imported or exported through a false declaration or affidavit executed by the owner importer, exporter, or consignee concerning the importation of goods;
- Goods sought to be imported or exported on the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods;
- Goods sought to be imported or exported through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government;
- Imported goods offered openly for sale or kept in storage, which were discovered in the exercise of the Commissioner's power to inspect and visit pursuant to Section 224 of CMTA, when proof of payment of duties and taxes cannot be presented after the lapse of fifteen (15) days;
- **Vehicle, vessel or aircraft.**
  - Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of goods;
  - Any vehicle, vessel or aircraft used in conveying or transporting smuggled goods in commercial quantities within the Philippines;
  - Any vessel engaging in the Coastwise Trade which shall have on board goods of foreign growth, produce, or manufacture in excess of the amount necessary for sea stores, without such goods having been properly entered or legally imported;
  - Any vessel or aircraft into which shall be transferred cargo unloaded contrary to law prior to the arrival of the importing vessel or aircraft at the port of destination;
  - Any conveyance actually used for the transport of goods subject to Forfeiture under the CMTA, with its equipage or trappings, and any vehicle similarly used, together with its equipment and appurtenances. The mere conveyance of smuggled goods by such transport vehicle shall be sufficient cause for outright Seizure; and

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (I-2).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (I-3)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (I-4)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (I-5).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (a).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (a)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (b).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (c).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (k).

- The vessel or aircraft of the owner, agent, master, pilot-in-command or other responsible officer who is liable for any fine or penalty for violation of this Act. In determining whether or not to seize a vessel or aircraft, the Bureau shall take into account the amount of fine or penalty in relation to the commercial impact that be caused to international trade by the seizure or detention as well as the value of the vessel or aircraft.
  - **Cargo, stores, or supplies of a vessel**
    - Any part of the cargo, stores, or supplies, including petroleum of a vessel or aircraft arriving from a foreign port which is unloaded before arrival at the vessel's or aircraft's port of destination and without authority from the customs officer, and
    - Sea stores or aircraft stores adjudged by the District Collector to be excessive, when the duties and taxes assessed thereon are not paid.
  - **Package and receptacles.**
    - Any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the invoice or goods declaration to be the contents of the misdeclared package; and
    - Boxes, cases, trunks, envelopes, and other containers of whatever character used as receptacle or as device to conceal goods or are so designed as to conceal the character of such goods.
- **Conditions for Forfeiture**
  - The Forfeiture of goods shall be effected only when any of the following circumstances exist:
    - The
    - goods are in the custody or within the jurisdiction of customs officers;
    - The goods are in the possession or custody of or subject to the control of the importer, exporter, original owner, consignee, agent of another person effecting the importation, entry or exportation in question; or
    - The goods are in the possession or custody of or subject to the control of persons who shall receive, conceal, buy, sell, transport the same, or aid in any of such acts, with knowledge that the goods were imported or were subject of an attempt to import or export contrary to law.

cf. CMTA, Title XI, Chapter 4, Section No. 1122.

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (d)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (h).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (i).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (j).

cf. CMTA, Title XI, Chapter 4, Section No. 1115.

- Seized cargoes, stores, or supplies of a vessel or aircraft arriving from a foreign port which were unloaded before arrival at the vessel's or aircraft's port of final destination without authority from the customs officer shall be forfeited/ except if the unloading was due to accident, stress of weather, or other necessity and is subsequently approved by the District Collector;
- Vehicles, vessels or aircrafts used in carrying smuggled goods in Commercial Quantity shall be forfeited except if all of the following conditions are present:
  - It is a Common Carrier;
  - It has not been chartered for purposes of conveying and transporting persons or cargo. As used in this CAO, a charter shall refer to a contract by which an entire vessel, aircraft or vehicle, or some principal part thereof, is let by the owner to another person for a specified time or use which has the effect of transferring the control on both the vessels, aircraft or vehicle and its crew to the lessee; and
  - The owner or agent at that time of Seizure has no knowledge of and participation in the unlawful act.

However, a prima facie presumption against such vehicles, vessel or aircraft shall exist under any of the following circumstances:

- If conveyance has been used for smuggling before;
- If the owner is not in the business for which the conveyance is generally used; and
- If the owner is not financially in a position to own such conveyance.

### ***Seizure and Forfeiture of Imported Goods pursuant to the Commissioner's Power to Inspect and Visit***

The Commissioner or any customs officer who is authorized in writing by the Commissioner may demand evidence of payment of duties and taxes on imported goods openly for sale or kept in storage.

- **Presentation of the Proof of Payment of Duties and Taxes within the fifteen (15) day period.** During the said period,

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (d).

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (k)

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (k)

cf. *Planters Products, Inc., vs. CA* (G.R. No. 101503 September 15, 1993.

cf. CMTA, Title XI, Chapter 4, Section No. 1113 (k).

cf. CMTA, Title XI, Chapter 4, Section No. 1114.

the goods shall be placed under Constructive Customs Custody provided that the same may be released if any of the following documents are presented and verified:

- Proof of payment of correct duties and taxes or proof of exemption from payment of duties and taxes;
- Proof of local purchase and payment of correct duties and taxes by the original importer; or
- Proof that the goods were locally produced or manufactured.

In the event that the interested party fails to produce such evidence within the said fifteen (15) day period, the goods shall be seized and subjected to forfeiture proceedings.

• **A Warrant of Seizure and Detention has been issued.**

- The goods seized may be released to the owner under the following circumstances:
  - Proof of exemption from payment of duties and taxes, or proof of payment of correct duties and taxes were presented and are found to be authentic and in order;
  - Proof of local purchase and payment of correct duties and taxes by the original importer were presented and are found to be authentic and in order;
  - Proof was presented that the goods were locally produced or manufactured; or
  - Voluntary payment of duties and taxes, provided that claimant presented a proof of local purchase.

If the owner cannot present proof of local purchase, it is presumed that they are the importer of the goods in their possession. However, if the owner can overcome such presumption provided that all the conditions stated in this Order are complied with, the goods may be released provided that an offer to settle the case by payment of the redemption value of the goods shall have been made and accepted.

- In all cases, the release of the goods seized pursuant to Section 224 of the CMTA shall be subject to the clearance of the Commissioner, provided that:
  - The goods are not prohibited;
  - The necessary permits and licenses are presented in case of restricted or regulated goods; and
  - The release of the goods is not contrary to law.

## ***Issuance and Service of Warrant of Seizure and Detention***

- **Authority to Issue a Warrant of Seizure and Detention.** The District Collector exercising territorial jurisdiction over the location of the seized goods shall have the original and exclusive authority to issue the WSD. Partial Seizure of the Shipment. If the offense relates only to a part or portion of a shipment/ only that part shall be seized or detained, provided that the District Collector is satisfied that the remainder of the shipment was not used, directly or indirectly, in the commission of the offense.

However, any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the invoice or goods declaration to be the contents of the misdeclared package, shall be subject to seizure and forfeiture.

- **Contents of the Warrant of Seizure and Detention.** A WSD shall indicate the following information:
  - Docket Number;
  - Collection District;
  - Alleged violation(s) of the CMTA and other related laws and regulations;
  - Description and quantity of the property sought to be seized;
  - For vessels, aircrafts, and/or other conveyances the Registry Number, if available;
  - Consignee, owner(s) and/or possessor of the property sought to be seized, if known;
  - Location of the goods to be seized; and
  - Date issued.
- **Determination of Probable Cause.** The existence of probable cause to warrant the issuance of a WSD shall be determined by the District Collector within five (5) working days, or two (2) working days in case of Perishable Goods, from receipt of recommendation for issuance of a WSD. However, the District Collector may, on meritorious circumstances, conduct Summary Proceedings as may be deemed necessary for the determination of the existence of probable cause.

cf. RKC, Chapter 1, Specific Annex H Customs Offences, Standard 12, "If a Customs offence relates only to part of a consignment, only that part shall be seized or detained, provided that the Customs are satisfied that the remainder of the consignment did not serve, directly, or indirectly, in the commission of the offence."

CMTA, Title XI, Chapter 4, Section 1113 (i)

cf. RKC, Chapter 1, Specific Annex H Customs Offences, Standard 13.

If a Release Order is issued for an alerted shipment, the District Collector shall immediately transmit the records of the case to the Commissioner for clearance and approval.

The Commissioner shall within forty-eight (48) hours or twenty-four (24) hours, if the goods are perishable, from receipt of the records of the alerted shipment, review the findings of the District Collector.

When no Decision is made by the Commissioner within the prescribed period, the alerted imported goods shall be deemed released.

Accordingly, the subject Alert Order shall be lifted by the issuing authority upon the affirmation of the Commissioner of the Release Order or the lapse of the period to review.

If the Commissioner issues an Order reversing the Release Order of the District Collector before the lapse of the period to review, the same shall be referred to the District Collector for the issuance of the appropriate WSD.

- **Service of Warrant of Seizure and Detention.** The District Collector shall immediately direct the Enforcement and Security Service to serve the WSD within three (3) working days from its issuance:
  - To the customs warehouseman or wharfinger and the CFW or CBW operator if the goods are still in customs custody; and
  - To the owner of the goods or their authorized representative.

For the purpose of serving the WSD, the importer, consignee, named in the bill of lading or airway bill, or possessor shall be deemed the owner of the goods.

If the owner is unknown, with insufficient address, or a foreign entity or individual, service shall be effected by posting of the WSD by the ESS in the bulletin board of the concerned collection district office, and by electronic posting through the BOC website, or printed publication, for fifteen (15) days.

- **Return of Service of Warrant.** The ESS or duly deputized officer tasked to serve the WSD shall submit to the District Collector a return within twenty-four (24) hours from the service thereof as specified in this CAO. Failure to submit the

CMTA, Title XI, Chapter 4, Section 1117.

cf. CMTA, Title XI, Chapter 4, Section No. 1119.

EO 127, Section 36, Paragraph (c), Sub-paragraph (3).

cf. CMTA, Title XI, Chapter 4, Section 1119



required return within the time prescribed period shall subject the defaulting officer to appropriate administrative charges and penalties in accordance with the pertinent civil service rules and regulations.

### ***Custody over Seized Goods***

Upon service of the WSD, the ESS or duly deputized officer shall immediately seize the goods, either physically or constructively, and turn over the same to the District Collector concerned through the Auction and Cargo Disposal Division (ACDD) or its equivalent unit, unless otherwise provided unde existing laws, rules and regulations.

Notwithstanding the physical and/or constructive turnover of seized goods to the ACDD, the ESS and ACDD shall jointly secure and safekeep the seized goods.

The District Collector shall immediately cause the inventory and examination of the seized goods.

### ***Custody of Seized Goods requiring Immediate Turn-over to Regulating Agencies***

Seized goods requiring immediate turn-over to regulating agencies as required under existing laws, rules and regulations shall immediately be delivered to the concerned agencies, such as but not limited to the Philippine Drug Enforcement Agency, Bureau of Plant Industry, Bureau of Animal Industry and Department of Environment and Natural Resources.

cf. Republic Act No. 9165, Section 21.

### ***Forfeiture Proceedings***

- The Bureau shall exercise exclusive original jurisdiction over all Forfeiture cases under the CMTA.
- The venue of forfeiture proceedings shall be at the Law Division of the Collection District which issued the WSD. For Collection Districts without Law Divisions, the venue shall be at the Office of the District Collector. However, the District Collector may authorize the conduct of hearing.

- If the subject shipment involved has been sufficiently established to be prohibited/ the same shall be *ipso facto* forfeited in favor of the government.
- If, within fifteen (15) calendar days after service of warrant and due notice, no owner or agent can be found or appears before the District Collector, the seized goods shall be forfeited ipso facto in favor of the government to be disposed of in accordance with the CMTA.
- The Bureau shall, in accordance with international standards, utilize information and communications technology (ICT) in managing the recordation of cases and the dissemination and utilization of resolutions or Decisions in forfeiture cases.

cf. Section 1121, Chapter 4, Title XI of the CMTA.

## ***Pleadings, Notices and Appearances***

- All pleadings shall be filed personally, by registered mail, or private courier service, with the appropriate Law Division or Office of the District Collector. In addition, soft copies of pleadings shall also be submitted simultaneously either by electronic mail or in an external drive.
- In the event that the pleadings are sent by private courier service, the date of receipt by the Law Division or Office of the District Collector shall be considered as the date of filing.
- Pleadings filed beyond the reglementary period shall be considered as mere scrap of paper.
- Where WSDs are issued by the District Collector involving the same consignee, commodity and violation, these cases may be consolidated. In case where two (2) hearing officers are assigned, the same shall be consolidated with the lower/lowest docket number.
- Upon motion, the District Collector, on just and equitable grounds, may allow separate proceedings for seizure case involving several claimants and several subject matters.
- A lawyer appearing in any forfeiture case must be duly authorized by the claimant. All pleadings and motions submitted by a lawyer appearing for the claimant must indicate his/her office address, electronic mail address, Attorney's Roll Number and Professional Tax Receipt (PTR) Numbers and Mandatory Continuing Legal Education (MCLE) compliance.
- In case the claimant is a juridical entity, it may authorize a responsible officer of the company to appear on its behalf.

Subject to the issuance of Internal Rules and Regulations on Electronic Filing.

- For individual claimants of goods of small value, a licensed customs broker or his authorized representative may be allowed to appear on his behalf. Goods of small value cover those with value of less than fifty thousand pesos (Php50,000.00) which are cleared through an informal entry process.
- An attorney-in-fact appearing in any forfeiture case must be duly authorized by the claimant.
- Authorization issued by claimant currently abroad must be duly authenticated by the appropriate Consular Office.
- A party appearing without proper authorization from the claimant for two (2) successive hearings shall be considered as in default and authorize the presentation of the evidence ex parte.
- Any change or withdrawal of counsel or authorized representative shall be made in accordance with the Rules of Court. Notice of Hearing shall be served by personal service or, if not practicable by reason of distance and lack of personnel to effect personal service, by private courier service; or posting in the bulletin board of the Law Division or equivalent office of the concerned Collection District for unknown claimants, with insufficient address or foreign claimants. Proof of such service shall be attached to the record of the case.

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

### ***Designation of Hearing Officer and Prosecutor***

- Immediately from issuance of the WSD, the District Collector shall endorse the same to the Law Division for the assignment of a Hearing Officer.
- The District Collector may conduct a hearing or may designate any lawyer assigned to the Collection District as a Hearing Officer. If there is no lawyer assigned in the Collection District, the District Collector shall request for a Hearing Officer from the Legal Service, within two (2) days from the issuance of the WSD.
- In all cases, the District Collector shall request a Government Prosecutor from the Legal Service within two (2) days from issuance of the WSD.

Executive Order No. 724 "Reorganizing Certain Functions within the Bureau of Customs to Make It More Responsive to the Intensified Anti-Smuggling Thrusts of the Government."

## ***Hearing Proper***

- The Hearing Officer shall immediately set the hearing of the forfeiture case upon receipt of the case folder or the copy of the WSD. Clarificatory hearing/s may be conducted by the Hearing Officer as may be deemed necessary.
- After termination of the hearing, the Hearing Officer shall require the claimant to submit its verified Position Paper, within five (5) days from date of last hearing, copy furnished the Government Prosecutor.
- Within five (5) days from receipt of the Position Paper, the Government Prosecutor shall file its Comment, copy furnished the claimant. The claimant may file a verified Reply within three (3) days from receipt thereof, copy furnished the Government Prosecutor. After submission of the last pleading the case will be submitted for resolution.
- The District Collector shall render a Decision within thirty (30) days or ten (10) days in case of Perishable Goods, upon the submission of the case for resolution.

CMTA, Title XI, Chapter 4, Section 1125.

## ***Prohibited Pleadings and Motions***

The following pleadings and motions shall not be allowed and acted upon by the Law Division or Office of the District Collector:

- Motion for Postponement, except if it is based on Acts of God or force majeure;
- Motion for Reconsideration;
- Motion for Extension of Time to File Pleadings;
- Motion to Quash/Recall/Lift/Set-aside or any other similar motion, except as authorized in this CAO;
- Motion to Suspend/Hold in Abeyance Forfeiture Proceedings; and
- Motion to Reopen

## ***Remedies***

- **Quashal/Recall of WSD**
  - The WSD may be quashed under any of the following grounds:

- In case of goods seized pursuant to the power of the Commissioner to inspect and visit, the claimant was able to submit proof as required under this Order.
  - The District Collector issuing the WSD has no territorial jurisdiction over the seized goods, without prejudice to the issuance of the WSD by the District Collector having territorial jurisdiction thereof;
  - When the concerned regulatory agency, in cases of regulated goods, has issued the necessary clearances or licenses in accordance with its governing laws and regulations.
- **When to File Motion to Quash/Recall.** The importer or its authorized representative may file a verified Motion to Quash/Recall the WSD at any time prior to the completion of presentation of their evidence.

Motions to Lift, Recall or Set-aside the WSD shall be deemed as a Motion to Quash.

- **Resolution on Motion to Quash.** The motion to quash shall be resolved by the District Collector within fifteen (15) working days from the date of submission of the said matter for resolution.

In case the District Collector allows the Quashal of the WSD, he shall seek clearance from the Commissioner by transmitting the entire records of the case within two (2) working days from the date of issuance of the order.

The Commissioner shall within thirty (30) working days, or ten (10) working days for Perishable Goods, from receipt of the entire case records, issue clearance to the order of the District Collector allowing the Quashal of the WSD. The order of the District Collector shall be deemed affirmed when no action is made by the Commissioner, after the lapse of the thirty (30) working days, or ten (10) working days period in case of Perishable Goods.

If the Commissioner timely reverses the order of the District Collector allowing the Quashal of the WSD, the same shall be remanded to the District Collector for the continuation of the Forfeiture proceedings.

The Order of the District Collector and the Commissioner denying the Motion to Quash shall be considered as Interlocutory Orders.

cf. CMTA, Title II, Chapter 3, Section 224

cf. The Rules of Court of The Philippines, Rule 117, Section 3 (b).

cf. CMTA, Title II, Chapter III, Section 224.

CMTA, Title II, Chapter III, Section 224.

- **Payment of Surcharge for Undeclared Baggage.**  
Undeclared dutiable goods brought by any person arriving in the Philippines shall be seized through the issuance of a Held Baggage Receipt (HBR). However, the release of the seized undeclared goods shall be allowed when:
  - Importation is not contrary to law; and
  - The surcharge of thirty percent (30%) of the Landed Cost in addition to all duties, taxes and other charges due shall be paid.
- **Settlement of Forfeiture Cases.** Subject to the approval of the Commissioner, the District Collector may allow the settlement by payment of fine or the redemption of forfeited goods, during the course of the forfeiture proceeding. However, the Commissioner may accept the settlement by redemption of any forfeiture case on appeal.

The offer of settlement shall be made in writing and duly sworn under oath/ and addressed to the District Collector or office of the Commissioner.

Offer of settlement may either be through payment of fine or payment of redemption value.

- **Settlement by Payment of Fine or Redemption of Forfeited Goods.** Settlement by payment of fine or redemption of forfeited goods may be allowed under the following circumstances:
  - When there is no Fraud attributable to the importer, consignee or owner;
  - When the goods are not absolutely prohibited; and
  - When the release of the goods is not contrary to law.

Settlement by payment of fine shall not be allowed when the discrepancy in duties and taxes to be paid between what is determined and what is declared amounts to more than thirty percent (30%).

In case of settlement of fine, the owner, importer, exporter, or consignee or agent shall pay the amount of fine equivalent to thirty percent (30%) of the Total Landed Cost.

In case of settlement by redemption, the owner, importer, exporter, or consignee or agent shall pay the redeemed value equivalent to one hundred percent (100%) of the Total landed Cost.

cf. CMTA, Title XIV, Chapter 1, Section 1404 and Section 4.13, CAO 1-2017 "Customs Clearance of Accompanied and Unaccompanied Baggage of Travelers and Crew".

cf. CMTA, Title XI, Chapter 4, Section No. 1124.

- **Effects of Settlement by Payment of Fine or Redemption.** Upon payment of the fine or redemption value, the goods shall be released and all liabilities which may attach to the goods shall be discharged without prejudice to the filing of administrative or criminal case against the importer, owner or authorized representative.

cf. CMTA, Title XI, Chapter 4, Section No. 1124

The payment of fine or redemption value shall be without prejudice to fines and charges to be imposed by the port authorities.

- **Decision of the District Collector.** The District Collector shall render a Decision within thirty (30) working days from the time the case is submitted for decision.

The Decision of the District Collector shall include a declaration of forfeiture or release, the imposition of a fine or redemption of the goods, or such other action as may be proper.

cf. CMTA, Title XI, Chapter 4, Section No. 1125.

Copies of the Decision rendered by the District Collector shall be served to all concerned parties within five (5) working days from the date of issuance. Such service shall preferably be by personal service or, if not practicable, by registered mail. If the importer is a registered importer of the Bureau of Customs, service may also be through electronic mail at the given email address of the importer. Proof of such service shall be attached to the record of the case.

cf. CMO No. 29-1997, Mandatory Service of Notices of Orders, Decisions and Other Proceedings in all Seizure Cases to Government Prosecutors and all Other Aggrieved/Interested Parties".

Decisions by the District Collector in case an Offer of Settlement was made shall be subject to clearance and review of the Commissioner. Provided, that the period to resolve shall not run until the complete records of the case is received by the Office of the Commissioner: Provided, finally that the same shall not be subject to automatic review of the Secretary of Finance as provided under this CAO.

## ***Referral to Import Assessment Service (IAS)***

During appeal or automatic review, Legal Service shall refer the assessment made by the District Collector to IAS for its review of the valuation and classification with corresponding computation of duties and taxes and other charges or penalties, if any. The IAS

shall submit its recommended value within the period three (3) hours, otherwise the recommended settlement or redemption value by the District Collector stands.

## ***Appeal to the Commissioner***

- The aggrieved importer or exporter or any stakeholder directly affected by the adverse Decision of the District Collector may appeal the Decision by filing a Notice of Appeal with a corresponding Memorandum on Appeal within fifteen (15) days or five (5) days in case of Perishable Goods, from receipt thereof.
- Upon receipt of the Notice of Appeal and Memorandum on Appeal with proof of payment of the requisite appeal fee, the District Collector shall immediately transmit all the records of the proceedings to the Appellate Division, Legal Service within five (5) working days, from the receipt of the appeal. A soft copy of the Decision shall also be sent to the Appellate Division, Legal Service via electronic mail at [appellatedivision888@gmail.com](mailto:appellatedivision888@gmail.com)
- An appeal filed beyond the prescribed period or an appeal filed without the payment of the required appeal fee or payment of the appeal fee beyond the period to file an appeal shall be dismissed.
- The filing of the Notice of Appeal without the corresponding Memorandum on Appeal shall likewise be dismissed.

cf. CMTA, Title XI, Chapter 5, Section 1126

## ***Automatic Review***

- The Commissioner shall automatically review any Decision by the District Collector adverse to the government. The District Collector shall elevate the entire records of the case to the Appellate Division within five (5) working days from the issuance of the Decision. A soft copy of the Decision shall also be sent to the Appellate Division, Legal Service via electronic mail at [appellatedivision888@gmail.com](mailto:appellatedivision888@gmail.com)
- When no Decision is rendered within the prescribed period or when a Decision adverse to the government is rendered by the Commissioner involving goods with Free on Board (FOB) or Free Carrier (FCA) value of ten million pesos (Php 10,000,000.00) or more, the records of the Decision of the Commissioner, or of the District Collector under review, as the

cf. CMTA, Title XI, Chapter 5, Section 1127.



case may be, shall be elevated to the Secretary' of Finance within five (5) working days from the lapse of the prescribed period to resolve or from the date of issuance of Decision, for review by the Secretary of Finance.

cf. CMTA, Title XI, Chapter 5, Section 1127.

- The Secretary of Finance shall review the Decision of the District Collector or the Commissioner. The Decision issued by the Secretary of Finance, whether or not a Decision was rendered by the Commissioner within thirty (30) days, or within ten (10) days in the case of Perishable Goods, from receipt of the records, shall be final upon the Bureau, subject to appeal to the Court of Tax Appeals,

cf. RA 9282, Section 7.

## ***Penal Provision***

Any 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 laws or provisions.

## ***Transitory Provision***

Pending full implementation of comprehensive legal docketing and management -system that will establish and provide electronic monitoring of seizure and forfeiture cases, the Bureau shall implement the provisions of this CAO. The Management Information and System Technology Group (MISTG) shall devise an Information Communication Technology (ICT) enabled system for the docketing, reporting and monitoring of forfeiture cases.

## ***Periodic Review***

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

## ***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 Register (ONAR) of the UP-LAW center shall be provided three (3) certified copies of this CAO.

# CMO 15-2020

Issue Date: June 29, 2020

## ***Introduction***

This Order implements Customs Administrative Order (CAO) No. 102019 in relation to Section 109, Chapter 2, Title I, Section 1200, Chapter 1, Title XII, Section 1513, Title XV and other relevant provisions of Republic Act No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

## ***Scope***

This Order shall cover the accreditation and monitoring of Value Added Service Providers (VASPs) to provide front-end services for the E2M customs system.

## ***Objectives***

- This Order shall cover the accreditation and monitoring of Value Added Service Providers (VASPs) to provide front-end services for the E2M customs system.
- Harness the technical expertise and maximize the participation of the private sector in the delivery of world-class-quality frontend customs ICT services of the Bureau;
- Implement customs best practices towards the achievement of the Bureau's key result areas in trade facilitation, revenue generation, enforcement, and professionalization of personnel; and
- Manage the use of third-party systems by customs stakeholders in the processing of import and export entries, registration, and other value added services offered to the transacting public.

## ***Definition of Terms***

**Bureau** — the Bureau of Customs.

Confidential Business Information - information which concerns or relates to the operations, production, sales, shipments, purchases, transfers, identification of customers, inventories, or amount or source of any income, profits, losses, expenditures

cf. R.A. 10667 "Philippine Competition Act", Chapter 1, Section 4.

**E2M-Value Added Service Provider (VASP)** — any Bureau-accredited ICT company who may provide the services enumerated in the scope of this Order and collect transaction fees as authorized by the Bureau.

**Non-Disclosure Agreement (NDA)** - an agreement that protects organizational/stakeholder information and informs signatories of their responsibility to protect, use and disclose information in a responsible and authorized manner. This agreement addresses the requirement to protect confidential and/or personal information using legally enforceable terms.

**Personal Information** - any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual or an organization. For the purpose of this CAO and in order to comply with Republic Act No. 10173 (Data Privacy Act), all information stated herein is treated as having personal information.

**Service Level Agreement (SLA)** - the documented agreement between the VASP and the Bureau that identifies the services to be provided and service targets which define the parameters for evaluating the delivery and performance of a service.

**VASP Accreditation Committee (VAC)** – the BOC body responsible for the accreditation, supervision, and control of VASPs.

## ***General Provisions***

- The E2M-VASPs to be accredited under this Order shall provide front-end services for the receipt and transmission of electronic data or documents required by the E2M customs system.
- Electronic data or documents collected by a VASP which are not yet accepted by the customs automated system (E2M) shall be considered as private information between the E2M-VASP and its client. However, once the customs automated system (E2M) accepts the data, the E2M-VASP shall now be considered as an agent or service provider for and in behalf of the Bureau of Customs. As such, the protection and security of the accepted data shall be of paramount importance on the part of the E2M-VASP.

cf. International Organization for Standardization (2013), Information technology, Security techniques, Code of practice for information security controls (ISO/IEC Standard No. 27002) Section 12.2.4.

cf. I.R.R. of R.A. 10173, Rule 1, Section 3(l)

cf. International Organization for Standardization (2015), Information technology, Service Management, Part 10: Concepts and terminology (ISO/IEC Standard No. 20000-10) Section 2.29

- The E2M-VASP shall be fully compliant with the requirements under the Data Privacy Act, particularly the appointment of a regular data protection officer and the personal information processing system to the National Privacy Commission.
- The E2M-VASP shall likewise be fully compliant with the guidelines issued by the Philippine Competition Commission in so far as processing of confidential business information are concerned.
- Any information or by-products of said information collected by the E2M-VASP from the Bureau shall be the exclusive property of the Bureau.
- The E2M-VASP shall not disclose or share any personal information or confidential business information including its by-products relating to the importer, exporter or any of its client without the prior written consent of the Bureau.
- The E2M-VASP shall provide the Bureau any and all information upon latter's request. The VASP shall likewise make available its technical expert to testify on matters involving the processing of personal or confidential business information.
- The E2M-VASP is prohibited from outsourcing any function or component of their system to third parties without the written consent of the Bureau.
- The Bureau may change or modify any of the accreditation criteria as may be deemed necessary by the Commissioner to address a particular system requirement arising from the issuance of new rules and regulations.

## ***Accreditation Committee***

The accreditation of E2M-VASPs shall be the responsibility of the VASP Accreditation Committee (VAC) which shall be headed by a Chairman, who must be a Deputy Commissioner. The members shall be composed of representatives from the various concerned groups of the Bureau.

- The VAC shall perform the following functions:
  - Facilitate and fast-track the accreditation process;
  - Recommend relevant policies, responsibilities and liabilities of VASPs, rules and processes related to all issues surrounding the accreditation of VASPs;
  - Conduct review and make recommendations on VASP fees; and
  - Receive and act on complaints by VASP clients.
  - Perform other functions necessary for the effective and efficient implementation of this Order.

- The VAC may establish a Technical Working Group (TWG) to provide the guidelines on the technical and operational standards to be complied with by the E2M-VASP, as well as make recommendations to the VAC on other related matters.
- The VAC shall have a Secretariat which shall perform the following functions:
  - Keep a record of the minutes of the meetings and the attendance;
  - Ensure that proper notice of the date and agenda of the meetings are given in advance to the members;
  - Receive formally the documents in behalf of the VAC; and
  - Perform other functions that may be assigned by the VAC.

## ***Accreditation Requirements***

- **Eligibility Requirements.** Entities shall be eligible to be accredited as an E2M-VASP if they conform to the following minimum eligibility criteria:
  - It shall be comprised of Filipino individuals, or duly organized corporations under the laws of the Republic of the Philippines, provided that the corporation complies with the sixty percent (60%) - forty percent (40%) Filipino-foreign ownership rule under existing laws.
  - Joint venture companies are eligible provided that at least sixty percent (60%) of the legal and beneficial ownership or interest of the joint venture belongs to citizens of the Philippines in accordance with the prevailing nationality rules.
  - Has been operational in the Philippines for the immediately preceding five (5) consecutive years. In case of a joint venture, all member companies should have been operational for the immediately preceding five (5) consecutive years.
  - Any further requirements shall be defined in the Terms of Reference (TOR).
- **Documentary Requirements.** The following documents shall be submitted to support the application for accreditation:
  - Letter of intent
  - Certificate of Registration (corporation/partnership) or DTI Business registration (sole proprietorship)
  - Articles of Incorporation/Partnership and By-laws for Corporations
  - Latest General Information Sheet (stamped received by SEC)
  - BIR Certificate of Registration (Form 2303)

- Latest Tax Clearance Certificate (per Executive Order No. 398, series of 2005)
- Latest Audited Financial Statement (stamped received by BIR and SEC)
- Annual Income Tax Return for the immediately preceding 3 years
- Value-added tax (VAT) or percentage tax returns covering the immediately preceding year Official Receipt and Billing Statement copy
- Proof of payment of application fee

Certified true copies of the above requirements shall be submitted, as may be required.

## ***Accreditation Process***

- Through the VAC, the Bureau shall publish an Invitation to Apply for Accreditation, simultaneously in a newspaper of general circulation and in the Bureau's official website for two (2) consecutive weeks.
- The E2M-VASP applicant shall submit its Letter of Intent (LOI) together with other eligibility documents and the application fee as stated in the Invitation to Apply for Accreditation.
- All requirements shall be personally-delivered and submitted by the E2M-VASP applicant on or before the date and time specified in the Apply for Accreditation, to the VAC Secretariat. LATE AND INCOMPLETE SUBMISSIONS WILL NOT BE ACCEPTED. Since documentary requirements have to be signed, certified and/or notarized, documents submitted by email, facsimile transmission, or any other forms of electronic submission will not be entertained and allowed.
- Within seven (7) working days from the date of submission of the complete documentary requirements, the VAC shall determine whether the company is eligible for application for accreditation as E2M-VASP. If the company is not qualified, the VAC shall issue a written notice, stating the reasons therefor.
- Companies that pass the eligibility requirements are qualified to proceed to the next stage.
- The Bureau shall release the Term of Reference (TOR), along with the Non-Disclosure Undertaking (NDU) to be signed by the candidate E2M-VASP. The TOR shall include, among others, the system and other functional requirements for the technical proposal, and the financial requirements for the financial proposal.
- Candidate VASPs prepare and submit their technical and financial proposals within the time provided.

- The Bureau releases its Testing Criteria that will be used as guide for testing the E2M-VASP System. Using the agreed Testing Criteria as reference, the Bureau shall organize a Quality Assurance Team (QAT) which shall determine the compliance of the candidate E2M-VASP to the system requirements. The testing shall also include, among others, checks for user-friendliness of the system.
- The VAC, with the assistance of the TWG and the QAT, shall conduct an evaluation and ranking of the system and other related services of the E2M-VASP applicants.
- Based on the results of the evaluation and ranking, the VAC shall submit a recommendation for accreditation to the Commissioner for approval. The Bureau shall accredit not more than three E2M-VASPs.
- Upon approval of the Commissioner, VAC shall issue a Notice of Accreditation to the selected qualified E2M-VASPs.
- Accredited E2M-VASPs shall sign a Service Level Agreement (SLA) prepared by the Bureau.
- Accredited E2M-VASPs cannot implement or commence with any VASP services until it has passed QAT and has been granted the notice to commence/implement by the VAC.
- The E2M-VASPs shall submit to the VAC the schedule of fees/charges for approval. A public consultation may be conducted if deemed appropriate under the circumstances.
- The Bureau reserves the right to change any of the accreditation criteria as may be deemed necessary by the Commissioner.

### ***Conditions for Accreditation***

- Signing of a Service Level Agreement (SLA);
- Signing of a Non-Disclosure Agreement (NDA);
- Payment of the accreditation fee of Two Hundred Thousand Pesos (PhP 200,000.00) for the first year, and Fifty Thousand Pesos (PhP 50,000.00) for the succeeding years, shall be imposed. Provided that renewed accreditation shall only pay Fifty Thousand Pesos (PhP 50,000.00) per annum. Provided, further that the rate may be adjusted by the Commissioner, subject to the Approval of the Secretary of Finance; and
- The posting of a Performance Bond, issued by a Bureau accredited surety company, amounting to Five Million Pesos (Php 5,000,000.00), which shall be forfeited in favor of the Bureau in the event that the selected VASP is established to be in default of any of its obligations as provided under the SLA or NDA, without prejudice to other legal remedies that may be instituted to protect the interest of the government.



## ***Period and Renewal of Accreditation***

- The selected E2M-VASPs shall be given accreditation status for a period of three (3) years and will be renewable thereafter subject to the payment of annual fee set by the VAC, evaluation of the quality of their performance as measured by the SLA, and continued compliance with eligibility requirements.
- The Bureau may carry out further accreditation processes after three (3) years of operation of the initially accredited E2M-VASPs.

## ***Pre-termination***

The Bureau may pre-terminate the accreditation of an E2M-VASP for any of the following:

- Violation of the provisions of this Order and related rules and regulations, including SLA and NDA;
- Violation of the Customs Modernization and Tariff Act (CMTA), Data Privacy Act, Philippine Competition Act, and other related laws;
- Actions inimical to the security and integrity of the Bureau operations; and
- Other violations as may be determined by the Commissioner.

## ***Fees Payable to the E2M-VASP by the Transacting Public***

- The E2M-VASPs shall determine its fee structure based on several factors such as market conditions and systems sustainability requirements, among others. A maximum fee may be set per type of transaction. The fee structure shall form part of the requirement for accreditation pursuant to this Order.
- The Bureau shall not collect those fees on behalf of the E2M-VASPs.
- Any changes to the fee structure shall be subject to the approval of the Commissioner upon the recommendation of the VAC, and a maximum fee may be set per type of transaction.

## ***Monitoring and Supervision Fee***

The Bureau may collect from the E2M-VASPs a service fee for monitoring and supervision of the E2M-VASPs system. Unless otherwise provided in the TOR the same shall be equivalent to ten (10%) percent of the fees collected in accordance with the published rate. The monitoring and supervision shall be subject to periodic adjustment by the Commissioner, upon the recommendation of the VAC.

## ***E2M-VASP System***

- The technical requirements and specifications for the E2M-VASP Systems shall be detailed in the TOR to be approved by the Commissioner.
- The E2M-VASP Systems shall be capable of handling the receipt and transmission of electronic data or documents required by the E2M customs system, which includes but shall not be limited to:
  - Transmission of BOC Stakeholders Information Profile
  - Transmission of Import and Export Declarations
  - Transmission of Surety Bonds Information
  - Transmission of Payment Information
  - Transmission of Online Release Information
  - Transmission of Advance Manifest; and
  - Other services as may be determined by the Commissioner.
- The E2M-VASP Systems shall have the following minimum security features:
  - The system and data should be secured against unauthorized access or tampering;
  - The system shall be compliant with the data privacy and security standards of the Bureau; and
  - The system shall provide an audit trail.

## ***Treatment of Electronic Data coming from E2M-VASP***

For purposes of customs procedures, electronic data coming from E2M-VASPs such as documents, permits, licenses or certificates shall be acceptable and shall have the legal effect, validity or enforceability as any other document or legal writing.

Upon compliance by the E2M-VASP of the requirements, the Bureau shall recognize the authenticity and reliability of electronic documents by transmitting the acceptance or approval of the same in the form of electronic data messages or electronic documents.

### ***Notification on Customs Systems Updates***

The Bureau shall give prior notice to E2M-VASPs on changes in customs procedures to enable the E2M-VASPs to make the necessary changes in their systems in order to ensure compliance to said new procedural and data requirements.

### ***Sanctions and Penalties***

- An E2M-VASP that is not able to meet its SLA targets shall be subject to the penalties stated in the SLA, without prejudice to the right of the Bureau to exercise its right to revoke or pre-terminate the accreditation status.
- Any person or entity who obstructs, or attempts to obstruct, the implementation of this Order and its related rules and issuances, or who assists in the same, or allows himself/herself to be used in the commission of the same, shall be subject to the appropriate civil, criminal and/or administrative penalties.
- In addition to the sanctions under the CMTA, and Civil Service laws, rules and regulations, any Bureau official and/or employee found to have violated any of the provisions of this Order or commit acts prejudicial to the effective implementation of this Order, shall be immediately relieved, transferred to another office, or assigned to a less sensitive position in the Bureau.
- The penalties as prescribed under Section 1430 of the CMTA, as may be pertinent or applicable, shall be imposed for violations of this Order and its related rules and issuances.

### ***Repealing Clause***

All orders, memoranda, circulars and issuances inconsistent herewith are hereby repealed and/or deemed modified accordingly.

## ***Separability Clause***

If any part or provision of this Order is later declared invalid or illegal, the remaining portion shall remain valid and enforceable.

## ***Effectivity***

This Order shall take effect on July 17, 2020.

# CMC 148-2020

Issue Date: June 8, 2020

In **Memorandum Circular No. 01, s. 2020** of the Inter-Agency Task Force for the Management of Infectious Disease, National Task Force COVID19, **Item No. V.A.6** thereof states:

*“International agencies and NGOs are strongly encouraged to inform the Resident Coordinator/Humanitarian Coordinator (RC/HC) through the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), of any offers made or requests received, so these are consolidated and tracked.”*

For your information and guidance.

# CMC 149-2020

Issue Date: June 10, 2020

**WHEREAS**, the Freedom of Information — Project Management Office (FOI-PMO) issued Advisory No. 1 on 16 March 2020, suspending the period to resolve FOI requests until 12 April 2020. Subsequently, Advisory No. 2 was issued on 08 April 2020, extending the suspension of the period to resolve FOI requests until 30 April 2020, Finally, Advisory No. 3 was issued on 29 April 2020, further extending the suspension of the period to resolve FOI requests until lifting of the Enhanced Community Quarantine (ECQ) and lifting the suspension of the period to resolve FOI requests for all Agencies, Departments, Bureaus, Offices and Instrumentalities of the Executive branch, including Government-Owned and/or-Controlled Corporations, State Universities and Colleges, and Local Water Districts, whose principal location is declared under the General Community Quarantine (GCQ);

**WHEREAS**, Resolution No. 41 issued by the Inter-Agency Task Force (IATF) for the Management of Emerging Infectious Diseases placed low-risk provinces, Highly Urbanized Cities (HUCs) and Independent Component Cities (ICCs) under Modified General Community Quarantine (MGCQ), while moderate-risk provinces, HUCs and ICCS are placed under GCQ, starting 01 June 2020 without prejudice to the declaration or localized ECQ;

**WHEREAS**, Executive Order No. 02, S. 2016 operationalizes in the Executive branch the people's constitutional right to information and the state policies to full public disclosure and transparency in the public service;

**WHEREAS**, Memorandum Order (MO) No. 10, S. 2016 designated the Presidential Communications Operations Office (PCOO) as the lead agency in the implementation of EO No. 02, S. 2016, and all other FOI programs and initiatives including electronic FOI;

**NOW, THEREFORE**, in consideration of the foregoing and pursuant to the functions of the FOI-PMO to develop policies, rules, procedures and regulations necessary to provide the strategic direction in implementing the FOI Program, the following are hereby advised:

## ***Extension of the suspension of the period to resolve FOI Requests for offices under ECQ or MECQ***

The period to resolve any new FOI Request made from 13 March 2020 and all pending FOI Requests are hereby suspended for all Agencies, Departments, Bureaus, Offices and Instrumentalities of the Executive branch, including Government-Owned and/or-Controlled Corporations (GOCCs), State Universities and Colleges (SUCs), and Local Water Districts (LWDs) whose principal location is under ECQ or MECQ, until such time that GCQ or MGCQ is declared.

## ***Lifting of suspension to resolve FOI requests for offices under GCQ and MGCQ***

All Agencies, Departments, Bureaus, Offices and Instrumentalities of the Executive branch, including GOCCs, SUCs, and LWDs whose principal location is under GCQ or MGCQ, shall resume processing of FOI requests starting the day of effectivity of GCQ or MGCQ in their principal locations.

Pursuant to IATF Resolution No. 41, s. 2020, the following and ICCs shall be placed under Modified General Community (MGCQ) until 15 June 2020:

- For Luzon:
  - Cordillera Administrative Region (CAR) — Abra, Apayao, Benguet, Ifugao, Kalinga, Mountain Province;
  - Region I — Ilocos Norte, Ilocos Sur, La Union, Dagupan City;
  - Region IV-B -- Marinduque, Occidental Mindoro, Oriental Romblon, Palawan; and
  - Region V — Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon, Legazpi City, and Naga City.
- For Visayas:
  - Region VI — Aklan, Antique, Capiz, Guimaras, Iloilo, Negros Occidental, Iloilo City, Bacolod City; and

- Region VIII — Biliran, Eastern Samar, Leyte, Northern Samar, Western Samar, Southern Leyte, Ormoc City, Tacloban City.
- For Mindanao:
  - Region IX - Zamboanga del Norte, Zamboanga del Sur, Zamboanga Sibugay, Isabela City;
  - Region X — Bukidnon, Camiguin, Lanao del Norte, Misamis Occidental, Misamis Oriental, Cagayan de Oro City;
  - Region XI — Davao de Oro, Davao del Norte, Davao del Sur, Davao Occidental, Davao Oriental;
  - Region XII — North Cotabato, South Cotabato, Sarangani, Sultan Kudarat, General Santos City;
  - Region XIII (Caraga) — Agusan del Norte, Agusan del Sur, Dinagat Islands, Surigao del Norte, Surigao del Sur, Butuan City; and
  - Bangsamoro Autonomous region in Muslim Mindanao (BARMM) - Basilan, Lanao del Sur, Maguindanao, Sulu, Tawi-tawi, Cotabato City.

The following provinces, HUCs and ICCs shall be played under General Community Quarantine (GCQ) until 15 June 2020:

- For Luzon:
  - Pangasinan;
  - Region II — Batanes, Cagayan, Isabela, Nueva Vizcaya, Quirino, Santiago City;
  - Region III — Aurora, Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac, Zambales, Angeles City, Olongapo City;
  - Region IV-A - Cavite, Laguna, Batangas, Rizal, Quezon, Lucena City; and
  - All HUCs of the National Capital Region and the municipality of Pateros.
- For Visayas:
  - Region VII — Bohol, Cebu, Negros Oriental, Siquijor, Cebu, Mandaque City, Lapu-lapu City.
- For Mindanao:
  - Zamboanga City; and
  - Davao City.



***Automatic suspension of the period to resolve FOI requests in locations re-declared to be under ECQ, under localized ECQ or implementing the zoning concept***

All Agencies, Departments, Bureaus, Offices and Instrumentalities of the Executive branch, including GOCCs, SUCs, and LWDs whose principal location is under the GCQ or MGCQ, which later on declared to be under ECQ, localized ECQ or implementing the zoning concept upon rechecking, shall automatically suspend the period to resolve FOI Request and all pending FOI Requests until such time that it is lifted.

***Non-preclusion to process FOI requests***

This Advisory shall not preclude any Agencies, Departments, Bureaus, Offices and -Instrumentalities of the Executive branch, including GOCCs, SUCs, and LWDs, whose principal location is under ECQ, MECQ, localized ECQ or implementing the zoning concept, with sufficient capacity, to continue to process and resolve FOI Requests.

***Effectivty***

This Advisory shall take effect immediately.

# CMC 153-2020

Issue Date: June 11, 2020

From a Memorandum dated 02 June 2020 from Mr. Salvador C. Medialdea, Executive Secretary, Malacañan Palace, Manila, entitled:

***“Extension of Period of Submission under Sections 2 and 4 of Administrative Order (AO) No. 23 (S. 2020)”***

Upon evaluation of the recommendation of the ARTA, in view of the continuing implementation of an Enhanced Community Quarantine (ECQ), and the imposition of a Modified ECQ from 16 to 31 May 2020 in the National Capital Region (NCR) and other high-risk geographical areas in the country due to the COVID-19 situation, please be informed that the periods of submission under AO No. 23 are hereby EXTENDED as follows:

- Compliance Reports of national government agencies, including GOCCs, required under Section 2 shall be submitted to the ARTA, copy furnished the Office of the President (OP), within 60 calendar days from 26 May 2020 or until 25 July 2020; and
- The ARTA Report required under Section 4 shall be submitted to the OP, through the Office of the Executive Secretary, within six (6) months from the extended deadline of submission of the above Compliance Reports or until 25 January 2021.

For compliance.

# CMC 172-2020

Issue Date: June 18, 2020

With reference to the letter dated June 8, 2020 from Atty. Luis M. Catibayan, Director, Department of Trade and Industry (DTI), all concerned are informed on the lifting of the provisional safeguard duty on imported clear float glass classified under AHTN Code 7005.29.90 and tinted float glass classified under AHTN Code 7005.2190 including reflective glass under AHTN Code 7005.10.90, for 200 days.

The DTI-DAO states that a provisional safeguard measures in the form of a cash bond amounting to P2,552/MT for clear float glass and P2,835/MT for tinted float glass including reflective glass shall be imposed for a period of 200 days from the date of issuance by the BOC of the relevant Customs Memorandum Order. The said DTI-DAO was implemented through BOC-CMC No. 244-2019 issued on 22 October 2019. Given that the 200-day period ended on 9 May 2020, the provisional measure is deemed to have automatically expired on 10 May 2020.

For your information and guidance.

For records purposes, please confirm the dissemination of this Circular throughout your Offices within fifteen (15) days from receipt thereof.

## **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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