



CUSTOMS GAZETTE

Updates on Customs-Related Matters

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In Brief

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CAO NO. 11-2020

Issue Date: March 10, 2020

Introduction

This CAO implements Chapter 2, Title VIII, in relation to Section 204, 801, Section 1226 and other relevant sections of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA) and Chapter VI of the Republic Act No. 9593 also known as the Tourism Act of 2009.

Scope

This CAO applies to all Duty and Tax-Free Stores and warehouses operated by the Government under Republic Act No. 9593.

Objectives

- Protect government revenue through the institution of safeguards and controls over Duty Free Philippines Corporation (DFPC) Stores and Warehouses;
- Provide guidelines for the establishment, operation, supervision, and control of DFPC Stores and Warehouses and ensure its compliance with customs warehousing laws and regulations;
- Define the responsibilities and corresponding obligations of DFPC as CBW operator;
- Ensure operational control systems are in place in order to detect and prevent abuses of the privileges granted under the law;
- Establish, develop and implement warehousing and store management systems making full use of Information and Communications Technology (ICT)

Definition of Terms

Authority to Operate - the permit issued by the District Collector authorizing the DFPC warehouse to operate as a customs bonded warehouse.

Balikbayan - a Filipino citizen who has been continuously out of the Philippines for a period of at least one (1) year, a Filipino overseas worker, or former Filipino citizen and his or her family,

as defined under Republic Act No. 9174, who had been naturalized in a foreign country and comes or returns to the Philippines.

Bring-In Permit - a document issued by the DFPC operator authorizing the entry to DFPC stores of locally manufactured goods as stipulated in Section 90(b) of Republic Act No. 9593

Foreign Individual Traveler - a person who does not normally reside in the Philippines either as a tourist or visitor.

Goods Declaration for Warehousing - the statements made in the Single Administrative Document (SAD) covering goods to be entered under warehousing procedures where a security is posted to secure the payment of the duties and taxes due and the legal permit for withdrawal has been granted. The DFPC shall lodge goods declaration thru the Value-Added Service Provider.

Duty Free Philippines Corporation (DFPC) - the corporate entity created out of DFP pursuant to Republic Act No. 9593.

Main Bonded Warehouse - a warehouse accredited by the Bureau operated by DFPC which shall be used exclusively for receiving, storing and safekeeping of imported duty and tax-free goods and as the principal transfer and distribution point of all goods for sale in all duty-free stores throughout the country.

Regular Filipino Traveler — a Filipino citizen who regularly goes out of the Philippines as a tourist or visitor of another country for less than a year and always returns back to the Philippines.

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.

Transit Single Administrative Document (TSAD) - an electronic document wherein goods, in its original form, are transported under customs control from one customs office to another, or to a free zone.

Traveler - any person who temporarily enters the territory of a country in which he or she does not normally resides (non-resident), or who leaves that territory, and any person who leaves the territory of a country in which he or she normally resides (departing resident) or who returns to that territory (returning resident).

cf. Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting A Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayan and for Other Purposes", Section 2 (a)

cf. CMTA, Title I, Chapter 2, Section 103 (a)

Republic Act No. 9593 "Tourism Act of 2009", Chapter 1, Section 4 (d)

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 1.2.

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

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

Transfer Note - a document that accompanies the transfer of cargo to a Customs Bonded Warehouse (CBW) and serves as proof of delivery or receipt of the article at its intended destination duly acknowledged on its face by the customs official stationed thereof. It is also commonly referred to as a "boat note".

cf. CAO No. 01-2009, "Revised Rules and Regulations for the Establishment, Operation, Supervision and Control of Customs Bonded Warehouses," Title II, Section 2.29.

General Provisions

- The Bureau shall exercise supervision and control over warehouses operated by the DFPC and the same shall, for all intents and purposes, be considered as special type of Customs Bonded Warehouses (CBWs) and are deemed extension of the customs premises insofar as the dutiable goods stored and introduced are concerned. The Bureau however, shall not be liable for any loss or damage of the goods stored in any CBW.
- The Collection District III — Ninoy Aquino International Airport (NAIA) shall exercise jurisdiction over the existing DFPC Customs Main Bonded Warehouse. However, the operation of all DFPC sales, display or store counters outside Metro Manila, including the deployment of customs personnel shall be under the direct supervision and control of the concerned Collection District.
- The DFPC's Main Bonded Warehouse shall be used exclusively for receiving, storing and safekeeping of imported duty and tax-free goods and shall serve as the principal transfer and distribution point of all goods for sale in all duty-free stores in international airports and seaports, in Tourism Enterprise Zones (TEZs) and other ports of entry throughout the country.
- Duty-free warehouses and sales, display or store counters to be established shall be considered extensions of the DFPC's Main Bonded Warehouse irrespective of location; provided, that each branch or outlet shall be covered by separate and individual warehousing security. The Bureau shall promulgate the rules for the establishment and operation of online duty-free stores which shall be extensions of physical sales, display or store counters.
- Duty and tax-free goods purchased under these regulations may be subject to seizure and forfeiture in accordance with the provisions of the CMTA and the National Internal Revenue Code (NIRC) if found in the possession of unauthorized person.

CMTA, Title VIII, Chapter 2, Section 806.

CAO No. 03-1987, "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 1.4.

CAO No. 03-1987, "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 1.3.

CAO No. 03-1987, "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 12.2.

Action on the Application

The District Collector shall recommend approval of the application within seven (7) working days from submission of complete documents as enumerated under Section 8 of this Order and inspection report. The Commissioner shall act on the recommendation within seven (7) working days from its receipt.

Denial of Application

- **Denial of the Application by the District Collector.** The District Collector may deny the application at any stage of the evaluation process in cases where the application is attended with fraud or material misrepresentation. For this purpose, the District Collector shall send a notice to the applicant stating clearly the grounds for the denial of the application.
- **Notice of Denial.** In case of denial of application by the Commissioner, a notice shall be sent to the applicant stating clearly the grounds for the denial.
- **Appeal from the Denial of the Application by the District Collector.** The applicant may appeal the denial of the application to establish or renew a CBW by filing an appeal to the District Collector within fifteen (15) days from receipt of the notice of denial, copy furnished the Office of the Commissioner, stating clearly the grounds why the application should be approved.
- **Action by the District Collector.** The District Collector shall recommend approval of the application within five (5) working days from completion of documents and inspection report.
- **Action by the Commissioner.** The Commissioner shall act on the recommendation of the District Collector within five (5) working days from receipt.
- **Records of Appeal.** The District Collector shall forward the complete records of the application to the Commissioner within five (5) days from receipt of the appeal.

Certificate of Authority

The Certificate of Authority to Operate a CBW issued shall be conspicuously displayed at all times at the CBW and its extension offices.

Renewal of Authority to Operate

The application for subsequent renewal of Authority to Operate shall be filed with the District Collector, NAIA not later than ninety (90) days but not earlier than one hundred twenty (120) days before its expiration, together with the following documents:

- Updated layout plan of DFPC Main Bonded Warehouse including the location or vicinity map;
- Updated layout plan of DFPC sales, display or store counters and provincial outlets including the location or vicinity map;
- Names and contact numbers of DFPC responsible officers;
- Names and contact numbers of concessionaires, including responsible officers, with corresponding list of importables;
- Layout plan of storage area of concessionaires, if any;
- Summary of importation and sales report for the past three (3) years;
- Audited Financial Statements for the last two (2) years immediately preceding the date of application;
- Contract of lease, if any; and
- Certificate of accreditation as importer or a copy of Client Profile Registration System (CPRS) of DFPC and its concessionaires.

The Authority to Operate is deemed extended after the lapse of the period to act on the application on the part of the District Collector. The automatic extension shall last until the regular Authority to Operate is issued. However, the effectivity of the renewed Authority to Operate shall retroact to the first day immediately after the expiration of the previous authority.

Validity of the Renewed Authority to Operate

The Authority to Operate the DFPC Main Bonded Warehouse including its extensions and outlets issued pursuant to this CAO shall be valid for three (3) years from the date of the approval of the application. If the term of the lease contract submitted during the application is less than three (3) years, the validity of the Authority to Operate shall be coterminous with the lease contract unless a new contract of lease with a longer period is submitted. In such case, the Authority to Operate shall be amended to its maximum period of three (3) years from the date of original issuance.

Late Filing of Application for Renewal of Authority to Operate

Non-filing within the prescribed period shall cause the imposition of penalties, which may take the form of fines, suspension, or revocation of the Authority to Operate, as may be warranted, in accordance with existing rules and regulation on CBWs.

Requirements to Operate the DFPC Main Bonded Warehouse and Store Outlets

- **Customs Officers and Personnel.** In pursuit of the supervisory and control functions of the District Collector over DFPC Main Bonded Warehouse, sales outlets, counters and stores, assigned customs officers and personnel shall monitor and implement control measures for customs purposes, in accordance with its existing organizational structure and staffing pattern.
- **Provision for a Suitable Working Space for Bureau Personnel.** The DFPC Main Bonded Warehouse sales outlets, counters and stores shall provide customs personnel with suitable working areas complete with office equipment, furnishings, supplies, telephone, internet connection and Closed-Circuit Television (CCTV) system, including office space needed by the Bureau of Customs personnel for the proper discharge of their functions.
- **Work Hours.** Customs personnel assigned to DFPC Main Bonded Warehouse, sales outlets, counters and stores shall strictly observe regular office hours and record their attendance in accordance with Civil Service Rules and Regulations. The DFPC shall promptly report to the District Collector any unauthorized absences. The services of the customs personnel requested by DFPC and approved by the District Collector which are performed outside the regular office hours, including Saturdays, Sundays and holidays, shall be considered overtime work pursuant to Chapter 2, Title XV, Section 1508 of the CMTA. The Bureau may charge customs service fees under Section 1300 subject to the rates prescribed under existing rules and regulations.
- **Locks and Keys.** The door and entrance to the main DFPC CBW shall have a secured locking system which complies with the standard and specification set by the Bureau. Access to the areas shall be limited to personnel duly authorized by both the Bureau and the DFPC Operator.

CAO No. 1-2009 "Revised Rules and Regulations for the Establishment, Operation, Supervision and Control of Customs Bonded Warehouse", Title IV, Section 4.7.

cf. to Chapter 2, Title XV, Section 1508 of the CMTA

cf. CMTA, Title XIII, Section 1300

cf. CAO No. 01-2009 "Revised Rules and Regulations for the Establishment, Operation, Supervision and Control of Customs Bonded Warehouse", Title IV, Section 4.9.

Responsibilities of DFPC

- DFPC shall comply with the requirements of the Bureau on establishment, security, suitability and management, including stock-keeping and accounting of goods;
- Upon lawful demand, the DFPC shall allow duly authorized representatives of the Bureau unhampered access to the premises at a reasonable time, and to inspect all documents, books and records of accounts pertaining to the operations of the DFPC;
- In case of loss of the goods stored in DFPC due to its gross negligence or willful misconduct, the DFPC shall be made liable for the payment of duties and taxes due. The Bureau of Customs assumes no legal responsibility over the safekeeping of goods stored in DFPC warehouses and stores;
- DFPC shall ensure a secured and safe environment for both persons and goods stored in warehouses and store outlets by implementing effective security measures, such as the employment of a twenty-four (24) hour security scheme and the installation of Closed Circuit Television Camera (CCTV) and similar devices.

cf. CMTA, Title VIII, Chapter 2, Section 805

Importation of Goods

Imported goods to be sold at DFPC's Duty and Tax-Free Stores shall be entered duty and tax free under Warehousing Entry covered by sufficient security and pertinent documents as provided by the CMTA, to be filed at the NAIA, Collection District III, except for excisable goods which are subject to VAT and Excise Tax. Provided, that importations discharged from other ports of entry other than NAIA shall be transferred upon lodgment of TSAD from the port of discharge to the District Collector of Customs, NAIA with notice to the DFPC as the consignee or importer; and provided further, that such importation shall remain under customs supervision and control until sold, exported or otherwise disposed of as herein provided.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 2.1.

Examination and Delivery

Imported Goods shall be allowed for Transit from any collection district to DFPC Main Bonded Warehouse, Port of NAIA for warehousing when the TSAD or permit to transfer together with the required documents as provided by the existing laws and regulations are electronically lodged at the concerned Office of

departure. As in the case of transit cargoes, receipt of the goods shall be by DFPC authorized representative, supervised by the Customs Warehouseman assigned thereat.

- Upon arrival of all the duty and tax-free goods which is the subject of a Transit declaration to its final destination or point of exit, the Deputy Collector for Operations or equivalent in the final destination or point of exit shall tag in the system the arrival of the Transit Goods. Immediately after the transfer of imported goods, DFPC shall file the corresponding warehousing entry pursuant to Section 808 of the CMTA.
- Transfer of imported goods shall be allowed from NAIA directly to the DFPC Main Bonded Warehouse when the corresponding warehousing entry together with the required documents as provided by the existing laws and regulations are electronically lodged at the concerned office of departure.
- Imported duty-free goods shall be examined in the DFPC's principal or Main Bonded Warehouse after filing of the warehousing entry.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 6.

cf. CMTA, Title VIII, Chapter 2, Section 808

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 6.3.

Withdrawals of Imported Duty and Tax-Free Goods

- Withdrawal from the DFPC's Main Bonded Warehouse for transfer to any of all of the duty and tax-free shops/sales outlets and counters shall be made only upon prior application by the DFPC to the District Collector of Customs through the Duty-Free Shops Division, NAIA, who shall permit such withdrawal or transfers under withdrawal entries or transfer slips and the actual transfer shall be underguarded by Customs Personnel concerned and to be covered by Transfer Note.
- Withdrawals from the Main Bonded Warehouse to other ports for transfer to other duty and tax-free shops/sale outlets and counters outside the Metro Manila area shall be made by requisition as approved by the NAIA District Collector through the Duty Free Shops Division and the transfer shall be effected under local transit complying with all the established requirements, procedures, rules and regulations for Transit Permits.
- Withdrawals from other duty free extension warehouse established outside the Metro Manila area for transfer to duty and tax-free shops or sale outlets and counters situated within the jurisdiction of the collection district where the extension warehouse is located shall be made only upon prior

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 8.1.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 8.2.

application by the DFPC to the District Collector of Customs concerned who shall permit such withdrawals or transfers under withdrawal entries or transfer slips. The actual transfer shall be underguarded by Customs Personnel concerned and covered by Transfer Note.

cf. CMO No. 07-2015 "On Tagging of the Arrival of Transshipments in e2m, Monitoring of Arrival of Transshipments and Filing of Entries for Transshipped Cargo".

Security

Before the transfer of newly arrived imported goods from the airport or seaport of entry to the DFPC Main Bonded Warehouse, a sufficient security in amount equal to one hundred percent (100%) of the ascertained duties and taxes and other charges due thereon shall be required.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 4, 1st Paragraph

The security shall guarantee the sale of the imported goods which shall be deemed equivalent to their exportation or to guarantee the payment of duties, taxes and other charges in other applicable cases.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 4, 2nd Paragraph

Sale of Duty and Tax-Free Goods to Qualified Individuals

Sale to the following individuals of duty and tax-free goods from Duty Free Philippines stores and outlets shall be allowed under the following conditions:

- **Travelers.** Within forty-eight (48) hours upon arrival from a foreign country at an international airport or seaport:
 - Cigarettes of any brand not exceeding two (2) reams;
 - Wine and/or liquor of any brand not exceeding two (2) bottles; and
 - Other consumable goods with a total value not exceeding \$1,000 payable only in acceptable foreign currency.

cf. Republic Act No. 6768 "An Act Instituting a Balikbayan Program", Section 4

Provided, that purchases in excess of \$1,000.00 shall be subject to payment of full duty and tax.

cf. CAO No. 04-1992 "Further Amending Sub-Section 2.2 of the Customs Administrative Order No. 3-1987 Prescribing Rules Regulations and Procedures Governing the Establishment of Duty and Tax-Free Stores and Warehouses," Section 2.2. (a).

Departing travelers with confirmed bookings destined to foreign countries immediately before boarding their flights or vessels at an international airport or seaport of entry, in any quantity and value; Provided, that all such purchases shall be delivered to the pre-designated claim counter/s at the airport or seaport of embarkation under customs supervision to ensure the exportation thereof; Provided, further that in case of flight delays or cancellation, goods purchased shall be

returned to or placed under the custody and control of officers of the Bureau of Customs until the same are finally reexported.

- **Balikbayan**

- Tax-exempt maximum purchase in the amount of One Thousand Five Hundred United States dollars (US\$ 1,500.00) or its equivalent in Philippine peso and in other foreign currencies at all DFPC stores or outlets.

Kabuhayan shopping privilege and additional tax-exempt purchase in the maximum amount of Two Thousand United States dollars (US\$ 2,000.00) or its equivalent in Philippine peso and other acceptable foreign currencies; exclusive for the purchase of livelihood tools at all government-owned and controlled/operated duty-free shops.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 2.2. (b)

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayans and for Other Purposes, Section 3(a)

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayans and for Other Purposes, Section 3(g)

Limitations on Tax-Free Purchases accorded to Balikbayan and Tourists and Returning Residents

The tax-free purchases privilege accorded to Balikbayan shall be subject to the following limitations:

- **Balikbayan.** OFW and Balikbayans as defined under Republic Act No. 9174.
 - Purchases shall be made within fifteen (15) calendar days from the date of arrival, provided that:
 - During the Christmas season, reckoned from November 15 to January 15, the privilege is extended to thirty (30) calendar days from the date of arrival;
 - The privilege shall be availed of on a one-time shopping basis only; and
 - In the case of senior citizens and handicapped balikbayan, they shall be allowed to enjoy the privilege within one (1) year from date of arrival in the country.
 - The privilege can be availed of by the balikbayan only once a year,
 - The privilege is non-transferable and purchases must be made personally by the balikbayan: Provided, that a balikbayan who has gone back abroad may still avail of the kabuhayan shopping within a maximum period of one (1)

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayans and for Other Purposes, Section 4(a)

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayans and for Other Purposes, Section 4(b)

year from date of arrival in the country, and that immediate family members of the balikbayan shall be allowed to claim the kabuhayan tools purchased: Provided further, that an Overseas Filipino Worker (OFW), duly described as such by the Philippine Overseas Employment Administration (POEA), Philippine Overseas Labor Officer or by the embassy/consulate of the Philippines in the country where he or she had been deployed, taking into consideration the evidence of remittance, may opt to endorse in writing the kabuhayan shopping privilege to his or her immediate family members within the second degree of consanguinity or affinity residing in the Philippines once within two (2) years from the date of effectivity of his or her contract and only during the duration of the same,

- Only a balikbayan of majority age under Philippine laws can enjoy the privilege: Provided, however, that the family members who are minors shall continue to be entitled to purchase privilege not exceeding the allowable tax-exempt limit for Incoming Travelers;
- In addition to existing limitations on the number of consumables purchased, a balikbayan shall be entitled to buy only one (1) item of every product category of nonconsumables whose selling price exceeds Two Hundred United States dollars (US\$ 200.00).
- **Tourists and Returning Residents.** The following privileges shall be availed by tourists and returning residents categorized as Regular Filipino Travelers and Foreign Individual Travelers.
 - Purchases shall only be made in United States dollars or other acceptable foreign currencies within forty-eight (48) hours from date of arrival. The privilege is non-transferable and can be availed of by the arriving traveler only once a year
 - Purchases of One Thousand United States dollars (US\$1,000) but not to exceed Ten Thousand United States dollars (US\$10,000) in any given year for Tourists and Filipinos traveling to or returning from foreign destinations.

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayans and for Other Purposes, Section 4(c)

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayans and for Other Purposes, Section 4(d)

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayans and for Other Purposes, Section 4(e)

Implementing Rules and Regulations of Republic Act No. 9593, Rule VII Chapter IV Section 110(a) in relation to Section 90 of Republic Act No. 9593, Entitled Tourism Act of 2009.

cf. Executive Order No. 250 series of 1995 "Implementing the Rationalization of Duty Free Stores/Outlets and their Operations in the Philippines Pursuant to Executive Order NO. 140 and for Other Purposes," Section 3-A

Sales and Delivery of Goods Purchased by Authorized Buyers

- Sales and delivery of goods by Incoming Travelers immediately upon arrival shall be made only at duly approved designated sales counters in the airport/seaport of arrival.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 9.12

- Proxy buying shall be allowed only for Kabuhayan Shopping privilege pursuant to Section 18.1 (c) of this CAO.
- Sales and delivery of goods purchased by Departing Travelers immediately before boarding the aircraft or vessel shall be made only at the designated sales counters within the airport or seaport of departure.

Republic Act No. 9174 "An Act Amending Republic Act Numbered 6768, Entitled "An Act Instituting a Balikbayan Program" by Providing Additional Benefits and Privileges to Balikbayan and for Other Purposes", Section 4(c)

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 9.2

Liquidation of Entries

- When an importation has been subsequently sold, exported or disposed of in accordance with regulations, a request for the liquidation of the entry shall be filed with the Collector of Customs concerned who shall cause the liquidation of the corresponding entry.
- In the event the prescribed one (1) year storage period has elapsed and there are still unsold or undisposed goods remaining, the DFPC shall have the option to either (1) pay the duties, taxes and other charges due thereon or (2) dispose the same by destruction or condemnation, and the Collector of Customs may then cause the liquidation of the covering warehousing entry.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 11

cf. CMTA, Title VIII, Chapter 2, Section 811

Stock Inventory Taking

Inventory of all stocks-in-trade shall be made at the end of every six months by a joint committee composed of representatives of the COA, DFPC and the Bureau of Customs concerned after which report shall be submitted to Bureau of Internal Revenue and the Commissioner of Customs.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 10

Books of Records to be Kept by the Duty Free Philippine Corporation

- The DFPC shall keep books of accounts and other records as may be necessary in connection with its or their operation to be registered with the Bureau of Internal Revenue (BIR) pursuant to Bookkeeping Rules and Regulations.
- All entries and sales shall be properly recorded in chronological order and shall be opened to an authorized Commission on Audit (COA), Customs and BIR officials for periodic inspection and audit.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 7.1.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 7.2.

- A monthly report of importation, sales and inventory shall be submitted by the DFPC operating the duty and tax-free shops to the Department of Tourism, COA, BIR and BOC with copy furnished the NAIA Collection District through the Duty Free Shops Division
- The DFPC shall periodically submit to the Bureau the list of its registered private suppliers and merchandisers.

All DFPC stores shall establish effective ICT—enabled audit and inventory system specific on the storage, sale, and disposition of duty and tax-free goods. The District Collector concerned shall assign customs officer who shall account the said activities and the assigned customs officer shall submit periodic report as may be required.

Treatment of Goods and Products Made in the Philippines

In order to support and to showcase Philippine culture, craftsmanship and industry as embodied in Section 5 of RA No. 9174, goods may be allowed entry and sale subject to customs clearance and procedure upon submission of a Bring-In Permit as supported by DFPC Purchase Order and other pertinent documents.

Penalties for Violations

- Any violation by the DFPC of any term and conditions hereof and such other regulations as may hereafter be promulgated will be sufficient cause for the cancellation of their Authority to Operate the duty and tax free bonded warehouse, store/outlets/sales counters. Any fraudulent practice committed against customs revenue as defined in the CMTA, shall subject the violator to the administrative and penal provision provided for under the CMTA.
- If the violator is an employee of the Government, he shall, after proper hearing conducted by the Bureau of Customs, be suspended or summarily dismissed from the service in addition to other penalties prescribed in the CMTA and other special laws.
- If the violator is a private individual, they shall, after proper hearing conducted by the Bureau of Customs, be banned
- within the premises of the duty and tax-free areas in addition to other sanctions prescribed in the CMTA and other special laws.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 7.3.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 14.1.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 14.2.

cf. CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses," Section 14.3.

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 repeal previously issued CAOs and CMOs which are inconsistent with the provisions herein stated.

Separability Clause

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

Effectivity

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

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

CMO NO. 21-2020

Issue Date: August 26, 2020

Introduction

This Order is issued pursuant to Executive Order No. 836 series of 2009, Section 301 and other relevant provisions of Republic Act No. 10683, otherwise known as the Customs Modernization and Tariff Act (CMTA), Customs Administrative Order No. 6-2009, Customs Memorandum Order No. 51-2009, and other related customs rules and regulations.

Objectives

- Promote trade facilitation and to provide a seamless movement of goods across borders through secure international trade supply chains with the use of risk management and modern technology;
- Use automation to the fullest extent possible, and adopt a compliance measurement strategy to support risk management;
- Prevent the entry of contraband and prohibited goods through efficient and effective intelligence coordination, and secure timely information pipeline from all sources to the RMO;
- Have a dynamic, systematic, structured and documented process in setting and updating of Selectivity Screens;
- Embed the risk management process across the Bureau and define the roles and functions of every office in the risk assessment, targeting and feedback mechanism.

Scope

This Order covers the operational procedures of the Risk Management Office in data gathering and analysis, risk assessment, profiling and targeting, updating of Selectivity Criteria and Parameters, and the monitoring and evaluation of results thereof. This will also cover the roles of other concerned offices and/or Collection Districts nationwide in the risk management process relevant to the improvement of the Selectivity System of the Bureau.

Definition of Terms

Risk Management - The systematic application of management procedures and practices which provide the Bureau with necessary information to address movements or consignments which present a risk.

Annex 1, WCO Safe Framework of Standards, 2018 Edition; Standard 6.3 Revised Kyoto Convention

Selectivity System - The application of risk management and the use of risk-based channeling (red/yellow/green) that allows the Bureau to allocate its scarce resources to the high-risk areas while increasing the efficiency of the clearance process for low-risk shipments.

United Nations Trade Facilitation Implementation Guide

Selectivity Rules - The conditions set in the risk management function of the customs computer system using criteria, parameters, and other data elements that determine the level of treatment to be applied to the goods declaration through automated channeling of goods.

Risk Matrix — Tool for ranking and displaying risks by defining ranges for consequence and likelihood.

WCO Risk Management Compendium Glossary

National Customs Enforcement Network (NCEN) — A system developed by the WCO to assist the Bureau administrations with the collection and storage of law-enforcement information on the national level, with the additional capability to exchange this information at the regional and international levels.

<http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/cen-suite/ncen.aspx>

Cargo Targeting System (CTS) — A cargo manifest risk assessment solution developed by the WCO to enable its Members to carry out international best practice cargo risk assessment to manage risk and facilitate trade and thus implement key parts of the WCO's SAFE Framework of Standards and Kyoto Convention.

<http://www.wcoomd.org/en/topics/wco-implementing-the-wtoatf/-/media/6E2118554F6A43DB83A07C603494C627.ashx>

Client Profile Registration System (CPRS) — System where all application of importers and customs brokers are stored upon the approval of the Accounts Management Office (AMO) before the said importers and customs brokers shall be allowed to transact with BOC.

Main Roles of BOC Offices in Cargo Selectivity Capability

Effective risk management cannot be practiced in isolation but needs to be built into existing decision-making structures and processes. Key areas in the overall risk management process are performed at various levels by all offices within the Bureau to ensure efficient and effective cargo control, including the following main roles of the BOC offices with regard to the Selectivity System but are not limited to own integration of risk management in their specific structures and/or mandates:

WCO Risk Management Compendium
Volume 1, p. 12

- **Risk Management Office (RMO)** - Responsible in operating the Risk Management function of the Customs Computer System by translating the risks identified across the Bureau into Selectivity Rules and recommend to the Commissioner of Customs policies and programs to increase efficiency and effectiveness of the Bureau's Selectivity System.
- **Intelligence Group (IG)** - Supervises the day-to-day operations of the Risk Management Office for an intelligence-driven risk management.
- **Management Information Systems and Technology Group (MISTG)** — Provides technical assistance in order that cargo selectivity is made possible by automated declaration processing systems to select shipments based on specific criteria and to direct those shipments for a variety of types and levels of treatment thru a risk management system capable of continuous improvement and enhancement.
- **Customs Intelligence and Investigation Service (CIIS)** - Responsible in providing Risk Management Office target-specific profiles, modus operandi and other derogatory information gathered by intelligence officers from various field stations that must be efficiently intervened through selectivity tagging.
- **Legal Service** — Utilize the data gathered by RMO to profile and build up cases relative to importers and other stakeholders of the Bureau and prosecute all violations of the CMTA identified through the operations of this Order.
- **Enforcement and Security Service (ESS)** - Monitors treatment of goods at various level of clearance procedure and report to RMO, thru the National Customs Enforcement Network (NCEN), an active repository of information of how smuggling activities are carried out - from the modes of concealment, modes of transportation, timeline and other findings.

- **Import Assessment Service (IAS)** - Responsible in providing Risk Management Office data and other information involving loss or decline of government revenue due to improper valuation and/or classification.
- **Trade Information and Risk Assessment Office (TIRAO)** - Reviews available data to determine compliance markers of traders for the purpose of developing an audit program and provide feedback to RMO on the results as reference for continuous monitoring and evaluation of compliance of traders.
- **Accounts Management Office (AMO)** — Responsible for managing the profiles thru the Customs Profile Registration System (CPRS) by regularly updating the details of newly accredited, revoked and/or suspended importers, exporters and brokers and providing Risk Management Office relevant data of high-risk accounts.
- **X-Ray Inspection Project (XIP)** - Ensures that shipments tagged for X-ray are inspected and results are regularly reported to Risk Management Office and update RMO of its workload capacity in order to maximize the use of non-intrusive inspection to facilitate trade while ensuring border protection.
- **Collection Districts** - Responsible in carrying out appropriate treatment on selected goods based on the lane color and report all findings through the Inspection Act as well as its workload capacity, and any interventions performed to address risk and/or facilitate trade and all other observations and recommendations thru the Risk Management Units (RMUs) for the continuous review and recalibration of Selectivity Rules by the Risk Management Office.
- **Other BOC Offices/Customs Personnel** - The Risk Management Office shall have the authority to require data and information relevant to its function from all offices and personnel of the Bureau.

Memorandum dated June 8, 2020, signed by the Commissioner "Guidelines for Filling Out the Inspection Act"

Customs Memorandum Order No. 44-2019 "Preparation of Regional Risk Management Units (RMUs)"

Customs Administrative Order No. 06-2009, IV par. 2; Customs Memorandum Order No. 51.2009, V par.

Operational Provisions

To ensure sustainable system of setting and changing the Selectivity Screens, RMO shall undertake the following specific tasks:

- **Risk Identification.** The Strategic Assessment Unit (SAU) shall conduct risk identification describing the current control system, its strength and weaknesses, likelihood of occurrence

of risk, its category, the risk matrix and potential impact to be able to come up with proper risk evaluation and prioritization.

- *Risk Register*. All risks identified including additional information about each risk shall then be recorded in a Risk Register containing all references of how decisions and Selectivity Rules have arrived through risk weighing and prioritization.
- *Internal Compliance Management*. SAU shall regularly monitor the compliance and effectivity of all the Selectivity Rules translated in the system and recommend preventive and corrective actions on the gaps identified that hinder the effective execution of objectives or targets.
- **Selectivity Management**. The Operational Risk Assessment Unit (ORAU) shall be responsible for creation, monitoring and evaluation of set criteria and parameters including system behaviors affecting the selectivity.
 - *Criteria Management and Monitoring*. The creation, modification or deactivation of criteria shall be the sole responsibility of ORAU. All identified risks shall be translated as Selectivity Criteria ensuring that the conditions meet the expected outcome to address risks.
 - *Criteria Category*. All Criteria shall be categorized whether fixed or specific, and regional or national.
 - Based on Manner of Creation:
 - *Fixed Criteria* — criteria which are decided upon the Customs Risk Management Steering Committee or existing national and international policies which are monitored on a regular basis, reviewed, and updated periodically.
 - *Specific Criteria* — criteria that are created on the basis of derogatory information and/or other time-sensitive data received by RMO that require immediate treatment.
 - Based on Geographic Application:
 - *National Criteria* — criteria which are applicable on all ports and shall be implemented bureau-wide.
 - *Regional Criteria* — criteria which are applicable only on particular collection district/s taking into consideration the risk appetite, issues and concerns arising therefrom including but not limited to the workload capacity of the concerned port/s and subport/s.
- **Profiling and Targeting**. The Bureau should use sophisticated methods to identify and target potentially high risk cargo, including - but not limited to - advance electronic information

about cargo shipments to and from a country before they depart or arrive; strategic intelligence; automated trade data; anomaly analysis; and the relative security of a trader's supply chain.

Standard 5, WCO Safe Framework of Standards.

- *Risk Assessment and Scoring*. The Research and Analysis Unit (RAU) shall be responsible in the profiling and targeting of shipments and creation of Selectivity Lists based on specific risk category using scoring system generated from the consolidated data and reports of various offices. The scoring system includes all the identified risk indicators and other threats in import and export.
- *Cargo Targeting System (CTS)*. The CTS holds all available information in the electronic manifest submitted by the shipping lines and freight forwarders. It shall be utilized to validate information from other sources to check data declared by the shipping lines, freight forwarders and importers, and detect possible violation.
- *Selectivity Lists*. The metrics used as reference for risk assessment and profiling shall be revised depending on the trend analysis of RMO. Profiles shall be uploaded in Selectivity Lists for appropriate channeling and reviewed periodically for continuous improvement of profiling activities.
- **Data Warehouse**. A main source of information for report generation and analysis shall be developed and maintained. For the creation of a Data Warehouse, RMO shall coordinate with the MISTG, for the extraction of all import and export data on a regular basis and move it to a dedicated server for RMO's consumption.
 - *Database*. Each unit shall maintain their own database of information depending on the nature of tasks assigned to each which will then be stored in the Office's Data Warehouse.
 - For monitoring and evaluation:
 - *Inspection Results* — these include results from Inspection Act accomplished by the officers at the Collection Districts, X-ray Reports containing all scanned shipments and each corresponding finding, and Risk Management Unit Reports.
 - *Lodged and Assessed Entries*—all information on entries filed and assessed shall be accessible and extracted realtime for efficient monitoring and evaluation of selectivity screens.
 - For Profiling and Targeting:

- *Seizure and Forfeiture List* — All seizures and forfeitures decided in all Collection Districts shall be reported immediately to RMO containing all relevant information for its decision.
- *Alert Orders* — Alert Order Clearing House Desk or the office which issued the alert order shall submit a daily report to RMO on all alert orders issued containing all information relevant for the issuance of such order.
- *Electronic Data/Report Collection System*. For a more efficient risk analysis and evaluation essential for dynamic updating of Selectivity Screens, RMO thru MISTG must develop an electronic system of submission of all the reports and data for the above-mentioned databases for the utilization of the offices responsible for its submission.

Compliance Program

- **Feedback Loop**. For a dynamic review of performance and continuous recalibration of the Selectivity Screens, a sustainable feedback mechanism is necessary to check how treatments are carried out in ascertaining threats and risks thru a viable reporting system.
 - *Inspection Act* shall be filled out by Customs Examiners and Appraisers, indicating appropriate fraud codes and other findings necessary to evaluate risk or compliance level of shipments.
 - *Electronic Feedback Forms* shall be filled out by Risk Management Units (RMUs) to immediately report any observation and other findings upon filing of goods declaration.
 - *Secured Reporting Portal* shall be developed to be utilized by various offices of the Bureau for up-to-date information sharing.
 - *Intra-web Dashboard* shall be shared across relevant offices to monitor the performance of the Selectivity including the selections and detections for analysis on areas that must be given immediate attention.
 - *Direct Reports* from various offices communicated thru electronic mail or written document.
- **Compliance Track Record**. RMO shall generate a score card that measures compliance and/or risk levels of importers, exporters, brokers, commodities, and other essential profile categories based on the consolidated reports from all sources.

The score cards and other related information shall be treated with utmost confidentiality and shall be made available only to the Commissioner of Customs, Deputy Commissioner for Intelligence Group and authorized RMO personnel.

- **Customs Risk Management Steering Committee.** The Deputy Commissioner for Intelligence Group shall regularly convene members and other concerned offices to ensure every field in risk management field operations, investigations, post-clearance, intelligence, tariff, valuation and information technology - is well represented through holistic decision making, overseeing the risk management and cargo selectivity processes, assuring integrity of those processes, monitoring the productivity of RMO, and securing that the processes are supported through out the BOC through a Risk Management policy that is regularly reviewed and revised.

Customs Special Order No. 22-2019

Miscellaneous Provision

A focal team from the Management Information Systems and Technology Group (MISTG) shall be responsible in providing immediate and direct response to the Risk Management Office on the following areas:

- Technical errors and other issues in the system;
- Network connections and other hardware components; and
- Project development and system enhancements.

Administrative Sanctions

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

Repealing Clause

All orders, memoranda, circulars or parts thereof which are inconsistent with this Order are deemed revoked, amended or modified accordingly.

Separability Clause

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

Effectivity

This Order shall take effect on 01 September 2020.

CMO 22-2020

Issue Date: September 11, 2020

Introduction

This Order applies to all permanent employees of the BOC in all Groups, Offices, and Collection Districts, who shall compose the in-house subject matter experts (SMEs), resource persons, and trainers—collectively known as the BOC Pool of Trainers—on top of their regular functions/responsibilities as employees of the Bureau.

Objectives

- Establish a comprehensive program to expand, further develop skills and knowledge of, and provide incentives for in-house SMEs, resource persons, and trainers of the Bureau;
- Prescribe the general policies with regard to the BOC Pool of Trainers;
- Set forth the functions and responsibilities of the BOC Pool of Trainers, as well as the entitlements and incentives the Bureau shall provide.

General Policies

- The BOC, through the Interim Training and Development Division (ITDD), Internal Administration Group (IAG), shall establish its in-house Pool of Trainers composed of subject matter experts (SMEs), resource persons, and trainers in different areas of Customs administration, such as:
 - **Assessment** — Topics related to correct valuation of goods; gathering and publishing values of commodities imported into the country; audits liquidated entries and bonds; and implementation of rules and regulations governing assessment;
 - **Revenue Collection** — Topics related to accounting of revenues collected; and providing information and analysis of collection statistics;
 - **Trade Facilitation and Port Operations** — Topics related to boarding formalities; processing of goods for import and export; warehousing; auction and disposal activities; and other support operations;

- **Intelligence and Investigation** — Topics related to gathering of intelligence information on Customs and economic activities; conduct of internal inquiry and investigation; and development of effective countermeasures to combat corruption, smuggling, and other forms of customs fraud;
 - **Enforcement and Border Control** — Topics related to the exercise of police authority to secure the country's ports and BOC installations, and to protect the Philippine border and the cargoes and properties inside the customs zone;
 - **Technology and System Management** — Topics related to management and control of information and technology infrastructure, facilities, and services; and
 - **General Administration and other Legal Matters** — Topics related to the formulation of policies and setting up of objectives relative to planning and management, financial, administrative, personnel, and administration of legal requirements of the BOC.
- The ITDD shall develop a database of all in-house SMEs, resource persons, and trainers indicating their profile, credentials, and subject matter expertise. The list BOC Pool of Trainers shall be published through a Customs Special Order annually.
 - Individual employees may also apply to be part of the BOC Pool of Trainers by submitting the following to the Deputy Commissioner, Internal Administration Group, through the ITDD:
 - Memorandum signifying intent to be part of the BOC Pool of Trainers and indicating subject matter expertise and list of trainings conducted within and outside BOC (if any); and
 - Latest Personal Data Sheet with Work Experience Sheet.
 - The ITDD shall review and evaluate all submitted applications. A demonstration teaching may also be requested to screen applicants.
 - The BOC Pool of Trainers shall perform the following functions and responsibilities:
 - Act as ITDD consultants in all matters related to curriculum and training development;
 - Help in the development of Programs of Instruction (POIs) for courses/trainings related to their subject matter expertise;
 - Serve as lecturers/resource speakers during trainings; and
 - Guide the ITDD in preparation of training materials such as books, handouts, videos, presentations, and exams.

- Conduct of training for other government agencies, and private and professional organizations by the BOC Pool of Trainers must be coordinated with and endorsed by the ITDD for proper issuance of Customs Personnel Order (CPO).

Entitlements and Incentives for the BOC Pool of Trainers

- The ITDD shall create a program to develop competencies of the members of the BOC Pool of Trainers. Included in this program is a Train-the-Trainers Course, which shall be organized by the ITDD at least once a year.
- Members of the BOC Pool of Trainers shall be prioritized for international trainings as part of their competency development program. They shall likewise be required to learnings in the BOC POIs and training materials.
- Time allotted for lectures or conduct of trainings within or outside BOC (subject to proper issuance of CPO) and development of POIs, curriculum, and training materials by the BOC Pool of Trainers shall be considered official business.
- BOC Pool of Trainers who act as lecturers and resource persons in other government agencies may be paid honoraria depending on the difficulty and complexity of the subject matter, their professional qualifications, and the position levels of the participants subject to applicable accounting, budget, and audit rules and regulations of the agency authorities concerned.
- BOC Pool of Trainers shall also have additional points when applying for promotion. Point system shall be incorporated in the rating criteria for promotions set by the Human Resource Merit Promotion and Selection Board.

Repealing Clause

This Order repeals other orders and issuances that are inconsistent herewith.

Separability Clause

If, for any reason, any part or provision of this CMO is declared invalid, the other parts or provisions hereof which are not affected thereby shall remain in full force and effect.

Effectivity

This Order shall take effect immediately and shall last until revoked.

CMO 24-2020

Issue Date: September 18, 2020

Objectives

- Implement the ASEAN-Wide Self Certification Scheme (AWSC) under the First Protocol to Amend the ASEAN Trade in Goods Agreement ("First Protocol"), which provides for a simplified and streamlined procedure to claim and avail ASEAN Trade in Goods Agreement (ATIGA) preferential tariff rates for intra-ASEAN exports
- Set the operational procedure for Origin Declarations;
- Establish the criteria and operational procedure in the authorization of Certified Exporters;
- Establish the export procedures for Certified Exporters; and
- Provide guidelines for customs officers of the Preferential Rate Unit (PRU) or its equivalent unit in the port granting ATIGA preferential tariff rates for goods coming from ASEAN Member States (AMS) using Origin Declarations.

cf. CAO No. 8-2020, Section 3.13,
Section 4.5.4.

Scope

This Order covers originating goods of Certified Exporters exported to and imported from AMS.

Definition of Terms

ATIGA - the ASEAN Trade in Goods Agreement, which entered into force on 1 January 2010, as amended by the First Protocol;

Authorization - a privilege granted by the Bureau of Customs (BOC) to become a Certified Exporter;

Back-to-back Proof of Origin - a Proof of Origin issued by an intermediate exporting Member State based on the Proof of Origin issued by the first exporting Member State;

Bureau - the Bureau of Customs;

Certificate of Origin (CO) - the declaration of the exporter, certified by the Bureau or any other authorized government agency, that his or her export complies with the origin

requirements specified under bilateral, regional or multilateral trading arrangements to which the Philippines is a party.

CAO No. 8-2020, Section 3.5.

Certified Exporter - an exporter duly authorized by an AMS to make out an Origin Declaration on the origin of an originating good exported;

Export Coordination Division (ECD) - the office under the BOC's Port Operations Service (POS), Assessment and Operations Coordinating Group (AOCG) which is mandated to, among others, coordinate and monitor export activities in all Collection Districts, provide technical advice on export matter and coordinate with agencies that have dealings on matters pertaining to export

Export Division (ED) - the office or unit within any of the Collection Districts of the BOC that is responsible for the processing and approval of export declarations and other export-related matters;

Exporter - a natural or juridical person located in the territory of an AMS where a good is exported from by such a person;

Free Trade Agreement Oversight Committee (FOC) - the Committee tasked under Customs Memorandum Order 16-2011 to, among others, formulate plans and policies on how the operation of the FTA Preferential Tariff Scheme may be made more effective;

Importer - a natural or juridical person located in the territory of an AMS where a good is imported into by such a person;

Origin Declaration - a declaration on the origin of originating goods exported made out by a Certified Exporter in accordance with Rule 12 B of Annex 8 (Operational Certification Procedures) of the ATIGA;

Originating goods or originating materials - goods or materials that qualify as originating in accordance with the provisions of the ATIGA;

Preferential Rate Unit (PRU) - the Preferential Rate Unit or its equivalent units in all ports that shall evaluate the authenticity and validity of the Origin Declaration submitted by importers and grant ATIGA preferential tariff rates accordingly;

Proof of Origin - any commercial document other than a CO, sufficient to ascertain the origin of goods such as under Self-Certification Scheme. It is a confirmation of the declaration made by the exporter that the goods exported meets the rules of origin provisions set out in Chapter 3 (Rules of Origin) of the ATIGA; and

cf. CAO No. 8-2020, Section 3.10

Rules of Origin (ROO) - Chapter 3 (Rules of Origin) of the ATIGA, which provides for the rules in determining the originating status of goods and the procedures to claim preferential tariff treatment of goods originating from AMS, including Annex 8 (Operational Certification Procedure), ATIGA.

General Provisions

- The AOCG, through the ECD, shall carry-out proper examination of the application for Certified Exporter status as provided under the Operational Provisions of this Order. They shall also have the right to request for additional supporting documentary evidence, as necessary.
- The AOCG, through the ECD, shall maintain a Philippine AWSC database and monitor all Philippine Certified Exporters relative to their compliance with laws, rules and regulations pertinent to exportation and Rules of Origin.
- The ECD, through the Export Divisions (ED) or its equivalent unit, shall monitor the proper use of the authorization, including verification of the correctness or authenticity of Origin Declarations made out by Philippine Certified Exporters. Furthermore, the ECD or its equivalent unit, shall act on retrospective verification requests by the customs authorities of the importing AMS on Origin Declarations made out by Philippine Certified Exporters, in conformity with Rule 18 (Retroactive Check) of Annex 8 (Operational Certification Procedures) of ATIGA.
- The PRU shall evaluate the authenticity and validity of the Origin Declaration submitted by importers and grant ATIGA preferential tariff rates accordingly.
- The PRU, through the ECD, may request for verification when it has reasonable doubt as to the authenticity of the Origin Declaration made out by Certified Exporters of other AMS or as to the accuracy of the information regarding the origin of the goods or of certain parts thereof.
- The PRU or its equivalent units in all ports shall be provided access to view all Certified Exporters registered in the ASEAN AWSC database.

- The AOCG shall coordinate with the Management Information and Systems Technology Group on the information and communication technology requirement with regard to the implementation of this Order.

Operational Provisions

- **Application Procedures for Certified Exporter Status.**
 - An exporter which intends to be authorized as a Certified Exporter shall submit the following documentary requirements to the Bureau:
 - Duly accomplished application form;
 - Unique Reference Number as Philippine Economic Zone Authority (PEZA) locators and Client Profile Registration System for non-PEZA locators or other Free Zone locators;
 - List of official/s and their positions in the company authorized to sign the Origin Declaration with their respective specimen signatures (not to exceed ten (10) persons);
 - Evaluation report for goods applied for authorization to make out an Origin Declaration; and
 - In the case of a trader, a "manufacturer's declaration" (in the form of Attachment A) indicating the origin of the product for which it will make out Origin Declarations and readiness of the manufacturer to cooperate in retroactive check and verification visit should the need arise.
 - The application shall be submitted both in hard copy and in electronic Portable Document Format (PDF) to the Deputy Commissioner, AOCG through the Bureau's Customer Care Center (CCC).
 - The hard copies of the application and supporting documents must be placed in a long brown envelope properly labeled using size 16 Arial font with the following details, all in capital letters:
 - SUBJECT: APPLICATION AS CERTIFIED EXPORTER
 - FOR: DEPUTY COMMISSIONER, AOCG
ATTN: EXPORT COORDINATION DIVISION
 - Date (ex. SEPTEMBER 18, 2020);
 - Name of Exporter (ex. INTERNATIONAL LOCAL TRADING INC);
 - Exporter's Email address (ex. ilti@gmail.com);
 - Authorized Representative (ex. JOSE DE LA CRUZ);

- List of Documents submitted separated by Comma (ex. APPLICATION FORM, LIST OF OFFICIALS, EVALUATION REPORT, MANUFACTURER'S DECLARATION (if the applicant is a trader), ETC.; and
- TICKET NO. if scanned copy is submitted online
- In case of electronic copies, the same may be submitted online or through Flash Drive (USB). Only PDF file type shall be accepted and each document should be submitted as a separate file. The resolution of the electronic documents shall be at least 600dpi. The file name format shall be as follows:
 - AOCG.CE.APPLICATION FORM
 - AOCG.CE.LIST OF OFFICIALS
 - AOCG.CE.EVALUATION REPORT
 - AOCG.CE.MANUFACTURER'S DECLARATION (if the applicant is a trader)

The same template shall be applied in case there are other documents to be submitted.

- The ECD shall evaluate the same based on the following criteria:
 - Exporter is a legitimate exporter, who must have been transacting with the Bureau for at least one (1) year prior to the date of application;
 - Exporter must have been exporting products to at least one (1) AMS for at least one (1) year;
 - Exporter must have a good compliance measured by risk management of Bureau;
 - Exporter must have a sound bookkeeping and record keeping system;
 - Exporter must have responsible officer/s or person/s authorized to sign the Origin Declaration, who must have sufficient knowledge, competence in ROO application, including future changes in ATIGA ROO;
 - Exporter must be willing to be subjected to regular monitoring and inspection to determine the correctness of its declaration with respect to the goods exported; and
 - Exporter must be willing to cooperate in retroactive check and verification visits.
- After evaluation, if the application is found to be meritorious, the ECD shall recommend to the Deputy Commissioner, AOCG the granting of Certified Exporter status, and prepare the written Authorization with the corresponding authorization number including the date of

the authorization, within fifteen (15) working days from the date of receipt of application. Otherwise, it shall recommend disapproval of the application stating the reason/s for the denial.

- As endorsed by the ECD, either the written Authorization or letter of disapproval shall be duly signed by the Deputy Commissioner, AOCG.
- Immediately after the grant of Certified Exporter status, the ECD shall promptly include the following details in the ASEAN AWSC Database:
 - Legal name and address of the Certified Exporter;
 - Certified Exporter authorization number;
 - Issuance date, and expiry date if applicable, of the Certified Exporter authorization number;
 - List of products subject of the authorization, including product description under the Harmonized System (HS) in six digit or ASEAN Harmonized Tariff Nomenclature (AHTN) Code/s; and
 - List of authorized signatories and their respective specimen signatures.
- Any change in ECD evaluation shall be promptly included in the ASEAN AWSC database by the ECD in the same manner. Withdrawal or suspension of the authorizations shall also be included in the same manner by the ECD.
- The ECD shall include all Philippine Certified Exporters to the Philippine AWSC database for at least three (3) years from the date of granting the Certified Exporter status.
- **Obligations of Certified Exporters**
 - The following are the obligations of a Certified Exporter:
 - Keep its supporting records in relation to all Origin Declarations made out for not less than three (3) years from the date of making out of the Origin Declaration, for the purpose of the verification process pursuant to the ATIGA;
 - Allow the Bureau access to records and premises for the purpose of monitoring the use of the authorization and of the verification of the correctness of the declarations made. The records and accounts must allow for the identification and verification of the originating status of goods for which an Origin Declaration was made out, during at least three (3) years from the date of making out the Origin Declaration;
 - Make out the Origin Declaration only for goods for which the Certified Exporter has been authorized to make out an Origin Declaration and for which the

Certified Exporter has all the appropriate documents proving the originating status of the goods concerned at the time of making out the Origin Declaration;

- For the duration of the authorization, ensure that the person(s) responsible for making out the Origin Declarations know and understand ROO application, including any future amendments to the ATIGA ROO;
- Assume full responsibility for all Origin Declarations made out on behalf of the company, including any misuse;
- Promptly inform the ECD of any changes related to the information submitted under the section on ECD evaluation
- Submit a quarterly summary report of all Origin Declarations made out during the same period using the prescribed form and submit said report to the ECD, within seven (7) days after the end of each quarter; and
- Cooperate in retroactive checks and verification visits.

• **Procedures for Making Out Origin Declarations**

- The Certified Exporter shall, in case where export of goods satisfies the Chapter 3 of the ATIGA, make out an Origin Declaration on the commercial invoice.

However, if the Origin Declaration cannot be made out on the commercial invoice at the time of exportation, it may be made out on any of the following commercial documents: billing statement, delivery order or packing list, and will be accepted at the time of importation and clearance if submitted together with the commercial invoice.

In cases where the sales invoice is issued either by a company located in a third country or by an ASEAN exporter for the account of the said company, the Certified Exporter may make out the Origin Declaration on the billing statement, delivery order or packing list, subject to the same condition provided in the preceding paragraph.

- The Origin Declaration shall contain the following information:

Data Requirements	Required Information
1. Certified Exporter details	Certified Exporter Authorization Number

2. Description of Goods	<p>a) Name of the Product; b) HS in six digit or AHTN Code; c) Origin conferring criterion; d) Country of Origin; e) Free on Board (FOB) price when the regional value content origin criterion is used; f) Quantity of goods; g) Trademark, if applicable; and h) For the case of Back-to-back Origin Declaration, original Proof of Origin reference number, date of issuance, Country of Origin of the first exporting country, and, if applicable, Certified Exporter Authorization Code of the first exporting country</p>
3. Certification by an authorized signatory	<p>a) Certification by an authorized signatory of the Certified Exporter that the goods specified in the Origin Declaration meet all the relevant requirements of Rules of Origin based on the evidence provided. b) Authorized signature over printed/stamped name of the signatory.</p>

- The Origin Declaration should describe the goods in sufficient details to enable them to be identified for origin determination purposes.
 - The Origin Declaration must be signed by hand.
 - The date indicated in the document where the Origin Declaration was made out shall be considered as the issuance date of the Origin Declaration.
 - If in case the space provided for in the Origin Declaration is not sufficient to list out all the products, additional page/s could be attached, bearing the HS Codes, origin criterion and signature over printed name of the authorized signatory.
 - In cases where the Certified Exporter opts not to use an Origin Declaration, the Certified Exporter may still claim the ATIGA preferential tariff rate by applying for a Certificate of Origin (Form D).
- **Procedures for Making Out Back-to-back Origin Declarations**
- A Certified Exporter may make out a Back-to-back Origin Declaration provided that:
 - The said Certified Exporter has a valid original Proof of Origin from the first exporting Member State. In the

case where no original Proof of Origin is available, its certified true copy shall be used;

- The back-to-back Origin Declaration made out should contain some of the same information as the original Proof of Origin. The FOB price of the intermediate Member State should also be reflected in the back-to-back Origin Declaration;
- For partial export shipments, the partial export value shall be shown instead of the full value of the original Proof of Origin. The Certified Exporter making out a back-to-back Origin Declaration shall ensure that the total quantity re-exported under the partial shipment does not exceed the total quantity of the original Proof of Origin;
- Information on the back-to-back Origin Declaration includes the date of issuance and reference number of the original Proof of Origin; and
- The Certified Exporter making out the back-to-back Origin Declaration should be a Certified Exporter authorized to make out Origin Declarations for the exact same goods from the exact same manufacturer.

- **Monitoring and Verification**

- The ECD shall monitor the proper use of the authorization, including verification of the correctness of the Origin Declarations made out by Philippine Certified Exporters. Decisions on the frequency and depth of such action should be risk-based.
- Furthermore, the ECD will act on retrospective verification requests by the customs authorities of the importing AMS on Origin Declarations made out by Philippine Certified Exporters or PRU on Origin Declarations made out by Certified Exporters of AMS.

- **Import Procedures in Granting ATIGA Preferential Tariff Rate using an Origin Declaration**

- For shipments availing of the preferential tariff rate under ATIGA, the existing customs import procedures in Customs Memorandum Order (CMO) 16-2011 shall still apply, except that an Origin Declaration may be used in lieu of a Certificate of Origin (Form D). The Origin Declaration must accompany the import documents which must all be presented prior to the release of goods unless otherwise allowed under CMO 16-2011.
- Any Origin Declaration made out by an exporter or signatory or for a product not included in the ASEAN AWSC database shall not be accepted by the Bureau.

- If the importer is not in possession of a Proof of Origin, such as an Origin Declaration, at the time of importation, the importer may lodge a provisional goods declaration and request for release of the goods under tentative assessment. He shall submit the Proof or Origin within forty-five (45) days from lodgement which may be extended for another forty-five (45) days for valid reasons.
- For origin certification purposes, the Origin Declaration shall be valid for a period of twelve (12) months from the date it is made out and must be submitted to the Bureau within that period.

cf. CMTA, Title IV, Chapter 1, Section 403.

Where the Proof of Origin is submitted to the Bureau after the expiration of the time limit for its submission, such Origin Declaration is still to be accepted when failure to observe the time limit results from force majeure or other valid causes beyond the control of the exporter. In other cases of belated presentation, the Bureau may accept such Origin Declaration provided that the goods have been imported before the expiration of the time limit.

- Typographical error in the Origin Declaration shall not invalidate the same if it is duly established that the document does in fact correspond to the imported goods.
- For importation by installments, only one (1) Origin Declaration is required, which must be submitted upon the importation of the first installment.
- In cases where the exporting Member State and the Philippines have different tariff classifications for a good subject to preferential tariffs, the goods shall be released at the Most Favored Nation (MFN) rates or at the higher preferential rate, subject to the compliance of the applicable ROO, and no penalty or other charges shall be imposed in accordance with relevant laws and regulations of the importing Member State. Once the classification differences have been resolved, the correct rate shall be applied and any overpaid duty shall be refunded, if applicable, in accordance with relevant laws and regulations, as soon as the issues have been resolved.
- For multiple items declared under the same Origin Declaration, a problem encountered with one of the items listed shall not affect or delay the granting of preferential tariff rate and customs clearance of the remaining items listed in the Origin Declaration. Rules on the release under tentative assessment of goods may be applied to the items in question.

- When there is reasonable doubt as to the authenticity of the Origin Declaration or as to the accuracy of the information regarding the true origin of the products or certain parts thereof, a check with the competent authority of the exporting Member State shall be undertaken in accordance with Section 4.4 of Customs Memorandum Order No. 16-2011. The check may be in the form of a verification request or, as necessary, a request for a verification visit.
- In cases when an Origin Declaration is rejected by the PRU, the subject Origin Declaration shall be returned to the competent authority of the exporting Member State within a reasonable period not exceeding sixty (60) days together with the grounds for the denial of tariff preference.
 - The PRU-Formal Entry Division (FED) officer assigned shall prepare an official notification on a customs letterhead addressed to the FOC under CMO 16-2011, specifying the grounds for the denial of tariff preference.
 - The written request shall be signed by the PRU-FED officer duly noted by the Deputy Collector for Assessment and shall be accompanied by a copy of the Origin Declaration.
 - The Deputy Collector for Assessment shall cause the transmittal of the notification to the FOC which in turn shall make the official notification to the competent authority of the exporting Member State.
 - The Bureau may accept and consider the clarifications made by the competent authority of the exporting Member State and assess again whether or not the Origin Declaration can be accepted for the granting of the preferential treatment. The clarifications should be detailed and exhaustive in addressing the grounds of denial of preference raised by the Bureau.
- **Obligations of Importers Availing of ATIGA Preferential Tariff Rate using an Origin Declaration**
 - An importer or their representative, who has requested or has been granted preferential tariff rate, must, upon request of the Bureau personnel, submit documents to provide appropriate evidence of compliance which may be given by any means, including contractual transport documents such as bill of lading, packing list or any other evidence related to the goods themselves.
 - An importer or his representative, who has been granted preferential tariff rate, must keep the copy of Origin

Declaration and other relevant documents for at least three (3) years after the date on which preferential tariff rate was granted.

- An importer or his representative, who becomes aware of or have reason to believe that the Origin Declaration contains incorrect information, shall immediately notify the Office of the Deputy Commissioner, AOCG of any change affecting the originating status of the goods covered by an Origin Declaration.

Ground for Suspension or Revocation of the Authorization as Certified Exporters

The ECD shall suspend or revoke the authorization at any time if the Certified Exporter violates any provision of this Order.

Penalties

- Any violation of the provisions of this Order by the Philippine Certified Exporter shall constitute an offense and shall be penalized, as follows:
 - for the first offense, suspension of the authorization for a period of not less than three (3) months;
 - for the second offense, suspension of the authorization for a period of not less than six (6) months; and
 - for the third offense, revocation of the authorization.
- The above penalties shall be without prejudice to the imposition of other penalties under the Customs Modernization and Tariff Act and other applicable laws, rules, and regulations.

Repealing Clause

The following are hereby repealed or modified accordingly:

- Customs Memorandum Order No. 18 — 2015 (*Guidelines in the Implementation of the Second Pilot Project for the ASEAN Self-Certification System and of "Certified Exporters"*); and
- All other rules and regulations or parts thereof inconsistent with this Order.

Effectivity

This Order shall take effect on 20 September 2020.

CMO 25-2020

Issue Date: September 24, 2020

Scope

This CMO applies to Refund for overpayment or erroneous payment and other refund of duties and taxes as implemented under CAO 4-2019, and shall likewise apply to payment of refund arising from final decisions in protest cases, judicial decisions, special laws, and Executive or Presidential issuances, as well as payment of refund claims duly approved and endorsed by the Bureau of Internal Revenue (BIR) to the Bureau of Customs (Bureau).

Objectives

- Implement the policies on refund pursuant to CAO No. 04-2019;
- Provide detailed guidelines on the application, processing, approval, and payment of refunds;
- Ensure that there will be no double claims of refund of internal revenue taxes; and
- Provide simplified procedures on the utilization and revalidation of Tax Credit Certificates.

General Provisions

- Claims for refund of duties and taxes may be filed on any of the following grounds:
 - When there is error in the assessment or goods declaration;
 - When the Bureau permits a change in customs procedure, in the instances of consumption to warehousing, from one where duties and taxes are paid to another where no or less duties and taxes are required to be paid;
 - Manifest clerical errors made on an invoice or entry, errors in return of weight, measure and gauge; or
 - Errors in the distribution of charges on invoices not involving any question of law, which means only question of facts.

cf. CMTA, Title IX, Chapter 2, Section No. 903

cf. CMTA, Title IX, Chapter 2, Section No. 912

- No application for refund shall be accepted if the amount of claim is less than Five Thousand Pesos (PhP5,000.00). The Secretary of Finance, in consultation with the Commissioner, may adjust the minimum amount of refund, taking into account the Consumer Price Index, as published by the Philippine Statistics Authority.
- Applications for refund of duties and taxes shall be filed within twelve (12) months or 360 days from the date of payment of duties and taxes.
- Claims for refund of duties and taxes shall be filed at the Office of the District Collector (ODC) of the port where duties and taxes were paid. Payment of processing fees shall also be made at the Port where duties and taxes were paid, according to the schedule provided under Section 8 of this CMO.
- Eligible claims for refund of duties and taxes shall be processed, paid or granted within 60 days. The 60-day period shall only commence upon submission of all the mandatory documentary requirements under Section 4 hereof.
- If the claim is for refund of purely internal revenue taxes only, such as Value Added Tax (VAT), Excise Tax, etc., the application must be filed by the claimant with the BIR. In case the claimant erroneously filed an application for refund of purely internal revenue taxes with the Bureau, the ODC shall immediately inform the claimant to submit the application to the BIR and decline the processing of the said erroneously filed application on account of improper venue.
- The ODC shall submit to the Post Clearance Audit Group (PCAG), a monthly summary list of all applications for refund, which shall contain the name of the importer or claimant, Import Entry Number and the amount of claim.
- Payment of refund of duties and taxes shall preferentially be in the form of cash; Provided, that it is included in the budget of the Bureau for the particular fiscal year and subject to compliance with existing laws, rules and regulations. The Budget Division is encouraged to include the refund item in the proposal of the annual budget of the Bureau.
- In cases where the claimant elects for payment of tax credit certificate (TCC) instead of cash, or where cash payment is not authorized under the law, the TCC thus issued in the name of the claimant shall not be assigned or transferred to any person or entity.
- Payment of refund of purely internal revenue taxes duly approved by the BIR and endorsed to the Bureau shall follow the procedure under the Payment of BIR Approved Claims section hereof. Provided, that the endorsement includes the

cf. CAO 4-2019, Section 5.2.

cf. CAO 4-2019, Section 5.3.

cf. CAO 4-2019, Section 9.

CAO 4-2019, Section 7.5.

cf. CAO 4-2019, Section 4.

cf. CMTA, Title IX, Chapter 2, Section No. 913

cf. CAO No. 4-2019, Section 7.6.

cf. CAO No. 4-2019, Section 7.3.

cf. CAO No. 4-2019, Sec. 7.4.

Authority to Issue VAT/Excise Tax Refund or Credit, Memorandum Evaluation Report and the entire records of the docket.

- Payment of refund arising from final decisions in protest cases, judicial decisions, special laws, and Executive or Presidential issuances shall follow the procedure under the Payment of Refund arising from Final Decisions in Protest or Civil Cases and other Issuances section hereof.
- The Financial Management Office (FMO) shall submit to PCAG, a monthly summary list of all approved claims, which shall contain the name of the importer or claimant, Import Entry Number and the amount of claim.

cf. CAO No. 4-2019, Section 7.6.

Application for Refund

- **Procedure at the Office of the District Collector**
 - Upon payment of the Refund Processing Fee, the claimant shall file the application for refund of duties and taxes using a standard Application Form, signed by the claimant or by a duly authorized representative, thru Special Power of Attorney or in case of corporations, duly notarized Secretary's Certificate. The Application Form must be duly sworn to before a Notary Public.
 - The notarized Application Form shall be supported by following documentary requirements:
 - Single Administrative Document (SAD) or original Import Entry Declaration, as the case may be;
 - Statement of Settlement of Duties and Taxes (SSDT) and/or Original Bureau of Customs Official Receipt (BCOR), as applicable;
 - Original Bill of Lading;
 - Original Commercial Invoice;
 - Original Packing List;
 - Original Certificate of Origin, whenever applicable;
 - Original Official Receipt of payment of Refund Processing Fees;
 - If the application for refund of duties includes a refund of internal revenue taxes, Certification from BIR that the same has not been claimed as creditable input tax nor has it been the subject of a similar claim for refund with the BIR;
 - Other documents to prove basis of claim for refund.
 - Claimants are also required to submit an additional set of certified true copies and digitized/scanned copies of the

Annex A – Application for Refund.

cf. CAO No. 4-2019, Section 5.5.

mandatory documentary requirements enumerated in the notarized Application Form.

- Upon receipt of the Application Form with supporting documents, the ODC shall do the following simultaneously:
 - Transmit the Application Form with original supporting documents to the Law Division, for evaluation and disposition;
 - Forward the Request for Verification of Payment with attached certified true copies of supporting documents to the Revenue Accounting Division (RAD), for verification if duties and taxes were actually paid and remitted to the Bureau of Treasury,
 - Forward the Request for Certification of No Outstanding Obligation to the Collection Service, for verification of outstanding liabilities of the claimant, if any;
- The RAD shall cause the immediate verification of the payment of duties and taxes and transmit the duly accomplished Certification of Payment to the Law Division of the Port concerned, within three (3) days from receipt of the Request for Verification of Payment. In cases where the SSDTs or BCORs are voluminous, the RAD shall have five (5) days to verify and transmit the Certificate of Payment to the Law Division.
- The Collection Service shall verify if the claimant has outstanding obligations with the Bureau and thereafter transmit the Certificate of No Obligation to the Law Division of the Port concerned, within two (2) days from receipt of the Request for Certification of No Outstanding Obligation;
- The Law Division shall have fifteen (15) days from receipt of the docket to evaluate the application for refund. Upon receipt, the Law Division shall immediately review the Application and check for completeness of supporting documents. In case the documents are not sufficient to support the claim for refund, the Chief, Law Division shall immediately send notice to the claimant electronically via email and state the documents necessary to evaluate the claim. The notice to submit additional documents once sent shall toll the running of the 15-day evaluation period and shall recommence once the documents required are submitted by the claimant. In any case, where the documents required are obtainable within the Bureau, the request for submission or notice shall be given to the division or unit concerned.

Annex B- Request for Verification of Payment of Duties and Taxes.

cf. CAO No. 4-2019, Section 7.1.

Annex C – Request for Certification of No Outstanding Obligation.

- Upon submission of the complete documentary requirements, the Law Division shall review the claim and issue a Disposition Form with Statement of Refund indicating its recommendation on the application for refund and forward the same to ODC for appropriate action.
- Within five (5) days from receipt of the docket with the Disposition Form and Statement of Refund issued by the Law Division, the ODC shall either approve or disapprove the application.
- If the claim is approved, the ODC shall sign the Statement of Refund and forward it together with the entire docket folder to the Office of the Commissioner (OCOM) for automatic review within five (5) days from date of promulgation. The documents to be forwarded to the OCOM shall include the following:
 - Statement of Refund;
 - Disposition Form;
 - Single Administrative Document (SAD) or original Informal Entry Declaration, as the case may be;
 - Statement of Settlement of Duties and Taxes (SSDT) and/or Original Bureau of Customs Official Receipt (BCOR), as applicable;
 - Original Bill of Lading;
 - Original Commercial Invoice;
 - Original Packing List;
 - Original Certificate of Origin, whenever applicable;
 - Original Official Receipt of payment of Refund Processing Fees;
 - If the application for refund of duties includes a refund of internal revenue taxes, Certification from BIR that the same has not been claimed as creditable input tax nor has it been the subject of a similar claim for refund with the BIR; and
 - Other documents to prove basis of claim for refund.
- If the claim is disapproved, the ODC shall notify the claimant via electronic mail and/or regular mail stating the reasons for the disapproval. The claimant may file an appeal on the denial by the District Collector of a claim for refund, whether it is full or partial denial, with the OCOM within thirty (30) days from the date of the receipt of the denial. In case the claimant files an appeal, the ODC shall forward the docket as enumerated in the previous section to the OCOM for their consideration.

- **Procedure at the Office of the Commissioner**

- Upon receipt of the docket from the ODC, on automatic review or appeal, the OCOM shall immediately forward it to the Legal Service, Revenue Collection and Monitoring Group, for review. The Legal Service shall have fifteen (15) days from receipt thereof to review the decision of the ODC and to issue a Disposition Form for consideration of the OCOM.
- In cases where the Legal Service deems that submission of additional documentary evidence is necessary, the Legal Service shall immediately send notice to the claimant electronically via email, copy furnish the ODC concerned and state the documents necessary to review the approval of the claim. The notice to submit additional documents once sent shall toll the running of the 15-day evaluation period and shall recommence once the documents required are submitted by the claimant. In any case, where the documents required are obtainable within the Bureau, the request for submission or notice shall be given to the division or unit concerned.
- The OCOM shall either approve or disapprove the Disposition Form issued by the Legal Service within ten (10) days from receipt thereof.
- If the claim is approved, the docket shall be elevated to the DOF for automatic review, within five (5) days from date of promulgation. If the OCOM fails to render a decision within thirty (30) days from receipt of records, the same shall be automatically elevated to the DOF for review.
- If the claim is disapproved, a notice shall be sent to the claimant via electronic mail and/or regular mail, stating the reasons for the disapproval. The claimant may also appeal to the Court of Tax Appeals the denial of his claim within thirty (30) days from receipt of the decision of OCOM.

cf. CAO No. 4-2019, Sec. 8.2.

- **Automatic Review of the Department of Finance**

- Upon filing of appeal or if elevated for automatic review, the DOF shall require the transmittal of the entire docket of the claim for refund from the Bureau. Upon receipt of the entire docket/ the DOF shall automatically review the decision on the claim for refund.
- The decision of the Secretary of Finance is final upon the Bureau. If the approval is affirmed, the DOF shall return the docket to the Bureau for payment as provided under the Payment section hereof [Attn: Tax Credit Secretariat].
- If the claim is denied on review, the DOF shall return the docket to the Bureau [Attn: Tax Credit Secretariat], who will notify the claimant of the disapproval via electronic mail and/or regular mail, stating the reasons therefor.

cf. CAO No. 4-2019, Sec. 8.1.

cf. CAO No. 4-2019, Sec. 8.2.

Payment

- **Procedure for Cash Payment**

- Subject to the General Provisions hereof, upon receipt of the docket with final approval of the claim for refund, the Tax Credit Secretariat shall notify the claimant to renew and update, if necessary, the Certificate of No Outstanding Obligation.
- The Tax Credit Secretariat shall then forward the docket to RAD for preparation of Journal Entry. Thereafter, RAD shall forward the Journal Entry to the Accounting Division, FMO for preparation of the request for Bureau of Treasury (BTr) Certification.
- Upon receipt of the BTr Certification, the FMO shall request the Department of Budget and Management (DBM) for a Notice of Cash Allocation (NCA).
- Immediately upon receipt of the NCA from DBM, the FMO shall prepare the Disbursement Voucher and forward it to the Cashier for preparation of check.

- **Procedure for Payment by Tax Credit Certificate (TCC)**

- Upon receipt of the docket with final approval of claim for refund, the Tax Credit Secretariat shall notify the claimant to renew and update, if necessary, the Certificate of No Outstanding Obligation.
- The Tax Credit Secretariat shall forward the docket to the Accounting Division, FMO for preparation of Disposition Form and TCC, for signature of OCOM or his duly authorized TCC signatory.

- **Payment of BIR Approved Claims**

- Refund of internal revenue taxes duly approved by the BIR and endorsed to the Bureau for payment shall be supported by the following documents:
 - Authority to Issue VAT/Excise Tax Refund or Credit Letter of Endorsement issued by BIR;
 - Memorandum Evaluation Report on the claim;
 - Certification of Payment issued by RAD;
 - Certificate of No Outstanding Obligation issued by the Collection Service;
 - Official Receipt of Refund Processing Fee; and
 - Entire docket or records of the claim.
- Upon verification of the completeness of the documents, the Tax Credit Secretariat shall forward the docket to the FMO for evaluation of the amount to be refunded.

- Upon the issuance by the FMO of its recommendation on the amount to be refunded, the Tax Credit Committee shall issue a Disposition Form containing its recommendation for approval of OCOM.
- Upon approval of the OCOM, payment of the claim shall be processed under Procedure for Cash Payment or Procedure for Payment by Tax Credit Certificate (TCC) hereof, as the case may be.
- **Payment of Refund arising from Final Decision in Protest or Civil Cases and other Issuances**
 - Payment of refund of duties and taxes arising from final decisions in protest cases and judicial decisions shall be supported by the original or certified true copy of the final decision, including the Entry of Judgment in case of judicial decisions, and other documents that may be required.
 - Upon receipt of the final decision involving refund, the OCOM shall immediately forward it to the Legal Service, Revenue Collection and Monitoring Group, for review. The Legal Service shall have fifteen (15) days from receipt thereof to check for completeness of documents as well as to resolve questions of law, if any, and to issue a Disposition Form for consideration of the OCOM.
 - In cases where the Legal Service deems that submission of additional documentary evidence is necessary, the Legal Service shall immediately send notice to the claimant electronically via email, and state the documents necessary to review the approval of the payment of the claim. The notice to submit additional documents once sent shall toll the running of the 15-day evaluation period and shall recommence once the documents required are submitted by the claimant. In any case, where the documents required are obtainable within the Bureau, the request for submission or notice shall be given to the division or unit concerned such as but not limited to Certificate of Payment and Certification of No Outstanding Obligation.
 - Upon approval of Disposition Form, the OCOM shall forward the docket to the Tax Credit Secretariat and follow the rules on payment under Procedure for Cash Payment and Procedure for Payment by Tax Credit Certificate (TCC), whichever is applicable.

Utilization of TCC

- The original grantee of the TCC shall file with the Tax Credit Secretariat, a notarized Request for Utilization of TCC, signed by the applicant or by a duly authorized representative, thru Special Power of Attorney or in case of corporations, duly notarized Secretary's Certificate, supported by the following:
 - Original TCC/s;
 - Previous Tax Debit Memos, if any;
 - IEIRD/SAD;
 - Bill of Lading/Airway Bill;
 - Packing List;
 - Commercial Invoice; and
 - Other pertinent documents, as may be required.
- Applicants for utilization of TCCs shall be required to submit an additional set of certified true copies and digitized/scanned copies of the mandatory documentary requirements enumerated in the previous section.
- Upon filing of the Request for Utilization of TCC, the Tax Credit Secretariat shall immediately check for completeness of documents and shall inform the applicant of documentary deficiencies, if any, and require the submission thereof immediately. Request for Utilization of TCCs shall only be processed once all the mandatory documentary requirements and duly submitted to the Tax Credit Secretariat.
- Upon submission of complete supporting documents, the Tax Credit Secretariat shall do the following simultaneously:
 - Forward the Request for Certification of No Outstanding Obligation to the Collection Service, for verification of outstanding liabilities of the claimant, if any; and
 - Forward the Request for Verification of Authenticity and Balance of the TCC/s to the FMO.
- The Collection Service shall verify if the applicant has outstanding obligations with the Bureau and thereafter transmit the Certificate of No Obligation to the Tax Credit Secretariat within two (2) days from receipt of the Request for Certification of No Outstanding Obligation;
- The FMO shall verify if the TCC is authentic and duly issued by the Bureau and shall certify the updated balance thereof. The FMO shall transmit the Certificate of Authenticity and Balance to the Tax Credit Secretariat within two (2) days from receipt of the Request for Request for Verification of Authenticity and Balance of the TCC/s.

Annex E – Application for Utilization of TCC.

Annex C – Request for Certification of No Outstanding Obligation.

Annex F – Request for Verification of Authenticity and Balance of TCC.

- Upon consolidation of the aforesaid documentary requirements, the Tax Credit Committee shall review the Request for Utilization of TCC and issue a Disposition Form, indicating its recommendation, including the percentage of utilization (e.g. 30%, 50% or 100%) and forward the same to OCOM for approval.
- The approved Disposition Form shall be routed to the FMO for evaluation and thereafter forwarded to RAD for issuance of Tax Debit Memo (TDM). The TDM shall bear the original amount, the creditable balance, and the amount to be charged or deducted from the particular TCC sought to be utilized for the payment of duties and taxes. However, no TDM shall be issued if the applicant has outstanding obligations with the Bureau.

cf. CAO No. 4-2019, Section 7.3.

Revalidation of TCC

- If the TCC is not fully utilized within sixty (60) days prior to its expiration, the original grantee of the TCC must file with the Tax Credit Secretariat, a notarized Request for Revalidation of TCC, signed by the TCC grantee or by a duly authorized representative, thru Special Power of Attorney or in case of corporations, duly notarized Secretary's Certificate. The Request for Revalidation of TCC shall be supported by the original copy of the TCC, previous Tax Debit Memos, if any, and other pertinent documents, as may be required.
- Applicants for revalidation of TCCs shall be required to submit an additional set of certified true copies and digitized/scanned copies of the mandatory documentary requirements enumerated in the previous section.
- Upon filing of the Request for Revalidation of TCC, the Tax Credit Secretariat shall immediately check for completeness of documents and shall inform the applicant of documentary deficiencies, if any, and require the submission thereof immediately. Request for Revalidation of TCCs shall only be processed once all the mandatory documentary requirements are complete and duly submitted to the Tax Credit Secretariat.
- Upon submission of complete supporting documents, the Tax Credit Secretariat shall forward a Request for Certification of No Outstanding Obligation to the Collection Service, and likewise forward a Request for Verification of Authenticity and Balance of the TCC/s to the FMO.
- Upon consolidation of the aforesaid documentary requirements, the Tax Credit Committee shall review the Request for Revalidation of TCC and issue a Disposition Form,

Annex G – Application for Revalidation of TCC.

cf. CAO No. 4-2019, Section 7.2.1.

indicating its recommendation thereon and forward the same to OCOM for approval.

cf. CAO No. 4-2019, Section 7.2.2.

- If the Request for Revalidation of TCC is duly approved, the preparation of a revalidated TCC shall follow the procedure in Procedure for Payment by Tax Credit Certificate (TCC).
- The revalidated TCC shall indicate the original date of issuance and the revalidated period of effectivity, which shall in no case exceed the total validity period of ten years from the original date of issuance.

cf. CAO No. 4-2019, Sections 7.4. and 7.2.3.

Fees

- A processing Fee shall be imposed upon every application for tax Credit and Refund, based on the following schedule:

cf. CAO No. 402019, Section 9

AMOUNT OF CLAIM			PROCESSING FEES
Up to	PhP	50,000	700.00
Over	PhP 50,001 to	100,000	900.00
Over	100,001 to	200,000	1,100.00
Over	200,001 to	300,000	1,300.00
Over	300,001 to	400,000	1,500.00
Over	400,001 to	500,000	1,700.00
Over	500,001 to	750,000	2,300.00
Over	750,001 to	1,000,000	3,000.00
Over	1,000,001 to	5,000,000	4,000.00
Over	5,000,001 up		5,000.00

- Other fees include Documentary Stamp, Internal Revenue Stamp, and Tax Credit Certificate fee.

Repealing Clause

This CMO specifically amends or repeals previously issued CMOs which are inconsistent with the provisions herein stated.

Effectivity

This CMO shall take effect on 09 October 2020.

MISTG MEMORANDUM NO. 11-2020

Issue Date: September 1, 2020

In accordance with JMO No. 01-2020 dated 28 August 2020, please be informed that the Fuel Marking Fee (FMF) for gasoline, diesel and kerosene will be implemented in the E2M System pursuant to the said Joint Circular effective 04 September 2020.

Below are the HS Codes of petroleum products subject to the computation of Fuel Marking Fee using the code "FMF" in the E2M Customs System:

Petroleum Product Subject to Fuel Marking	HS Code	HS Description	Applicable Volume Adjustment
Gasoline	2710.22.11	Motor spirit, leaded - Of RON 97 and above	1.10
	2710.12.11.100	Blended with ethanol	None
	2710.12.12	Motor spirit, leaded - Of RON 90 and above but below RON 97	1.10
	2710.12.13	Motor spirit, unleaded - Of RON 97 and above-Unblended	1.10
	2710.12.22	Motor spirit, unleaded - Of RON 97 and above- Blended with ethanol	None
	2710.12.23	Motor spirit, unleaded - Of RON 97 and above-Other	1.10
	2710.12.24	Motor spirit, unleaded - Of RON 90 and above but below RON 97: Unblended	1.10
	2710.12.25	Motor spirit, unleaded - Of RON (0 and above but below RON 97: Blended with ethanol	None
	2710.12.26	Motor spirit, unleaded - Of RON 90 and above but below RON 97: Other	1.10
	2710.12.27	Motor spirit, unleaded- Of other RON: Unblended	1.10
	2710.12.28	Motor spirit, unleaded - Of other RON: Blended with ethanol	None
	2710.12.29	Motor spirit, unleaded - Of other RON: Other	1.10
Diesel	2710.19.71	Diesel fuel: Automotive diesel fuel	1.02
	2710.19.72	Diesel fuel: Other diesel fuel	1.02
Kerosene	2710.19.83	Other kerosene	None

AOCG MEMORANDUM 152-2020

Issue Date: September 1, 2020

Pursuant to the implementation of Customs Memorandum Order No. 042020, the Collection Districts and offices concerned are hereby directed to ensure that all containers processed for PEZA shall adhere to the following guidelines:

- **Destination** - during the trip booking process (www.ecms.ph) the stakeholder shall choose the economic zone where the locator is situated from the dropdown geozones.
- **Electronic GPS** — FCL containers bound to PEZA locator from Port of Discharge shall be sealed with Electronic GPS
- **Sealing** — The arming/affixing of electronic seal shall be undertaken by the Service Provider personnel under the supervision of Piers and Inspection Division personnel at the port of discharge.
 - They shall be responsible for checking the truck details and documents against the booking details.
 - They shall also take a visual evidence of the container wherein the container number, container seal number for the particular voyage and electronic Customs seal are visible as visual evidence and transmit to the control tower.
 - Once Start Trip Authorization is approved by the control tower, the procedures outlined in Sec. 10.10 of CMO No. 04-2020, the vehicle carrying the imported cargo can leave the vicinity to proceed to its destination.
- **Disarming** - Upon arrival of the vehicle and container at the destination (**Tag Arrived** upon entering the geozone), the Bureau's authorized personnel shall perform the following before removing/disarming the Electronic Customs Seal from the container:
 - They shall compare the container's visual evidence during sealing of Electronic Customs seal against the actual container that arrived and look for any discrepancy or signs of tampering (if there is any)
 - Compare if the container seal number for the particular voyage as well as the Electronic Customs seal number is the same as that indicated in the trip details.
 - The above information shall be transmitted to the control tower for the approval of the end trip.

- Once end trip is authorized, the Bureau's authorized personnel shall disarm the container by removing the Electronic Customs Seal (cargo is Tag Received)

This Memorandum shall initially cover all PEZA importations from the Port of Manila, Manila International Container Port and Port of Batangas bound to Laguna Technopark, Inc. (LTI) and Cavite Economic Zone (CEZ). Other economic zones shall be issued another memorandum to be issued by the Deputy Commissioner of Assessment and Operations Coordinating Group.

Brokers and Locators from LTI and CEZ are enjoined to register from September 113, 2020. Failure to register on the said period will cause undue delay in the processing of customs clearance. COOV will not approve any customs clearance without the required E-TRAC Booking as prescribed in Section 10.4 of CMO 04-2020.

Stakeholders are required to self-register in ETRACC System at www.ecms.ph. ETRACC System is a web-based system that can be accessed through android phones, tablets, laptops, or desktops as long as internet connection is available. For further inquiries or concerns, please feel free to call Ascent Customer Support 88215691, 0919-0793049, 09173887917, 09153333777, 09209732867.

Start of Implementation shall be on September 14, 2020 and September 28, 2020 for Laguna Technopark Inc. and Cavite Economic Zone respectively. All containers discharged from the above-mentioned seaports covered by transit SAD bound to LTI and CEZ must be sealed with Electronic Customs Seal under E-TRACC System.

The District Collectors are hereby reminded to inform their respective operating units and stakeholders affected by the implementation of the said CMO.

FOR STRICT COMPLIANCE.

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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