



# CUSTOMS GAZETTE

**Updates on Customs-Related Matters**

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# In Brief

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# CAO 13-2020

Issue Date: October 21, 2020

## ***Introduction***

This Customs Administrative Order (CAO) is issued pursuant to Section 204, Chapter 1, Title II, in relation to CAO No. 17-2019 on Abandonment: Kinds, Effects and Treatment, Sections 1129 and 1130, Chapter 6, Title XI, Section 1300, Title XIII, and other related provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

## ***Scope***

This CAO shall cover all impliedly abandoned goods, whether for consumption, warehousing, admission or transshipment.

## ***Objectives***

- Effectively implement the provisions of the CMTA relating to impliedly abandoned goods;
- Impose penalties, surcharges, interests and other charges on the Lifting, Claiming, or recovery of proceeds in the sale of impliedly abandoned goods; and
- Provide guidelines on the imposition of penalties, surcharges, interests and other charges therefor.

## ***Definition of Terms***

**Claiming** - the privilege granted to the importer, owner or consignee to lodge the Goods Declaration, or to cause the release of the shipment where duties, taxes, and other charges have already been paid, in its favor within a period prescribed under the CMTA.

**Date of Discharge of Last Package** - the date when the last cargo intended for discharge in the port of entry has been unloaded from the carrier

**Filing** - the submission of the hard copy of the Goods Declaration coupled with complete set of requisite supporting documents.

**Final Assessment** - the assessment deemed final fifteen (15) days after receipt of the notice of assessment by the importer or consignee.

cf. Customs Memorandum Order (CMO)  
No. 15-94, Section B.2. (B.2.1.)

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

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

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

**Lifting** - the process of allowing the Lodgement and Filing of Goods Declaration or continuation of the customs clearance process involving the shipment, and subsequent release thereof to the owner, importer or consignee. This includes the reactivation of the Bureau's automated system for the particular shipment or Goods Declaration from abandoned to active status.

**Lodgement** - the registration of a Goods Declaration with the Bureau.

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

**Mark** - the label which is legibly, indelibly and permanently printed or attached, as the nature of the foreign goods or container will permit, showing the ultimate purchaser thereof in the Philippines, and the name of the country of origin of such goods, in the official language of the Philippines.

cf. CMTA, Title VII, Chapter II, Section 710

**Perishable Goods** - goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense, which may be proceeded to, advertised and sold at auction upon notice if deemed reasonable.

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

## ***General Provisions***

- The Commissioner, subject to the approval of the Secretary of Finance, shall promulgate rules and regulations for the enforcement of the CMTA.
- Consistent with its mandate to ensure facilitation of international trade and commerce and to prevent abuse, the Bureau shall ensure that prescribed periods provided by the CMTA are complied with by the stakeholders so that goods are released on time.
- The Bureau is likewise bound to minimize, if not prevent, any instance of overstaying or impliedly abandoned cargoes in the terminal facilities to protect public interest
- For services rendered and documents issued in relation to the Lifting, Claiming, or recovery of proceeds in the sale, of impliedly abandoned goods by the stakeholder, fees and charges shall be collected by the Bureau

CMTA, Title I, Chapter 1, Section 204.

CMTA, Title II, Chapter 1, Section 202

cf. CMTA, Title III, Chapter 2, Section 307

cf. CMTA, Title III, Chapter 2, Section 304

cf. CMTA, Title XIII, Section 1300

- The District/Port Collector shall strictly monitor the period within which goods may be declared impliedly abandoned. It is his or her responsibility to issue a Decree of Abandonment against such goods after the lapse of the period.

## ***Impliedly Abandoned Goods***

The following goods are considered impliedly abandoned:

- Failure to Lodge/File the Goods Declaration after lapse of the original fifteen (15) calendar days or as adjusted by the Commissioner, from the Date of Discharge of the Last Package
- Failure to Lodge/File the Goods Declaration after the lapse of the approved extension of fifteen (15) calendar days
- Failure to pay the assessed duties and taxes fifteen (15) calendar days from Final Assessment
- Failure to pay the assessed duties and taxes in case of regulated goods which are subject of an alert order, within fifteen (15) calendar days from Final Assessment from receipt of the Order of Release and Lifting the Alert or Order Lifting the Alert
- Failure to submit the required documents, permits or clearances, or information under the following instances, whichever comes first:
  - In case of provisional Goods Declaration, within forty-five (45) calendar days from the date of Lodgement or after the lapse of the approved extension of forty-five (45) calendar days; or
  - Under Section 117 of the CMTA within fifteen (15) calendar days from Final Assessment
- Failure to claim the goods within thirty (30) calendar days from payment of the assessed duties, taxes, fees, interests and other charges; or
- Failure to claim passenger baggage within thirty (30) calendar days from arrival thereof or from payment of the assessed duties, taxes and other charges
- Failure to claim mail matter within thirty (30) calendar days from the third delivery of the notice card to the addressee or claimant
- Failure to Mark the Goods within thirty (30) calendar days after the receipt of notice to Mark from the District Collector concerned
- Failure to withdraw the imported raw materials or imported goods within one (1) year from the date of arrival at the customs bonded warehouse (CBW).

cf. CMTA, Title XII, Chapter 6, Section 1129(b) in relation to Title IV, Chapter 1, Section 407

cf. CMTA, Title XII, Chapter 6, Section 1129(b) in relation to Title IV, Chapter 1, Section 407

cf. CMTA, Title XII, Chapter 6, Section 1129(c)

cf. CMTA, Title XII, Chapter 6, Section 1129(c)

CAO No. 17-2019, Section 4.2.3.

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

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

cf. CMTA, Title XI, Chapter 6, Section 1129(c) in relation to Title I, Chapter 3, Section 117

cf. CMTA, Title XI, Chapter 6, Section 1129(d)

cf. CAO No. 1-2017, Section 10.4 and Section 11.4

cf. CAO No. 1-2017, Section 4.15.

cf. CAO No. 3-2017, Section 4.1.3.

cf. CMTA, Title VII, Chapter 2, Section 710(e)

cf. CAO No. 13-2019, Section 5.14.2; cf. CMTA, Title XI, Chapter 6, Section 1129(e), in relation to Title VIII, Chapter 2, Section 811

- Failure to withdraw Perishable Goods within three (3) months from the date of arrival at the CBW.
- Failure to withdraw Perishable Goods after the lapse of the approved extension of three (3) months to withdraw the goods from the CBW.

cf. CAO NO. 13-2019, Section 5.14.2; cf. CMTA, Title XI, Chapter 6, Section 1129(e) in relation to Title VIII, Chapter 2, Section 811

cf. CAO No. 13-2019, Section 5.14.2; cf. CMTA, Title XI, Chapter 6, Section 1129(e), in relation to Title VIII, Chapter 2, Section 811

## ***Lifting, Claiming, or Recovery of Proceeds in the Sale of Impliedly Abandoned Goods***

- **Lifting of Implied Abandonment of Goods**
  - The implied abandonment of goods may be lifted by the District Collector upon request by the owner, importer or consignee, subject to the payment of fees and charges in accordance with the schedule provided under this CAO.
  - The request for Lifting shall clearly indicate the following information:
    - Reasons why the goods were impliedly abandoned;
    - Whether the goods were declared abandoned by the Bureau's automated system, or whether a Decree of Abandonment has already been issued against the goods;
    - Number of times in the past that the importer has requested for Lifting of abandonment for its shipments; and
    - Whether the goods are subject of an Alert Order or a Warrant of Seizure and Detention. In this case, a clearance shall be secured from CIIS, ESS, Law Division, MISTG, at the Port is required, with the MISTG confirming the inactive status of the lodgement or shipment.
- **Claiming of Impliedly Abandoned Goods.** The owner, importer or consignee may request to lift or set aside the Decree of Abandonment and claim the impliedly abandoned goods by paying the fees and charges therefor.

This Request shall clearly indicate the following information:

- Details of the shipment including the date of payment of duties and taxes therefor.
- Whether a Decree of Abandonment has already been issued against the goods;
- Number of times in the past that the importer has requested to claim its impliedly abandoned shipments;
- Whether the goods are subject of an Alert Order or a Warrant of Seizure and Detention. In this case, a clearance shall be secured from CIIS, ESS, Law Division, at the Port.

- Once the implied abandonment has been lifted and unless the same has already been released by the Bureau, the owner, importer or consignee of the imported goods may reclaim the impliedly abandoned imported goods by lodging/Filing the corresponding Goods Declaration, subject to the following conditions:
  - The subject goods have not been disposed by the Bureau;
  - The Goods Declaration is lodged within (30) calendar days after the lapse of the fifteen (15) calendar days period to file;
  - The duties, taxes and other charges have been paid in full;
  - The charges and fees due to the port or terminal operator have been paid in full;
  - The expenses incurred before the release of the imported goods from customs custody have been paid in full; and
  - Compliance with all other pertinent legal requirements
- Where the owner or importer of the imported goods intends to claim the proceeds of the sale after deduction of any duty and tax and all other charges and expenses incurred as provided in Section 1143, Section 1141 and Section 1144 of the CMTA, the claimant may file a request therefor at the Office of the District Collector within a period of thirty (30) calendar days from payment of the auction price by the winning bidder.
  - The request shall clearly indicate the following information:
    - Details of the shipment;
    - Reasons why the goods were impliedly abandoned;
    - Number of times in the past that the importer has claimed for the proceeds for the sale of its abandoned shipments; and
    - Whether the goods were subject of an Alert Order or a Warrant of Seizure and Detention (Clearance from CIE, ESS District Command, Law Division, MISTG, at the Port).
  - The District Collector shall forward the request to the Law Division or equivalent unit of the Port to determine whether no offense has been committed against the goods or against the owner, importer or consignee. The Law Division or equivalent unit of the port shall conduct summary proceedings similar to a forfeiture proceedings.
  - Any decision allowing the release of the proceeds shall be considered as decision adverse to the government and therefore subject to review by the Commissioner or the Secretary of Finance, as the case may be.

cf. CAO No. 17-2019, Section 4.2.4; cf. CMTA, Title XI, Chapter 6, Section 1129 (d)

cf. CAO No. 17-2019, Section 4.5.5; cf. CMTA, Title XI, Chapter 6, Section 1130

cf. CAO No. 17-2019, Section 4.5.6; cf. CMTA, Title XI, Chapter 6, Section 1130

## Penalties, Surcharges, Interests and other Charges

The following penalties, surcharges, interests and other charges shall be imposed for the Lifting, Claiming, or recovery of proceeds in the sale of impliedly abandoned goods:

	Reason for the Request for Lifting of Impliedly Abandoned Goods	Penalty in Php  With Decree of Abandonment; Without Decree of Abandonment	Surcharge after 15 days from final assessment to be based from total assessed amount or balance thereon <sup>21</sup>	Interest to be computed from date of final assessment and shall likewise accrue on any fine or penalty imposed <sup>22</sup>	Docket and Request Charge in Php  With Decree (Docket Charge) Without Decree (Request Charge)	Documentary Stamp Tax (DST) for the Order granting the request
1	Failure to Lodge/File the Goods Declaration after the lapse of the original fifteen (15) calendar days or as adjusted by the Commissioner, from discharge of the last package	<u>20,000.00</u> 10,000.00			<u>1,000.00</u> 500.00	30.00
2	Failure to Lodge/File the Goods Declaration after the lapse of the approved extension of fifteen (15) calendar days	<u>25,000.00</u> 15,000.00			<u>2,000.00</u> 1,000.00	30.00



	<b>Reason for the Request for Lifting of Implied Abandoned Goods</b>	<b>Penalty in Php</b>  With Decree of Abandonment Without Decree of Abandonment	<b>Surcharge after 15 days from final assessment to be based from total assessed amount or balance thereon<sup>31</sup></b>	<b>Interest to be computed from date of final assessment and shall likewise accrue on any fine or penalty imposed<sup>32</sup></b>	<b>Docket and Request Charge in Php</b>  With Decree (Docket Charge) Without Decree (Request Charge)	<b>Documentary Stamp Tax (DST) for the Order granting the request</b>
3	Failure to pay the assessed duties and taxes fifteen (15) calendar days from Final Assessment	<u>25,000.00</u> 15,000.00	10% or 25% if more than 1 year	20% per annum	<u>2,000.00</u> 1,000.00	30.00
4	Failure to pay the assessed duties and taxes in case of regulated goods which are subject of an alert order, within fifteen (15) calendar days from Final Assessment from receipt of the Order of Release and Lifting the Alert or Order Lifting the Alert	<u>30,000.00</u> 20,000.00	10% or 25% if more than 1 year	20% per annum	<u>5,000.00</u> 3,000.00	30.00
5	Failure to submit the required documents, permits or clearances, or information in case of provisional Goods Declaration, within forty-five (45) calendar days from the date of Lodgement	<u>25,000.00</u> 15,000.00			<u>5,000.00</u> 3,000.00	30.00

	<b>Reason for the Request for Lifting of Impliedly Abandoned Goods</b>	<b>Penalty in Php</b>  With Decree of Abandonment Without Decree of Abandonment	<b>Surcharge after 15 days from final assessment to be based from total assessed amount or balance thereon<sup>31</sup></b>	<b>Interest to be computed from date of final assessment and shall likewise accrue on any fine or penalty imposed<sup>32</sup></b>	<b>Docket and Request Charge in Php</b>  With Decree (Docket Charge) Without Decree (Request Charge)	<b>Documentary Stamp Tax (DST) for the Order granting the request</b>
6	Failure to submit the required documents, permits or clearances, or information in case of provisional Goods Declaration, after the lapse of the approved extension of forty-five (45) calendar days	<u>30,000.00</u> 20,000.00			<u>10,000.00</u> 5,000.00	30.00
7	Failure to submit the required documents, permits or clearances, or information under Section 117 of the CMTA within fifteen (15) calendar days from Final Assessment	<u>25,000.00</u> 15,000.00			<u>5,000.00</u> 3,000.00	30.00
8	Failure to claim the goods within thirty (30) calendar days from payment of the assessed duties, taxes, fees, interests and other charges	<u>20,000.00</u> 10,000.00			<u>1,000.00</u> 500.00	30.00

	<b>Reason for the Request for Lifting of Impliedly Abandoned Goods</b>	<b>Penalty in Php</b>  With Decree of Abandonment Without Decree of Abandonment	<b>Surcharge after 15 days from final assessment to be based from total assessed amount or balance thereon<sup>31</sup></b>	<b>Interest to be computed from date of final assessment and shall likewise accrue on any fine or penalty imposed<sup>32</sup></b>	<b>Docket and Request Charge in Php</b>  With Decree (Docket Charge) Without Decree (Request Charge)	<b>Documentary Stamp Tax (DST) for the Order granting the request</b>
9	Failure to claim passenger's baggage within thirty (30) calendar days from arrival thereof or from payment of the assessed duties, taxes and other charges	<u>2,000.00</u> 1,000.00  plus 20% of the excess of de minimis value			<u>500.00</u> 300.00	30.00
10	Failure to claim mail matter within thirty (30) calendar days from arrival	<u>2,000.00</u> 1,000.00  plus 20% of the excess of de minimis value			<u>500.00</u> 300.00	30.00
11	Failure to Mark the Goods within thirty (30) calendar days after the receipt of Notice to Mark from the District Collector concerned	<u>25,000.00</u> 15,000.00			<u>5,000.00</u> 3,000.00	30.00
12	Failure to withdraw the imported raw materials or imported goods within one (1) year from the date of arrival at the customs bonded warehouse (CBW)	<u>25,000.00</u> 15,000.00			<u>5,000.00</u> 3,000.00	30.00
13	Failure to withdraw Perishable Goods within	<u>25,000.00</u> 15,000.00			<u>5,000.00</u> 3,000.00	30.00

	Reason for the Request for Lifting of Impliedly Abandoned Goods	Penalty in Php  With Decree of Abandonment Without Decree of Abandonment	Surcharge after 15 days from final assessment to be based from total assessed amount or balance thereon <sup>31</sup>	Interest to be computed from date of final assessment and shall likewise accrue on any fine or penalty imposed <sup>32</sup>	Docket and Request Charge in Php  With Decree (Docket Charge) Without Decree (Request Charge)	Documental Stamp Tax (DST) for the Order granting the request
	three (3) months from the date of arrival at the CBW					
14	Failure to withdraw Perishable Goods after the lapse of the approved extension of three (3) months to withdraw the goods from the CBW	<u>30,000.00</u> 20,000.00			<u>10,000.00</u> 5,000.00	30.00
15	Request for proceeds from sale of an impliedly abandoned goods	30,000.00 or 20% whichever is higher			10,000.00 (Request Charge)	30.00

The docket and request charge shall be paid by the claimant upon filing of the corresponding request. Proof of payment shall be attached to the request, without which the same shall not be accepted.

The penalty, surcharge, interest and document/ stamp tax shall be paid upon approval of the request or appeal. The Order lifting the abandonment or setting aside the Decree of Abandonment shall not be released without presenting the proof of payment thereof.

### **Penal Provision**

Failure to comply with the provisions of this CAO shall be a ground for administrative and disciplinary sanctions against any erring public officer or employee in accordance with Title XIV of the CMTA, other applicable penal provisions and Civil Service Commission (CSC) and Ombudsman rules and regulations.

## ***Reporting and Monitoring System***

The District Collector shall monitor and report the fees and charges collected pursuant to this CAO to the Office of the Commissioner on a weekly basis.

## ***Periodic Review***

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

## ***Repealing Clause***

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

## ***Separability Clause***

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

## ***Effectivity***

This CAO shall take effect fifteen (15) calendar days after its publication at the Official Gazette or a newspaper of national circulation.

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

# CAO 14-2020

Issue Date: October 8, 2020

## *Introduction*

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

## *Scope*

This CAO shall cover the accreditation and supervision of Value Added Service Providers (VASP).

## *Objectives*

- Establish the administrative and operational guidelines for the accreditation and supervision of VASP;
- Harness the technical expertise and maximize the participation of the private sector in the delivery of world-class quality, frontend customs Information and Communications Technology (ICT) services of the Bureau; and
- Implement customs best practices towards the achievement of the Bureau's key result areas in trade facilitation, revenue generation, enforcement, and professionalization of personnel.

## *Definition of Terms*

**Bureau** - the Bureau of Customs.

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

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

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

cf. International Organization for Standardization 92013), Information Technology, Security techniques, Code of practice for information security controls (ISO/IEC Standard No. 27002) Section 13.2.

information using legally enforceable terms.

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

cf. R.A. 10173 "Data Privacy Act of 2012", Chapter 1, Section 3(g)

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

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

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

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

## ***General Provisions***

- VASP services include, but are not limited to, the following:
  - Providing technical solutions to supplement the capabilities of the Bureau e-Customs System;
  - Providing available VASP technical assistance nationwide;
  - Providing support to the Bureau in prosecuting violations of tariff and customs laws;
  - Receiving and transmitting of electronic data to concerned Bureau offices and stakeholders;
  - Acting on the responses and messages returned by the Bureau Gateway/system; and
  - Other services as may be defined and determined by the Commissioner.
- Electronic data or documents collected by a VASP which are not yet accepted by the Bureau automated system shall be considered as private information between the VASP and its client. However, once the Bureau automated system accepts the data, the VASP shall now be considered as an agent or service provider for and in behalf of the Bureau. As such, the protection and security of the accepted data shall be of

paramount importance on the part of the VASP as the processor of information for and in behalf of the Bureau.

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

cf. Implementing Rules and Regulations of Data Privacy Act of 2012, Rule VI, Section 26.

cf. Implementing Rules and Regulations of Data Privacy Act of 2012, Rule XI

## ***Accreditation Committee***

The VASP Accreditation Committee (VAC) shall be constituted by the Commissioner of Customs through a separate Customs Special Order (CSO).

- **Functions of the VAC.** The VAC shall perform the following:
  - Facilitate and fast-track the accreditation process;
  - Recommend relevant policies, responsibilities and liabilities of VASPs;
  - Recommend rules and processes related to all issues surrounding the accreditation of VASPs;
  - Recommend evaluation criteria and timeframes for accreditation of VASPs for approval of the Commissioner;



- Conduct review and make recommendations on VASP fees;
- Receive and act on complains by VASP clients; and
- Perform other functions necessary for the effective and efficient implementation of this CAO.

The VAC may create a Technical Working Group (TWG) for each service accreditation, subject to the approval of the Commissioner.

- **Eligibility Requirements**

- **General Requirements.** An entity shall be eligible to participate in the accreditation if it conforms with the following minimum eligibility criteria:
  - It shall be comprised of Filipino individuals, or duly organized corporations under the laws of the Republic of the Philippines, provided that the corporation complies with the sixty percent (60%) - forty percent (40%) Filipino-foreign ownership rule under existing laws.
  - Joint venture companies are eligible provided that at least sixty percent (60%) of the legal and beneficial ownership or interest of the joint venture belongs to citizens of the Philippines in accordance with prevailing nationality rules.
  - It should be operating in the Philippines for five (5) consecutive years immediately preceding the date of application. The same requirement applies to all member companies in case of a joint venture.
  - Any further requirements shall be defined in the Terms of Reference.
- **Documentary Requirements.** The following documents shall be submitted to support the application for accreditation:
  - Letter of Intent;
  - Certificate of Registration (corporation/partnership) or DTI Business Registration (sole proprietorship);
  - Articles of Incorporation/Partnership and By-laws for Corporations;
  - Latest General Information Sheet (stamped received by SEC);
  - BIR Certificate of Registration (Form 2303);
  - Latest Tax Clearance Certificate (per Executive Order No. 398, series of 2005);
  - Latest Audited Financial Statement (stamped received by BIR and SEC);
  - Annual Income Tax Return for the immediately preceding 5 years;

- Value-added tax (VAT) or percentage tax returns covering the Immediately preceding year;
- Official Receipt and Billing Statement copy; and
- Proof of payment of application fee.

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

## ***Accreditation Process***

The following accreditation procedure shall be undertaken by the Bureau:

- Through the VAC, the Bureau shall publish an Invitation to Apply for Accreditation (Invitation) simultaneously in a newspaper of general circulation and the Bureau's official website for two (2) consecutive weeks.
- The VASP applicant shall submit its Letter of Intent (LOI) together with the documentary requirements and proof of payment of the application fee, as stated in the Invitation.
- All requirements shall be personally delivered and submitted by the applicant VASP to the VAC Secretariat on or before the date and time specified in the Invitation. Late and incomplete submissions will not be accepted.

Documentary requirements have to be signed, certified and/or notarized. Documents submitted by email, facsimile transmission, or any other forms of electronic submission will not be accepted.

- Within seven (7) working days from the date of submission of the complete documentary requirements, the VAC shall determine whether the company is eligible to apply for accreditation. If the company is not qualified, the VAC shall issue a written notice stating the reasons therefor.
- Companies that pass the eligibility requirements are qualified to proceed to the next stage.
- The Bureau shall release the Terms of Reference (TOR) which shall include, among others, the system and the functional and financial requirements for VASP's respective technical and financial proposals.
- Candidate VASPs shall prepare and submit their technical and financial proposals within the time provided in the TOR. It shall also submit a notarized Non-Disclosure Undertaking to protect against unauthorized disclosure and processing of confidential business or personal information.

- The Bureau shall release its Testing Criteria that will serve as guidance for testing the VASP System. Using the agreed Testing Criteria as a reference, BOC shall organize a Quality Assurance Team (QAT) to determine the compliance of the candidate VASP to the system requirements. The testing shall also include, among others, checks for the user-friendliness of the system.
- VAC shall evaluate and rank the applicants with the assistance of the TWG, as may be created.
- VAC shall submit a recommendation for VASP accreditation to the Commissioner for approval.
- Upon approval of the Commissioner, VAC shall issue a Notice of Accreditation to the VASP/s.
- Accredited VASP/s shall sign a Service Level Agreement (SLA) with the Bureau.
- Accredited VASP cannot implement or commence any VASP service until it has passed QAT and been granted with a Notice to Commence/Implement by the VAC.
- The VASP shall submit to the VAC the schedule of fees/charges for approval. A public consultation may be conducted if deemed appropriate under the circumstances.

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

The VASP/s who complied with the requirement for accreditation shall also comply with the following conditions:

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

## ***Validity Period of Accreditation***

The accreditation of VASP/s shall be valid for a period of three (3) years.

The Bureau may carry out further accreditation process for new applicants after three (3) years of operation of the initially accredited VASP/s.

## ***Renewal of Accreditation***

The accreditation may be renewed after due evaluation of the quality of their performance as measured by the SLA and continued compliance with the eligibility requirements, provided that, the validity of the renewed accreditation shall be for a period of one (1) year. Provided further that, the application for renewal shall be filed at least one (1) month prior to the expiration of the original period. Provided finally, that if the Bureau fails to act thereon, the accreditation shall automatically be extended on a daily basis.

cf. Republic Act No. 11032, Section 10.

## ***Pre-termination***

The Bureau may, subject to prior notice, preterminate the accreditation of any VASP for any of the following grounds:

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

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

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

## ***Treatment of Electronic Data coming from VASPs***

For purposes of customs procedures, electronic data transmitted by VASPs such as documents, permits, licenses or certificates shall be acceptable and shall have the legal effect, validity or enforceability as any other document or legal writing. Upon compliance by the VASP of the requirements, the Bureau shall recognize the authenticity and reliability of electronic documents by transmitting the acceptance or approval of the same in the form of electronic data messages or electronic documents.

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

The Bureau shall give prior notice to VASPs on changes in Customs procedures to enable VASPs to make the necessary changes in their systems to ensure compliance with the new procedural and data requirements.

The Bureau shall also notify the VASP/s in case of pre-termination of the accreditation on account of obsolescence or incompatibility of the VASP system with the new customs processing system.

## ***Penalties***

VASPs that are not able to meet their SLA targets for Service Availability, Incident Response Time, Incident Resolution Time, and Root Cause Analysis shall be subject to the penalties stated

in the SLA, without prejudice to the right of the Bureau to exercise its right to revoke or pre-terminate the accreditation status of the said VASPs.

### ***Periodic Review***

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

### ***Repealing Clause***

This CAO specifically repeals CAO No. 2-2007 and other previously issued CAOs and Customs Memorandum Orders which are inconsistent with the provisions here stated.

### ***Effectivity***

This CAO shall take effect after thirty (30) days following the completion of its 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 29-2020

Date Issued: December 7, 2020

Pursuant to Department of Trade and Industry Administrative Order No. 08 Series of 2020 (DAO No. 20-08) issued on 26 October 2020, all imported cement classified under AHTN Headings 2523.29.90 and 2523.90.00, regardless of origin and imported within the period of 22 October 2020 to 21 October 2021, shall be imposed a definitive safeguard duty of Php 245 per metric ton (mt) or Php 9.80 per 40kg bag.

In this regard, all District Collectors are directed to impose and collect the Safeguard Duties provided under DAO No. 20-08 and within the period stated therein immediately upon receipt of this Order, pursuant to Rule 13.3 paragraph (b) of the Implementing Rules and Regulations Governing the Imposition of Safeguard Measure under Republic Act 8800 (Safeguard Measures Act).

The Deputy Commissioner for RCMG and Deputy Commissioner for AOCG shall monitor and ensure the strict proper implementation of this Order and DAO 20-08 in all collection districts.

This order shall remain effective for the period stated in DAO unless earlier revoked or modified. All other memoranda and orders issued inconsistent with the foregoing are hereby revoked.

# CMC 287-2020

Issue Date: December 15, 2020

With reference to DTI Department Administrative Order No. 20-08 Series of 2020 dated 28 October 2020 **RE: In the Matter of the Definitive General Safeguard Measure on the Importation of Cement from Various Countries (AHN CODES 2523.29.90 AND 2523.90.00)**, all concerned are informed on the imposition of definitive general safeguard duty on imported cement from various countries under AHTN Codes 2523.29.90 and 2525.90.00.

For your information and guidance.



## 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/>**

If you have questions or comments, you may send them to:

**Atty. Ferdinand Nague**

Managing Partner  
rnague@nmm.ph

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