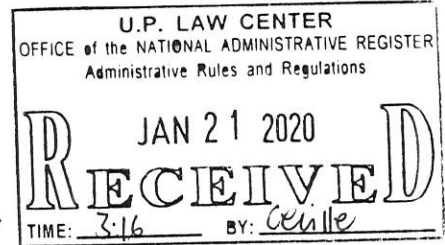




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099

de
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CUSTOMS ADMINISTRATIVE ORDER (CAO)
No. 02-2020



SUBJECT: DISPUTE SETTLEMENT AND PROTEST

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

Section 1. Scope. This CAO shall cover the right to administrative remedies of an aggrieved importer or exporter pertaining to dispute settlement or protest arising from customs valuation, rules of origin, tariff classification, and other customs issues.

Section 2. Objectives.

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

Section 3. Definition of Terms. For purposes of this CAO, the following terms are defined as follows:

- 3.1. **Advance Ruling** — shall refer to an official written and binding ruling issued by the Bureau on customs valuation, or rules of origin, or by the Tariff Commission on the appropriate tariff classification of goods, prior to importation or exportation, as the case may be.¹

¹ cf. CAO No. 3-2016 "Establishment of an Advance Ruling System for Valuation and Rules of Origin", Section 3.1.

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- 3.2. Assessment** — shall refer to the process of determining the amount of duties and taxes and other charges due on imported goods and goods for export.²
- 3.3. Bureau** — shall refer to the Bureau of Customs.
- 3.4. Commissioner** — shall refer to the Commissioner of Customs.
- 3.5. Completed Assessment** — shall refer to the stage of the assessment process wherein the principal appraiser has reviewed the findings of the examiner and makes a determination on the duties and taxes to be paid. It shall also include final readjustment in the computation of duties and taxes and submission by the declarant of the additional information or documentation required as accepted by the principal appraiser to complete the declaration within the period provided in Section 403 of the CMTA.
- 3.6. Customs Officer** — shall refer to an employee of the Bureau whose duty, not being clerical or manual in nature, involves the exercise of discretion in determining the amount of duties and taxes and other charges due on imported goods or goods for export³.
- 3.7. Other Customs Issues** — shall refer to customs issues other than those arising from tariff classification, customs valuation and rules of origin, and other customs-related issues already covered by a dispute settlement process under existing laws, rules and regulations, provided that such issues affect the assessment of duties, taxes and other charges.
- 3.8. Protestable Case** — shall refer to any ruling or decision by the District Collector, except the fixing of fines in seizure cases, which is adverse to the importer, consignee or exporter.
- 3.9. Release Under Tentative Assessment** — shall refer to a situation wherein the assessment is disputed and pending review, an importer or consignee may put up a cash bond or any sufficient security equivalent to the duties, taxes and other charges that is disputed before the importer or consignee can obtain the release of said goods.⁴

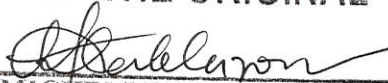
² cf. CMTA, Title I, Chapter 2, Section 102 (f).

³ cf. CMTA, Title I, Chapter 2, Section 102 (p).

⁴ cf. CMTA, Title IV, Chapter 3, Section 425.



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- 3.10. Rules of Origin Issue** — shall refer to issues that arise when:
- a. in case of imported goods, where the Bureau challenges
 - i. the authenticity or veracity of the Certificate of Origin (CO); or
 - ii. the matter of whether the imported goods are originating or not from the alleged country of origin; or
 - b. in case of goods for export, the exporter does not agree with the CO issued by the Bureau.
- 3.11. Security** — shall refer to 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.⁵
- 3.12. Tentative Assessment** — shall refer to the initially assessed duties and taxes based on tariff classification, valuation, rules of origin or other customs issues which is disputed by the importer or consignee.⁶
- 3.13. Tariff Classification Issue** — shall refer to issues that arise when the Customs Officer raises a question on the correctness of the declared tariff classification and reclassifies the goods, with which reclassification the importer or exporter does not agree.
- 3.14. Tariff Classification Dispute Ruling** — shall refer to a written order on a disputed tariff classification issued by the Tariff Commission which provides the appropriate classification of imported goods or goods for export under the ASEAN Harmonized Tariff Nomenclature (AHTN).
- 3.15. Valuation Issue** — shall refer to issues that arise when the Customs Officer challenges the customs value declared in the goods declaration and makes his own valuation findings, to which the importer does not agree.

Section 4. General Provisions.

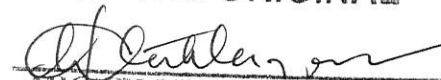
- 4.1.** Dispute Settlement may cover the following issues:

⁵ cf. CMTA, Title I, Chapter 2, Section 102 (mm).

⁶ cf. CMTA, Title IV, Chapter 3, Section 425.



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documents submitted to the Bureau may be used as evidence against the importer in any criminal and administrative case that may be filed as a result thereof.

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

For purposes of this CAO, an enforcement issue involves discovery of violation/s of the CMTA which would warrant the seizure and forfeiture of the goods¹⁰ such as the introduction of spurious, forged or fraudulent documents resulting to an assessment of duties and taxes lesser than what is legally due.

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

- 4.8.** The Bureau shall, in accordance with international standards, utilize ICT to enhance customs control and to support a cost-effective and efficient customs operations geared towards a paperless customs environment.¹¹

Section 5. Dispute Settlement Arising from Tariff Classification Issues.

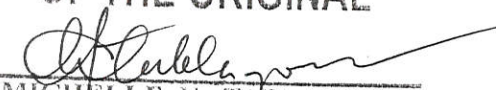
- 5.1.** Upon lodgment of goods declaration and before the Completed Assessment, as when the goods are being subjected to documentary check or physical inspection, the Customs Officer may raise a question against the correctness of the tariff classification as declared, and reclassify the goods. If the importer does not agree with the reclassification, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment, and finally to the District Collector.

¹⁰ cf. CMTA, Title XI, Chapter 4, Section 1113 par. (f), (g) or (l).

¹¹ cf. CMTA, Title I, Chapter 2, Section 109.



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- 5.2.** A valid tariff classification dispute exists when the importer does not agree with the tariff reclassification made by the District Collector.
- 5.3.** A Tariff Classification Issue shall be considered difficult or highly technical when:
- 5.3.1.** The goods are classifiable under more than one AHTN chapter, heading or subheading.
 - 5.3.2.** The product description is not specifically provided for in any AHTN heading or subheading.
- 5.4.** If the District Collector finds that the classification issue involves difficult or highly technical questions that require further testing and review, the following procedures shall be undertaken:
- 5.4.1.** The District Collector shall accordingly inform the importer that the classification issue involves difficult or highly technical questions;
 - 5.4.2.** In such case, the District Collector shall forward the certified true copies of relevant documents such as goods declaration, brochures, Material Safety Data Sheet (MSDS) for chemicals, samples and/or pictures to the Tariff Commission for ruling;
 - 5.4.3.** The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations;¹² and
 - 5.4.4.** Upon receipt of the ruling of the Tariff Commission, the goods shall be finally assessed unless there are other issues involved or the Bureau appeals the ruling of the Tariff Commission to the Secretary of Finance. The District Collector shall collect the additional duties and taxes in case the Tariff Commission resolves to classify the subject goods with higher tariff rate; otherwise, the cash bond or

¹² cf. CMTA, Title IV, Chapter 3, Section 425.

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the surety bond shall be refunded or cancelled, as the case may be.

- 5.5. If the dispute does not involve difficult or highly technical questions on tariff classification and the District Collector adopts the findings of the Customs Officer, the District Collector shall notify the aggrieved importer of his ruling in writing stating his reasons and with a directive to pay the duties and taxes in full based on the reclassification made by the Customs Officer.
- 5.6. The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO.
- 5.7. The Commissioner shall render a ruling within thirty (30) days from receipt of the protest. If the Commissioner fails to act on the same, the ruling of the Collector shall be deemed affirmed.¹³
- 5.8. The importer who is aggrieved by the ruling of the Commissioner may submit the matter to the Tariff Commission for a ruling within fifteen (15) days from receipt of the ruling or file an appeal with the Court of Tax Appeals (CTA) within thirty (30) days from receipt.
- 5.9. In case the ruling of the Tariff Commission is favorable to the importer, the same shall be binding upon the Bureau unless the Secretary of Finance shall rule otherwise.¹⁴

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

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

Section 6. Dispute Settlement Arising from Customs Valuation.

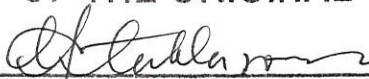
- 6.1. Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer may challenge the declaration made by the importer as to the dutiable value of the goods

¹³ cf. CMTA Title XI, Chapter 2, Section 1110.

¹⁴ CMTA Title XI, Chapter 2, Section 1100.



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pursuant to Section 707 of the CMTA. If the importer does not agree with the valuation, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector.

- 6.2.** If the District Collector finds that the Valuation Issue involves difficult or highly technical questions relating to the application of customs valuation rules, the following procedures shall be undertaken:
- 6.2.1.** The District Collector shall accordingly inform the importer within two (2) days that the Valuation Issue involves difficult or highly technical questions;
 - 6.2.2.** In such case, the District Collector shall require the importer and the Customs Officer to submit position papers to support their declaration or findings, respectively within five (5) days from the receipt of the notice;
 - 6.2.3.** If the nature of the goods permit, the District Collector shall require the taking of samples subject to verification of the Customs Officer concerned to be returned to the importer upon termination of the dispute settlement;
 - 6.2.4.** The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations;¹⁵ and
 - 6.2.5.** The District Collector shall resolve in writing the Valuation Issue within fifteen (15) days from submission of the position papers.
- 6.3.** If the dispute does not involve difficult or highly technical questions on proper application of methods of valuation and the District Collector adopts the findings of the Customs Officer, the District Collector shall notify within forty-eight (48) hours the aggrieved importer of his ruling in writing stating his reasons and with a

¹⁵ cf. CMTA, Title IV, Chapter 3, Section 425

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directive to pay the duties and taxes in full based on the valuation made by the Customs Officer.

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

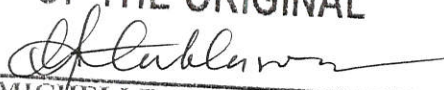
Section 7. Dispute Settlement Arising from Rules of Origin. The following procedures shall be followed:

- 7.1. Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer tasked to verify the CO may question the authenticity of the document or the accuracy of the information regarding the true origin of the product or certain parts thereof.
- 7.2. If the importer does not agree with the findings, he may formally request to the District Collector for the verification of the CO from the issuing country.
- 7.3. The District Collector shall forward the CO to the Assessment and Operations Coordinating Group (AOCG) for verification from the issuing country.
- 7.4. The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties and the corresponding adjustments in taxes and other charges, if any, as determined by the examiner and appraiser and compliance with other pertinent applicable rules and regulations.¹⁶

¹⁶ cf. CMTA, Title I, Chapter 3, Section 425.



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7.5. Upon receipt of the result of the verification from the issuing country, the Deputy Commissioner for AOCG shall forward the same to the District Collector.

7.5.1. If the issuing country confirms the authenticity or the accuracy of the CO, the corresponding preferential rate shall be applied. The assessment is deemed completed and final upon readjustment based on the resolution of the case involving rules of origin and the Security posted shall be cancelled or released.

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

Section 8. Dispute Settlement Arising from Other Customs Issues.

8.1. Upon lodgement of goods declaration and before Assessment becomes final, the Customs Officer may challenge the declaration made by the importer pertaining to Other Customs Issues. If the importer does not agree with the Customs Officer, he may elevate the matter to the principal appraiser and thereafter to the Chief, Formal Entry Division or equivalent unit, then to the Deputy Collector for Assessment and finally to the District Collector.

8.2. If the District Collector finds that the issues raised by the Customs Officer affect the Assessment of duties, taxes and other charges, the following procedures shall be undertaken:

8.2.1. The District Collector shall require the importer and the Customs Officer to submit position papers to support their declaration or findings, respectively within five (5) days from the receipt of the notice;

8.2.2. The District Collector shall resolve in writing the issues within fifteen (15) days from submission of the position papers; and

8.2.3. The importer may request release of the goods under Tentative Assessment upon payment of duties and taxes as declared in the goods declaration and posting of sufficient Security to cover the disputed amount of duties, taxes and other charges as determined by the examiner and appraiser and compliance with other pertinent applicable rules and

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regulations.¹⁷ Release under Tentative Assessment may only be allowed if the customs related issue does not involve the integrity, authenticity, or genuineness of any document submitted in support of the goods declaration.

- 8.3. If the District Collector adopts the findings of the Customs Officer, the District Collector shall notify within forty eight (48) hours the aggrieved importer of his ruling in writing stating his reasons and with a directive to pay the duties and taxes in full based on the valuation made by the Customs Officer.
- 8.4. The aggrieved importer adversely affected may appeal by way of protest against such ruling in accordance with this CAO.
- 8.5. The Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same.
- 8.6. In case the ruling of the Commissioner is adverse to the importer, he may seek reconsideration or appeal the ruling in accordance with this CAO.

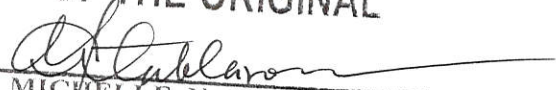
Section 9. Dispute Settlement Arising from Mixed Issues.

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

¹⁷ cf. CMTA, Title IV, Chapter 3, Section 425



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Section 10. Protest.

- 10.1.** The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases arising from tariff classification, valuation, rules of origin or other customs issues, may appeal by way of protest in writing to the Commissioner within fifteen (15) days from receipt of the adverse ruling of the District Collector or, when payment is made as a result of the adverse ruling, within fifteen (15) days from such payment.¹⁸ Otherwise, the action of the District Collector shall be final and conclusive.¹⁹
- 10.2.** A protest filed shall specify the particular ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.
- 10.3.** When a protest is filed in proper form, the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same.

Section 11. Motion for Reconsideration. The importer aggrieved by the ruling of the Commissioner, other than a ruling on tariff classification, may, within fifteen (15) calendar days, from receipt of the ruling, file a Motion for Reconsideration with the Commissioner.²⁰

Section 12. Finality of the Decision. Unless an appeal is made to the CTA in the manner and within the period herein prescribed, the ruling of the Commissioner shall be final and executory.²¹

Section 13. Appeal. An importer aggrieved by the decision of the Commissioner may appeal the said decision to the CTA within thirty (30) days from receipt of the adverse decision or final order of the Commissioner.²²

¹⁸ cf. CMTA, Title XI, Chapter 2, Section 1106.

¹⁹ cf. CMTA, Title XI, Chapter 2, Section 1107.

²⁰ cf. CMTA, Title XI, Chapter 9, Section 1136.

²¹ cf. CMTA, Title XI, Chapter 9, Section 1136.

²² cf. CMTA, Title XI, Chapter 9, Section 1136, in relation to Rule 41, Section 3 of the Rules of Court and Neypes vs. CA, G.R. No. 141524.

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Section 14. Transitory Provisions. All protest cases filed prior to the effectivity of this Order shall be resolved in accordance with the applicable provisions of the Tariff and Customs Code of the Philippines (TCCP), as amended.

Section 15. Publication of Rulings and Confidentiality.

15.1. The Bureau and the Tariff Commission shall publish the summaries of rulings on its website taking into account the need to protect commercially confidential information.

15.2. All information which is by nature confidential or which is provided on a confidential basis for the purposes of tariff classification, valuation, or other customs issue shall be treated as strictly confidential by the authorities concerned who shall not disclose it without the specific permission of the persons or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.²³

15.3. Any information communicated in accordance with the provisions relating to the rules of origin shall be treated as confidential and used for customs purposes only.²⁴

Section 16. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised if necessary.

Section 17. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 18. Repealing Clause. This CAO specifically repeals previously issued Orders which are inconsistent with the provisions here stated.

Section 19. Effectivity. This CAO shall take effect thirty (30) days after its complete publication at the Official Gazette or a newspaper of national circulation.

²³ cf. CMTA, Title XV, Section 1502

²⁴ cf. RKC, Specific Annex K, Chapter 3, Standard 11.

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



REY LEONARDO B. GUERRERO
Commissioner

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APPROVED:

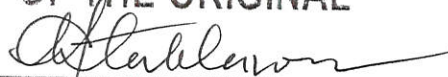


CARLOS G DOMINGUEZ
Secretary of Finance

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