



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

U.P. LAW CENTER
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Administrative Rules and Regulations
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CUSTOMS ADMINISTRATIVE ORDER (CAO)
No. 01-2020

SUBJECT: FINES AND SURCHARGES FOR CLERICAL ERRORS, MISDECLARATION, MISCLASSIFICATION AND UNDERVALUATION

INTRODUCTION. This Customs Administrative Order (CAO) implements Section 108, Chapter 2, Title I; Section 1400, Chapter 1, Title XIV; and other relevant provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. This CAO covers all Goods Declaration for exportation, or importation whether for consumption, warehousing or admission.

Section 2. Objectives.

- 2.1. To clarify the provisions of Sections 108 and 1400 of the CMTA;
- 2.2. To impose fine(s) in case of clerical errors in accordance with the provisions under Section 108 of the CMTA; and
- 2.3. To provide clear and concise rules and guidelines for the proper implementation of Sections 108 and 1400 of the CMTA.

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

- 3.1. **Declarant** — shall refer to the consignee or person authorized to dispose of the goods, who has lodged and filed the Goods Declaration with the Bureau.¹
- 3.2. **Final Assessment** — shall refer to an assessment which is deemed final fifteen (15) days after receipt of the notice of assessment by the importer or consignee without timely and legally instituted dispute and/or protest.²
- 3.3. **Fraud** — shall refer to the commission or omission of any act resulting in material false statements such as, but not limited to, the

¹ CMTA, Title I, Chapter 1, Section 106.

² CMTA, Title IV, Chapter 3, Section 429.

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submission of false or altered documents in connection with any importation, knowingly, voluntarily and intentionally done, to reduce the taxes and duties paid or to avoid compliance with government regulations related to the entry of Regulated, Prohibited or Restricted goods into Philippine customs territory through Misdeclaration, Misclassification or Undervaluation.³

3.4. Goods — shall refer to articles, wares, merchandise and any other items which may include Philippine and foreign notes and coins imported or exported.⁴

3.5. Goods Declaration — shall refer to 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.⁵

3.6. Gross Negligence — shall refer to act or acts of omission or commission done with actual knowledge or wanton disregard of the relevant facts and with indifference to or disregard for offender's obligation under the statute.⁶

3.7. Inadvertent Error — shall refer to a mechanical, electronic or clerical error committed unintentionally by the Declarant which occurred notwithstanding the maintenance of internal controls necessary to avoid such errors.⁷

3.8. Lodgement — shall refer to the electronic registration of a Goods Declaration with the Bureau.⁸

3.9. Misclassification — shall refer to the use of insufficient or wrong description of the goods or the use of erroneous tariff heading/s and sub-heading/s resulting in deficiency between the duty and tax that should have been paid and the duty and tax actually paid; and/or to avoid compliance with government regulations related to the entry of Regulated, Prohibited or Restricted goods into Philippine Customs territory.⁹

³ cf. CAONo. 01-2019 "Post Clearance and Prior Disclosure Program", Section 3.3.

⁴ cf. CMTA, Title I, Chapter 2, and Section 102.

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

⁶ cf. TCCP, Section 3611 (b).

⁷ CAO 1-2019 "Post Clearance and Prior Disclosure Program", Section 3.6.

⁸ cf. CMTA, Title I, Chapter 2, Section 102(dd).

⁹ CAO 1-2019 "Post Clearance and Prior Disclosure Program", Section 3.8.

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3.10. Misdeclaration — shall refer to a false, untruthful, erroneous or inaccurate declaration as to quantity, quality, description, weight or measurement of the goods resulting in deficiency between the duty and tax that should have been paid and the duty and tax actually paid; and/or to avoid compliance with government regulations related to the entry of Regulated, Prohibited or Restricted goods into Philippine customs territory.¹⁰

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

There is **Misdeclaration as to the Quality of Goods** when there is a difference in the characteristics of the Goods as declared in the Goods Declaration and the quality as found after physical examination of the Goods (*e.g. declared as USED but found out as BRAND NEW or declared as off-quality, remnants fabrics but found as whole, first class, best quality fabrics, among others*).

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

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

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

3.11. Seizure — shall refer to the actual or constructive taking or placing under custody the Goods, things or chattels by virtue of a Warrant of Seizure and Detention issued by the District Collector of Customs for violation of the CMTA and other related laws.¹¹

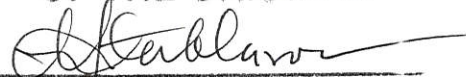
3.12. Undervaluation — shall refer to situation when the declared value fails to disclose in full the price actually paid or payable; or any dutiable adjustment to the price actually paid or payable; or when an incorrect valuation method is used; or the valuation rules are not

¹⁰ CAO No. 01-2019 "Post Clearance and Prior Disclosure Program", Section 3.9.

¹¹ CAO No. 03-2019 "Post Clearance and Prior Disclosure Program", Section 3.31.



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properly observed; resulting in a discrepancy in duty and tax to be paid between what is legally determined as the correct value against the declared value.¹²

Section 4. General Provisions.

4.1. Fine(s) for Clerical Error(s) in Goods Declaration. To discourage repetition, the concerned District Collector, through the Deputy Collector for Assessment, shall, in addition to the assessed duties, taxes, fees, fines or surcharges due, collect a fine of Five Thousand Pesos (Php5,000.00) for every clerical error determined to have been committed in the covering Goods Declaration upon the Lodgement thereof.

4.1.1. Errors may be clerical when the same is inadvertent which may include misspelling and/or incorrect input of data while drafting, copying or transposing a document such as consignee(s)' name, importing vessel or aircraft, port of departure, port of destination and date of arrival, the number and/or marks of packages, or the quantity, the nature and correct commodity description of the Goods contained therein, its value as set forth in a proper invoice, packing list and such other information as may be required by rules and regulations; provided, that it is not attendant with Fraud and not due to Gross Negligence.

4.1.2. The Five Thousand Pesos (Php5,000.00) fine as provided under Section 4.1. of this CAO shall be without prejudice to the imposition of additional fines or penalties for other Inadvertent Errors discovered in the Goods Declarations of shipments after release from Customs.

4.2. Imposition of Two Hundred Fifty Percent (250%) Surcharge. In addition to the assessed duties, taxes, fees and other charges, the Bureau shall impose a surcharge equivalent to two hundred fifty percent (250%) of the duty and tax due on the Goods where the resulting discrepancy in duties and taxes to be paid between what is legally determined upon assessment and what is declared arose from Misdeclaration, Misclassification or Undervaluation; Provided that, the discrepancy in duty and tax to be paid between what is legally determined upon assessment by the port and what is declared is ten percent (10%) or more.¹³

¹² CAO No. 01-2019 "Post Clearance and Prior Disclosure Program", Section 3-16.

¹³ cf. CMTA, Title XIV, Chapter 1, Section 1400.

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4.2.1. Instances for Imposition of Two Hundred Fifty Percent (250%) Surcharge. The surcharge equivalent to two hundred fifty percent (250%) of the duties and taxes due shall be imposed in the following instances:

- a. Misdeclaration as to Quantity of Goods;
- b. Misdeclaration as to Quality of Goods;
- c. Misdeclaration as to Description of Goods;
- d. Misdeclaration as to Weight of Goods;
- e. Misdeclaration as to Measurement of Goods;
- f. Undervaluation; and
- g. Misclassification.

4.2.2. Documentary Requirements. The following commercial documents shall be considered in the determination of whether or not a shipment is misdeclared, misclassified or undervalued: *AK*

- a. Commercial Invoice;
- b. Bill of Lading/Airway Bill;
- c. Packing List;
- d. Safety Data Sheet/Certificate of Analysis;
- e. Certificate of Origin/Origin Declaration;
- f. Survey Report of Accredited Surveyor;
- g. Import Permit/Clearance; and
- h. Other pertinent documents.

4.2.3. Imposition of the Five Hundred Percent (500%) Surcharge. When the Misdeclaration, Misclassification or Undervaluation is intentional or fraudulent, in addition to the Seizure of subject shipment, a surcharge shall be imposed equivalent to five hundred percent (500%) of the duties and taxes due.

Misdeclaration, Misclassification or Undervaluation is considered intentional or fraudulent when false or altered document is submitted, false statements or information are knowingly made or other similar instances.

Misdeclared, misclassified and undervalued Goods shall be subject to Seizure regardless of the amount of the discrepancy pursuant to Section 1113 of the CMTA. The Seizure of the Goods shall be without prejudice to the application of fines or penalties provided under Section 1401 of CMTA against the importer and other persons who willfully participated in the fraudulent act.

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Section 5. Non-Imposition of Surcharge. No surcharge under this CAO shall be imposed against the Goods under any of the following instances:

- 5.1.** The discrepancy between the duty to be paid as legally determined upon assessment and what is declared is less than ten percent (10%), without the prejudice to Section 4.2 of this CAO.
- 5.2.** The declared tariff heading is rejected in a formal customs dispute settlement process involving difficult or highly technical question of tariff classification, or when the tariff classification declaration relied on an official government ruling.

A difficult or highly technical question on tariff classification occurs when the Goods are classifiable under more than one ASEAN Harmonized Tariff Nomenclature (AHTN) chapter, heading or sub-heading or the product description is not specifically provided for in any AHTN heading or sub-heading, and will need the ruling of the Tariff Commission for the determination and resolution thereof.

- 5.3.** The declared value is rejected as a result of an official ruling or decision under the customs dispute settlement process involving difficult or highly technical question relating to the application of customs valuation rules; or
- 5.4.** The Misdeclaration, Misclassification or Undervaluation was subjected to timely amendment and was corrected prior to Final Assessment or examination of the Goods pursuant to Section 408 of the CMTA.

Section 6. Prima Facie Evidence of Fraud. A discrepancy amounting to more than thirty percent (30%) of the duty and tax to be paid between what is legally determined and what is declared shall constitute a prima facie evidence of Fraud in case of Misdeclaration, Misclassification or Undervaluation.

Such misdeclared, misclassified and undervalued Goods shall be subject to Seizure proceedings pursuant to Section 1113 of the CMTA.

Section 7. Penal Provision. Violations of this CAO committed by any person, officer or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal laws or provisions.

Section 8. Use of Information Communication Technology (ICT)-enabled System. The Bureau shall utilize ICT-enabled system for the docketing, reporting and monitoring of shipments subject to fines and surcharges.



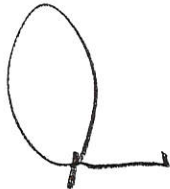
Section 9. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and may be amended, if necessary.

Section 10. Repealing Clause. This CAO amends or repeals CAO No. 01-2014 and CAO No. 06-2014 and other issuances which are inconsistent with the provisions hereof.

Section 11. 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 12. Effectivity. This CAO shall take effect thirty (30) days from 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.



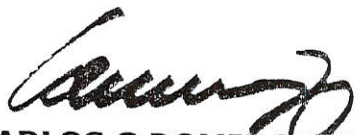
REY LEONARDO B. GUERRERO
Commissioner

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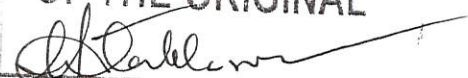


CARLOS G DOMINGUEZ
Secretary of Finance

JAN 14 2020



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