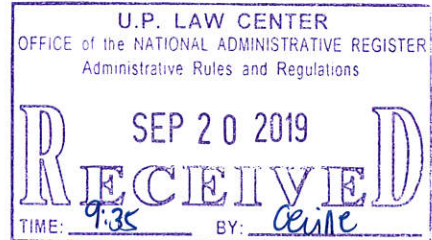




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099

CUSTOMS ADMINISTRATIVE ORDER (CAO)
No. 12 - 2019

SUBJECT: TRANSSHIPMENT OF GOODS



Introduction. This CAO implements Section 603, Chapter 2, Title VII and other relevant provisions of Republic Act (R.A.) No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), and other related laws.

Section 1. Scope and Coverage. This CAO covers all foreign goods for transshipment. The following activities are excluded and shall fall outside the purview of this CAO:

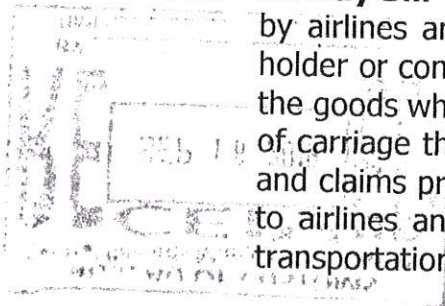
- 1.1. Foreign Goods subject of Co-loading under Section 4 of R.A. No. 10668 "An Act Allowing Foreign Vessels to Transport and Co-Load Foreign Goods for Domestic Transshipment and for Other Purposes", and its Implementing Rules and Regulations; and
- 1.2. Foreign Goods for shifting, temporarily unloaded due to emergency or necessity and to be re-loaded on board the same carrier and voyage or flight.

Section 2. Objectives.

- 2.1. To provide guidelines for the movement, transfer, and clearance of Transshipment Goods; and
- 2.2. To protect revenues and public welfare through the institution of safeguards and control measures over Transshipment Goods.

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

- 3.1. **Airway Bill** — shall refer to a transport document for airfreight used by airlines and international freight forwarders which specifies the holder or consignee of the bill who has the right to claim delivery of the goods when they arrive at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to airlines and carriers, a description of the goods, and applicable transportation charges.¹



¹ CMTA, Title I, Chapter 2, Section 102 (d)
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- 3.2. Authorized Agent Bank (AAB)** — shall refer to a commercial bank authorized by the Bureau to collect payment of duties, taxes and other charges.²
- 3.3. Carrier** — shall refer to the person actually transporting goods or in charge of or responsible for the operation of the means of transport such as airlines, shipping lines, freight forwarders, cargo consolidators, non-vessel operating common carriers and other international transport operators.³
- 3.4. Customs Broker** — shall refer to any person who is a *bona fide* holder of a valid Certificate of Registration or Professional Identification Card issued by the Professional Regulatory Board and Professional Regulation Commission pursuant to R.A. No. 9280, otherwise known as the "Customs Brokers Act of 2004",⁴ as amended by R.A. No. 9853.⁵
- 3.5. Customs Facilities and Warehouses (CFW)** — shall refer to facilities for temporary storage of goods established and authorized by the Bureau pursuant to Title VIII, Chapter 2 of the CMTA. These include container yards, container freight stations, seaport temporary storage warehouses, airport temporary storage warehouses and other premises, for customs purposes.⁶
- 3.6. Derogatory Information** — shall refer to verifiable information indicating that a certain shipment is in high risk of probable violation of the provisions of the CMTA and related laws.
- 3.7. Foreign Goods** — shall refer to goods of foreign origin.
- 3.8. Goods** — shall refer to articles, wares, merchandise, and other items which are subject of importation, exportation or transshipment.⁷
- 3.9. Inward Foreign Cargo Manifest (IFCM)** — also known as inward goods declaration, which contains the particulars of an import shipment such as the transport document numbers, name of carrier, voyage or flight number, name of consignor and consignees, marks and numbers, container information for sea-freight, kinds and

² Manual on Goods Clearance, Definition of Terms, page vii; Customs Administrative Order No. 5-2017.

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

⁴ cf. CMTA, Title I, Chapter 2, Section 102 (n).

⁵ An Act Amending Republic Act No. 9280, otherwise known as the "Customs Brokers Act of 2004", and for other purposes.

⁶ cf. CMTA, Title VIII, Chapter 2, Section 803.

⁷ cf. CMTA, Title I, Chapter 2, Section 102 (x).



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number of packages, description and quantities, weights and measures of the goods, port of loading and intended destination.⁸

- 3.10. Marshalling Yard** — shall refer to a place where containers are stacked and arranged according to the sequence of withdrawal to inside the port or customs zone. It is also where the containers are arranged prior to loading to a carrying vessel in accordance with the sequence of loading on the stowage plan.⁹ This also serves as temporary storage area for Transshipment Goods where containers are arranged, stacked and stored temporarily.
- 3.11. Master of the Vessel** — shall refer to the term that is given to the captain of a ship or the chief commanding officer of a ship.
- 3.12. Perishable Goods** — shall refer to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense.¹⁰
- 3.13. Pilot-in-Command** — shall refer to a person aboard the aircraft who is ultimately responsible for its operation and safety during flight.
- 3.14. Port of Entry** — shall refer to the first Philippine port of call of a foreign carrier. These shall be the ports designated as such by applicable laws or by the President in the exercise of his authority to open or close any port.¹¹
- 3.15. Port of Final Destination (of Goods)** — shall refer to the last foreign port of call of a carrier to unload foreign Goods.¹²
- 3.16. Shifting of Goods** — shall refer to the movement of goods for any purpose other than the regular handling, such as discharging of goods destined for another port from carrier to pier or tarmac and shall be reloaded to the same carrier.
- 3.17. Transfer Note** — shall refer to a document that accompanies the transfer of Transshipment Goods to a Customs Facility and Warehouse (CFW) and serves as proof of delivery or receipt of the articles at its intended destination duly acknowledged on its face by

⁸ cf. World Customs Organization Glossary of Customs International Term 2018

⁹ cf. PPA Administrative Order 13-77, Section 2 (yy)

¹⁰ cf. CMTA, Title I, Chapter 2, Section 102 (gg)

¹¹ cf. CMC 77-2016 Re: DOF-DOJ-DOTC-DTI Joint Department Administrative Order 001-2016/Implementing Rules and Regulations of Republic Act No. 10668, Section 3 (t)

¹² cf. CMC 77-2016 Re: DOF-DOJ-DOTC-DTI Joint Department Administrative Order 001-2016/Implementing Rules and Regulations of Republic Act No. 10668, Section 3 (t)



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the Collector of Customs or his duly authorized representative. It is also commonly referred to as a "boat note".

- 3.18. Transshipment** — refers to the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office, which is the office of both importation and exportation.¹³
- 3.19. Transshipment Goods** — refer to goods that are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office, which is the office of both importation and exportation.¹⁴
- 3.20. Transshipment Goods Declaration** — shall refer to the document which is required by the BOC to be submitted, particularly describing the nature and quantity of the goods subject of transshipment duly supported by transport documents.
- 3.21. Twenty-Foot Equivalent Unit (TEU)** – shall refer to a unit of the capacity of a container ship. The dimension of one (1) TEU is equal to that of a standard twenty-footer shipping container (20 ft. long and 8 ft. high).¹⁵
- 3.22. Weapons of Mass Destruction (WMD)** – shall refer to any destructive device or weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, any weapon involving a biological agent, toxin, or vector, or any weapon that is designed to release radiation or radioactivity at a level dangerous to human life. This includes, but not limited to: (a) nuclear and radiological explosive devices and their major sub-systems; (b) chemicals covered by Schedule I, II and III of the Chemical Weapons Convention; and (c) biological agents and biologically derived substances specifically developed, configured, adapted, or modified for the purpose of increasing their capability to produce casualties in humans or livestock, degrade equipment, or damage crops.¹⁶

Section 4. General Provisions.

4.1. Treatment of Transshipment Goods. Goods intended for transshipment shall not be subject to the payment of duties and taxes,

¹³ CMTA, Title I, Chapter 2, Section 102 (ss).

¹⁴ cf. CMTA, Title I, Chapter 2, Section 102 (ss).

¹⁵ cf. Organisation for Economic Co-operation and Development, Glossary of Statistical Terms.

¹⁶ Republic Act No. 10697, Sec. 5 (cc).



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provided, that the Transshipment Goods Declaration particularly indicates such nature of goods, duly supported by commercial or transport documents or evidence as required by the Bureau.¹⁷

4.2. Period to Load. Goods intended for Transshipment must be loaded in the exporting means of transport within thirty (30) calendar days from the date of arrival. For this purpose, the exportation commences upon the actual loading on board the exporting carrier of the Transshipment Goods. The Bureau shall allow an extension of such period for valid causes, such as the following:¹⁸

- 4.2.1. Force majeure;
- 4.2.2. Act of public enemy in war, whether international or civil;
- 4.2.3. If the container is damaged or leaked;
- 4.2.4. Legal order or act of competent public authority; and
- 4.2.5. Other causes beyond the control of shipper or agent or other analogous situation.¹⁹

Provided, that the Transshipment Goods must be loaded on board the exporting carrier within a reasonable period when the causes for such extension cease to exist.

4.3. Failure to Load. In case of failure to load within the period allowed, the Transshipment Goods shall be treated by the Bureau as regular importation. When the owner or interested party, after due notice, fails to file the goods declaration²⁰ within the prescribed period under Section 407 of the CMTA, the goods shall be subjected to the provisions of Chapter 6 of the CMTA on abandonment.

4.4. Transfer Note. Transfers of Transshipment Goods from the carrier to the designated CFW and vice versa shall be accompanied by a Transfer Note or any other document or system to be adopted and utilized for the purpose.

4.5. Customs Supervision in the Handling and Movement of Transshipment Goods. The handling and movement of Transshipment Goods from the Carrier to and within the CFW inside the Port of Entry shall be under continuous supervision and subject to the rules and regulations issued by the Bureau to include safeguard measures to ensure that Transshipment Goods shall not be diverted to the domestic market.

¹⁷ cf. CMTA, Title VI, Chapter 2, Section 603.

¹⁸ cf. CMTA, Title VI, Chapter 2, Section 603.

¹⁹ cf. Republic Act No. 386, The Civil Code of the Philippines, Book IV, Title VIII, Chapter 3, Section 4, Subsection 2, Article 1734.

²⁰ CMTA, Title IV, Chapter 1, Section 402.



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- 4.6. Transshipment Goods Declaration.** The Bureau shall develop a system for the data capture of all transshipment transactions for effective monitoring and statistical reporting.

Until such time, monitoring and statistical reporting of transshipments shall be governed by existing rules and regulations issued by the Bureau.

- 4.6.1.** For outbound goods by sea subject to transshipment, the Carrier or its Customs Broker or authorized representative shall electronically submit the Transshipment Goods Declaration in the Bureau's automated system prior to loading into the carrying vessel.

- 4.6.2.** For outbound goods by air subject to transshipment, the Customs Inspector on board shall allow the loading of goods to the aircraft by tagging the Airway Bill in the Bureau's automated system. For this purpose, the presentation of the IFCM or Airway Bill shall suffice as Transshipment Goods Declaration. All other customs formalities in the movement of goods as provided under Section 4.4 and 4.5 herein shall be complied with.

4.7. Prohibited Goods covered by International Conventions or Agreements.

- 4.7.1.** Hazardous²¹ and nuclear wastes, WMD, nationally controlled goods²² without the requisite prior authorization from the appropriate regulatory agency, if applicable, and other goods subject of prohibitory laws or international conventions wherein the Philippines is a signatory, e.g. Basel Convention, CITES²³, etc., shall not be discharged from the carrier even for transshipment purposes.

- 4.7.2.** Goods covered by Section 4.7.1 discharged at the port shall be seized by the Bureau and proceeded against in accordance with this CAO and other existing rules and regulations without prejudice to the filing of appropriate prosecution against the persons liable for administrative or criminal offenses, if any.

- 4.7.3.** Transshipment Goods covered by Basel Convention and R.A. No. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990", discharged at the port shall be immediately returned to the country of origin by the

²¹ cf. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

²² cf. R.A. No. 10697, Chapter I, Sec. 5 (o) Nationally controlled goods refer to a strategic goods placed under unilateral controls for reasons of national security, foreign policy, anti-terrorism, crime control, and public safety.

²³ Convention on International Trade in Endangered Species of Wild Fauna and Flora.



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importing carrier or agent either before or after the seizure proceeding, without prejudice to the filing of administrative or criminal charges, if any, against any person involved.

- 4.8. Seizure of Transporting Vessel.** In case of hazardous waste, radioactive waste and other toxic substances provided under the Basel Convention and R.A. No. 6969, the transporting vessel shall be seized by the Bureau and proceeded against in accordance with the CMTA.²⁴
- 4.9. Goods with Derogatory Information.** Transshipment Goods with derogatory information shall be subjected to non-intrusive inspection or physical examination, for verification, upon order of the District Collector, in the presence of representative from the carrier and concerned regulatory agency, if applicable.
- 4.10. Seizure of Transshipment Goods.** Prohibited goods for transshipment covered by international conventions or any laws shall be seized by the Bureau. The procedure on the seizure and forfeiture shall be governed by existing rules and regulations on seizure and forfeiture.
- 4.11. Data Monitoring.** The Bureau of Customs shall institutionalize a reporting system for the proper monitoring of all transshipments.

The collection, recording, storage maintenance, processing, sharing of data and information, and maintenance of data information under this CAO shall be secured consistent with the principles and policy of R.A No.10173, also known as "The Data Privacy Act".

- 4.12. Risk Management.** A risk management system shall be used to carry out necessary control mechanisms for Transshipment Goods.

Section 5. Operational Provisions.

- 5.1. Responsibilities of the Carrier.** The Carrier shall submit an electronic copy of the IFCM to the Bureau thru the Advance Manifest System (AMS) within the prescribed period in accordance with the existing regulation issued by the Bureau.

5.2. Responsibilities of the Customs Facility and Warehouse (CFW) Operator inside the Port.

- 5.2.1.** Provide a Marshalling Yard where the containers for transshipment will be stored.

²⁴ Title XIV, Chapter 1, Section 1429 (f).

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5.2.2. Match the advanced manifest to the discharging sequence list from the Master of the Vessel as received on arrival.

5.2.3. Submit inventory report every two (2) weeks on the status and exact location of all Transshipment Goods within the container yard.

5.2.4. Provide adequate security in the Marshalling Yard to prevent unauthorized withdrawal of Transshipment Goods stored therein.

5.3. Special Permit to Load. The importing carrier or shipping agent shall secure a Special Permit to Load for Transshipment Goods from the District Collector through the Deputy Collector for Operations specifying the goods to be transshipped.

Section 6. Supervision Fees. The Bureau shall collect the following fees for all Transshipment Goods:²⁵

6.1. In case the port of entry is Port of Manila or Manila International Container Port — Php1,000/TEU.

6.2. In case of other ports of entry — Php100.00/TEU.

6.3. For Goods to be transshipped via air, a service fee amounting to Php1.00 per kilo shall be paid by the freight forwarders or authorized agent.

A copy of the original receipt issued by the AAB shall be attached to the print-out copy of Transshipment Declaration or Airway Bill submitted to the Bureau prior to the loading of the Transshipment Goods.

Section 7. Schedule of Penalties.

7.1. Unloading of Goods for Transshipment before Arrival at Port of Entry.²⁶ If, upon the arrival within the limits of any Customs District of the Philippines of any Carrier engaged in foreign trade, the Master of the vessel or Pilot-in-Command thereof permits any part of the Goods to be unloaded before arrival at the Port of Entry, and without authority from proper customs officer, the owner, operator, or agent of such Carrier shall be liable for the following fines:

7.1.1. First Offense - Five Hundred Thousand Pesos (Php500,000.00)

²⁵ cf. CMTA, Title XIII, Sec. 1300.

²⁶ cf. CMTA, Title XIV, Chapter 1, Section 1408.



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- 7.1.2. Second Offense - One Million Pesos (Php1,000,000.00)
- 7.1.3. Third Offense - Two Million Pesos (Php2,000,000.00)

Provided, that no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity, provided, however, that the fine imposed herein shall be without prejudice to the application of fines or penalties provided under Section 1401 of the CMTA.

7.2. Unloading of Goods for Transshipment at Improper Time and Place after arrival.²⁷ The owner or operator of any Carrier from which Transshipment Goods are discharged upon arrival in the Philippines at a time or place other than that designated by the District Collector, shall be liable for the following fines:

- 7.2.1. First Offense - One Hundred Thousand Pesos (Php100,000.00)
- 7.2.2. Second Offense - Two Hundred Thousand Pesos (Php200,000.00)
- 7.2.3. Third Offense - Three Hundred Thousand Pesos (Php300,000.00)

Provided, that no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity.

7.3. Failure to Supply Advance and Requisite Manifest.²⁸ Except for causes beyond the control of the owner, operator or agent of the Carrier, failure to transmit the electronic copy of the IFCM within the required time prior to the arrival of the Carrier at the Port of Entry shall make the owner, operator, or agent of the Carrier liable for the following fines:

- 7.3.1. First Offense - One Hundred Thousand Pesos (Php100,000.00)
- 7.3.2. Second Offense - Two Hundred Thousand Pesos (Php200,000.00)
- 7.3.3. Third Offense - Three Hundred Thousand Pesos (Php300,000.00)

Failure to present the requisite manifest to the Bureau during boarding formalities shall likewise make the owner, operator, or agent of the vessel or aircraft liable for the fines above.

7.4. Disappearance of Manifested Goods for Transshipment.²⁹ When any package or goods for transshipment mentioned in the manifest meant to be unloaded upon the arrival of the carrier is not unloaded or is missing or has disappeared, its agent shall be liable for the following fines unless the disappearance of the package or the goods in question was not due to the

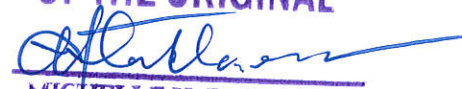
²⁷ cf. CMTA, Title XIV, Chapter 1, Section 1409.

²⁸ cf. CMTA, Title XIV, Chapter 1, Section 1412.

²⁹ cf. CMTA, Title XIV, Chapter 1, Section 1430.



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negligence of the Master of the vessel or Pilot-in-command of an aircraft and is explained to the satisfaction of the District Collector:

7.4.1. First Offense - One Hundred Thousand Pesos (Php100,000.00)

7.4.2. Second Offense - Two Hundred Thousand Pesos (Php200,000.00)

7.4.3. Third Offense - Three Hundred Thousand Pesos (Php300,000.00)

The owner, operator, or agent of a Carrier shall be liable for the payment of the same fine when a package or goods listed in the manifest do not tally materially in character or otherwise with the description thereof in the manifest.

7.5. False statement of Port of Final Destination of Transshipment Goods.³⁰ When the Master of a Vessel or the Pilot-in-Command of the aircraft loaded with goods shall make a false statement as to the final destination of Transshipment Goods loaded on-board such carrier, the owner or operator of such carrier shall be liable for the following fines:

7.5.1. First Offense - One Hundred Thousand Pesos (Php100,000.00)

7.5.2. Second Offense - Two Hundred Thousand Pesos (Php200,000.00)

7.5.3. Third Offense - Three Hundred Thousand Pesos (Php300,000.00)

The arrival of a carrier at a different port other than the one it had been originally authorized and cleared for shall be enough to support the conclusion that the original statement as to the actual destination of the carrier was false, unless such arrival occurred due to necessity, e.g. arrival under stress, ship repairs, replenishment of stores, and other analogous circumstances.

7.6. In case of failure to load within the period allowed, the importing means of transport shall be liable for the following fines:

7.6.1. For sea Goods, Five hundred Pesos (Php500.00) per TEU per day.

7.6.2. For air Goods, One hundred Pesos (Php100.00) per kilogram per day.

7.7. Any person who violates any provision of this CAO or Customs Memorandum Order issued pursuant thereto, for which delinquency no specific penalty is provided, shall be liable for the following fines:³¹

7.7.1. First Offense - One Hundred Thousand Pesos (Php100,000.00)

7.7.2. Second Offense - Two Hundred Thousand Pesos (Php200,000.00)

7.7.3. Third Offense - Three Hundred Thousand Pesos (Php300,000.00)

³⁰ cf. CMTA, Title XIV, Chapter 1, Section 1417.

³¹ cf. CMTA, Title XIV, Chapter 1, Section 1430.

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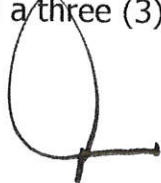
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Section 8. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 9. Separability Clause. If any part of this CAO is declared by Courts as unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 10. Repealing Clause. Rules and regulations or parts thereof inconsistent with the provisions of this CAO are hereby expressly repealed, amended and/or modified accordingly.

Section 11. Effectivity. This Order shall take effect thirty (30) days after its complete publication in the Official Gazette or a newspaper of general circulation. The Office of the National Administrative Register (ONAR) of the UP Law Center shall be provided a three (3) certified copies of this CAO.



REY LEONARDO B. GUERRERO

Commissioner AUG 13 2019



BOC-02-00282

APPROVED:



CARLOS G DOMINGUEZ

Secretary of Finance

AUG 27 2019



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Informational Section. As the title denotes this section only provides information and does not give rise to any substantive or formal rights or obligations.

1. History. This CAO is amendatory to all the previous issuances of the Bureau of Customs relating to Transshipment.

2. Related Policies.


- Republic Act No. 10863 – An Act Modernizing the Customs and Tariff Administration (CMTA)
- Revised Kyoto Convention
- Republic Act No. 386 – The Civil Code of the Philippines
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Republic Act No. 10697 – An act Preventing the Proliferation of Weapons of Mass Destruction by Managing the Trade in Strategic Goods, the Provision of Related Services, and for Other Purposes
- Republic Act No. 9497 – An Act Creating the Civil Aviation Authority of the Philippines, Authorizing the Appropriation of Funds Therefor, and for Other Purposes
- Republic Act No. 10668 – An Act Allowing Foreign Vessel to Transport and Co-Load Foreign Goods for Domestic Transshipment and for Other Purposes
- Republic Act No. 9853 – An Act Amending Republic Act No. 9280, otherwise known as the "Customs Brokers Act of 2004", and for Other Purposes
- Presidential Decree No. 857 – Providing for The Reorganization of Port Administrative and Operation Functions in the Philippines, Revising Presidential Decree No. 505 Dated July 11, 1974, Creating the Philippine Port Authority, By Substitution, and for Other Purposes
- Customs Memorandum Circular (CMC) No. 77-2016 – DOF-DOJ-DOTC-DTI Joint Department Administrative Order (JDAO) No. 001-2016/ Implementing Rules and Regulations of Republic Act No. 10668
- PPA Administrative Order 13-77 – General Port Regulations of the Philippine Ports Authority
- Customs Memorandum Order No. 15-2015 - Operation and Sustainment of Program-Provided Equipment (PPE) for Detection of Weapons of Mass Destruction (WMD) under The National Coast Watch System (NCWS) Project, pursuant to Executive Order (EO) No. 57, series of 2011.

3. Webpage, Forms, Handbooks and other References.

- Romano, Joseph (2016). Principles and Remedies in the CMTA Handbook
- <https://www.unece.org/cefact/edifact/welcome.html> - United Nations Directories for Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT)
- <http://www.wcoomd.org/en/topics/facilitation/resources/> - World Customs Organization. Glossary of International Customs Terms. 2018
- Manual on Goods Clearance (e2m Customs Import Assessment System), February 2010, Version 1.0
- <http://stats.oecd.org/glossary/> - Glossary of Statistical Terms. Organisation for Economic Cooperation and Development

- People vs. Valdez, G.R. No. 127801. March 3, 1999
- PPA, et al. vs The Honorable Court of Appeals, et al., G.R. Nos. 115786-87, February 5, 1996
- <http://thelawdictionary.org/>

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