



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

CUSTOMS ADMINISTRATIVE ORDER
NO. 12-2003

SUBJECT: Performance of Obligation under Warehousing Bond and Liquidation of the Warehousing Entry, Providing Penalties therefor

1. OBJECTIVES

- 1.1 To provide a mechanism that would ensure the performance by the importer and/or a surety company of certain obligations guaranteed by warehousing bonds, as they become due and demandable
- 1.2 To ensure the immediate liquidation of the warehousing entry upon the performance of such obligations by the importer and/or surety company and the subsequent cancellation of the corresponding bond
- 1.3 To enable the Bureau of Customs (BoC) to immediately collect from or take such appropriate action against importer and/or surety companies issuing bonds, in case of the non-performance of obligations that have become due and demandable and covered by such bonds

2. SCOPE

This Order covers any and all warehousing shipments for which bonds have been issued as guarantee for the performance by the importer of certain obligations due the BoC.

3. GENERAL PROVISIONS

- 3.1 The bonds referred to herein are those issued by surety companies accredited by the BoC to guarantee the export of goods or manufacture of raw materials into finished products for export, or the payment of taxes/duties due thereon, pursuant to Secs. 1901-1909/ Secs2001-2103, Tariff and Customs Code of the Philippines (TCCP), as amended.

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- 3.2 Upon the performance by the importer of the obligations due to BoC, the warehousing entry shall be liquidated up to the extent the obligation has been performed and, upon the full liquidation of the entry, the corresponding bond shall be cancelled.
- 3.3 The performance of the obligation by the importer may take the form of any of the following:
 - 3.3.1 Exportation, within the prescribed period, of imported goods/finished products manufactured from raw materials imported under bond as herein provided;
 - 3.3.2 Payment of taxes and duties on goods imported under bond, in accordance with existing/applicable laws, rules and regulations.
- 3.4 The payment/performance by the surety company of the obligations incurred by an importer shall extinguish the obligations of the importer and thus shall constitute as a ground for the cancellation of the bond.
- 3.5 The importations of the importer shall be subject to the provisions of Sec. 1508, TCCP, without prejudice to such other sanctions as herein provided, if the importer fails to perform the obligation within the prescribed period to perform such obligation.
- 3.6 The concerned Operating Division shall liquidate the corresponding warehousing entry within 15 days from receipt of the Statement of Liquidation, in the case of partial liquidation; or 30 days, in the case of complete liquidation.

4. PERFORMANCE BY EXPORTATION & LIQUIDATION OF ENTRY

- 4.1 Upon performance of obligation by way of exportation, within the prescribed period, of goods/finished products made of articles/raw materials imported under bond, the importer shall, within 30 days from said exportation, liquidate the covering warehousing entry up to the extent of exportation made by filing a Statement of Liquidation.
- 4.2 The Statement of Liquidation shall be filed with the concerned Operating Division, specifying therein, among others, the warehousing entry number, the articles, including their quantity,

volume and value, that are subject of the liquidation applied for. The Statement of Liquidation shall be submitted together with other supporting documents showing the exportation of goods/finished products made of articles/raw materials covered by subject warehousing entry.

- 4.3 Upon receipt of the Statement of Liquidation and supporting documents, the concerned Operating Division shall retrieve the warehousing entry and supporting documents from the Warehouse Documentation and Records Division (WDRD), which shall forthwith provide the documents requested.
- 4.4 The concerned Operating Division shall verify with the concerned export division as to the exportation of the goods/finished products made of articles/raw materials covered by the warehousing entry that is the subject of liquidation.
- 4.5 Upon confirmation by the export division that subject goods have indeed been exported, the Operating Division shall liquidate the warehousing entry accordingly, up to the extent of exportation.
- 4.6 If liquidation of the warehousing entry is partial, the Operating Division shall return subject warehousing entry to the WDRD for recordkeeping, to be retrieved again when needed to complete the liquidation of said entry.
- 4.7 The Operating Division shall also apprise the Bonds Division of the extent of liquidation of the entry to update the latter's records as to what remains to be liquidated before the bonds qualify for cancellation, copy furnished the importer and the surety company.

5. CANCELLATION OF BONDS

- 5.1 If the liquidation of the warehousing entry is complete, the Operating Division shall, within five (5) days from the completion of the liquidation, forward to the Bonds Division the warehousing entry, the Statement of Liquidation and the supporting documents, for the cancellation of the corresponding bond.
- 5.2 Within five (5) days from receipt of the above documents, the Chief, Bonds Division shall cancel the corresponding bond, notifying in writing the importer and the surety company of such cancellation. *Am*

- 5.3 The Bonds Division shall, within five (5) days from the cancellation of the bond, forward to the Liquidation and Billing Division a copy of the cancelled warehousing bond, warehousing entry, Statement of Liquidation and supporting documents.
- 5.4 The Liquidation and Billing Division shall review the cancelled warehousing bond, warehousing entry, Statement of Liquidation and supporting documents for final liquidation within five (5) days from receipt of said documents from the Bonds Division.
- 5.5 The Bonds Division shall cause the conspicuous posting of the notice of cancellation of the bond on Bulletin Board of the Bonds Division and notify in writing the concerned Operating Division and WDRD of such cancellation.
- 5.6 The Bonds Division shall likewise keep a record of all cancelled bonds and copies of corresponding liquidated entries, Statements of Liquidation and supporting documents.

6. ISSUANCE OF DEMAND LETTER/IMPOSITION OF SEC. 1508, TCCP

- 6.1 The concerned Operating Division shall, through its Chief, cause the issuance of the Demand Letter, addressed to the importer, to be signed by the District Collector if, in the process of liquidation, it finds:
 - 6.1.1 the exportation was made outside the prescribed period for exportation, in which case the Demand Letter shall state the amount of taxes/duties payable on the warehousing entry; and
 - 6.1.2 the exportation/payment was made within the prescribed period, but there was no liquidation or only partial liquidation made within 30 days after the lapse of the prescribed period for exportation, in which case the Demand Letter shall state the penalties/surcharges as herein prescribed.
- 6.2 The concerned Liquidation and Billing Division shall cause the issuance of a Demand Letter, to be signed by the District Collector, if in the course of final liquidation there arise certain discrepancies, stating therein the amount equivalent to the discrepancy.

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- 6.3 The District Collector shall sign the Demand Letter and ensure that said letter is delivered and properly received by the importer/representative at the earliest possible time.
- 6.4 If within the period prescribed in the Demand Letter no payment is made, the District Collector shall cause the implementation of Sec. 1508, Tariff and Customs Code of the Philippines by withholding the delivery of current/future importations of the importer concerned due to an outstanding and demandable account with the BoC.

7. PENALTIES AND SURCHARGES

Without prejudice to other actions that the BoC will file against the importer/surety company, the following shall be imposed as follows:

- 7.1 For exportation made outside prescribed period of exportation, payment of taxes/duties payable on the warehousing entry.
- 7.2 For exportation made within the prescribed period of exportation, but the liquidation documents were submitted beyond the 30-day period prescribed for liquidation, a surcharge of P1,000 or 2% per month of the taxes/duties and other charges payable, whichever is higher, counted from the day the 30-day period of liquidation lapsed until the submission of liquidation documents; provided, however, that if the submission was made beyond 30 days from the lapse of the exportation period, the taxes and duties due on the warehousing entry shall be fully paid.

8. OTHER ACTIONS/SANCTIONS

- 8.1 The District Collector shall recommend to the Commissioner of Customs (Attn: Chief, Collection Service) a course of action to ensure payment of the obligation of the importer and may take such other action for this purpose, including the filing of the collection case and/or forfeiture of the bonds, suspension/cancellation of accreditation, or non-renewal of the accreditation of the surety company.
- 8.2 The Chief, Collection Service shall take such course of action as may be warranted, including coordination with the Legal Service, in pursuing the collection case and/or forfeiture of the bonds.

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9. ACCOUNTABILITY

- 9.1 The District Collector shall be responsible for the smooth, proper and effective implementation of this Order in all cases, when applicable, under his/her district's jurisdiction.
- 9.2 All concerned Customs officers/personnel involved in the implementation of this Order are directed to perform their responsibilities as required herein.
- 9.3 Without prejudice to criminal charges as may be warranted, any violation by any Customs officer/personnel of this Order shall be liable to administrative charges, such as, but not limited to dishonesty, neglect of duty, misconduct, inefficiency or incompetence, which could either be grave, less grave or light, depending on their gravity or depravity and effects on the government service, under pain of penalties which shall range from suspension for six (6) months and one day to one (1) year or dismissal as provided for under Rule IV of Uniform Rules on Administrative Cases in the Civil Service.

10. REPEAL CLAUSE

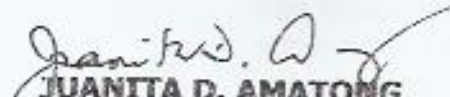
CAO 5-91, specifically Sections II.1 (a) and (b), II.2 (a), II.3 (a) and other pertinent provisions thereof, and all others orders, rules, regulations inconsistent with this Order are hereby repealed or modified accordingly.

11. EFFECTIVITY CLAUSE

This Order shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.


ANTONIO M. BERNARDO
 Commissioner

Approved:


JUANITA D. AMATONG
 Officer-In-Charge
 Department of Finance
 Date signed **DEC 12 2003**
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