



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

Manila

CUSTOMS ADMINISTRATIVE ORDER

NO. 4-2010

SUBJECT: ESTABLISHING AN ENHANCED CUSTOMS TRANSIT SYSTEM WITH THE USE OF GLOBAL POSITIONING SYSTEM

Pursuant to Section 608, in relation to Sections 602, 1204, 2506, 3606, 3607 of the Tariff and Customs Code of the Philippines, as amended (TCCP), the following rules and regulations are hereby promulgated:

1. DECLARATION OF POLICY

In line with the objectives of the Electronic-to-Mobile (E2M) Project of the Bureau of Customs (BOC) and pursuant to the BOC's commitment to provide transparent, efficient, effective and secure services while reducing the cost of doing business in the country, this Order adopts and hereby directs the use of Global Positioning System (GPS) for the sealing, tracking, monitoring and audit of transit cargo.

2. OBJECTIVES

The objectives of this policy are the following:

- 2.1. To enhance the capability of BOC to effectively seal, track, monitor and audit the transit cargo as it is transferred from the port of discharge to its final destination;
- 2.2. To establish the appropriate supporting organizational structure and function for the implementation of the enhanced customs transit system;
- 2.3. To strengthen the security of the transit cargo during the transit process;
- 2.4. To reduce the cost to industry of complying with BOC requirements on transit cargo;
- 2.5. To facilitate the customs processing of transit cargo via the use of affordable and reliable technology and other best practices;
- 2.6. To increase the level of compliance with the provisions of the Revised Kyoto Convention (RKC) on the treatment of transit cargo in line with the Philippine accession to RKC;
- 2.7. To align with the objectives of Asia-Pacific Economic Cooperation (APEC) and Association of Southeast Asian Nations (ASEAN) thereby enhancing the nation's standing as a member of APEC, ASEAN and the World Trade Organization (WTO);
- 2.8. To adopt the RKC definition of customs transit and rectify the current definition of transshipment.

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3. DEFINITION OF TERMS

- 3.1. Customs Barcoded Seal - is an optical machine-readable representation of transit data that is incorporated in the sealing tape used for breakbulk cargo.
- 3.2. Breakbulk cargo - is non-containerized cargo which is grouped or consolidated for shipment and broken down or sub-divided into unitized cargo, such as in pallets or packed in bags or boxes.
- 3.3. Containerized cargo - cargo that uses standard intermodal containers that are standardized by the International Organization for Standardization (ISO) and can be loaded and sealed intact onto container ships, railroad cars, planes, and trucks.
- 3.4. Electronic GPS-equipped Barrier Seal (EGBS)- a reusable electronic device equipped with GPS that serves as a barrier seal to the container door to ensure that the cargo is not tampered with while in transit.
- 3.5. Electronic GPS-equipped Barrier Seal Service Provider (EGBSSP) - BOC accredited company that provides EGBS.
- 3.6. GPS -is a system of satellites, computers, and receivers that is able to calculate the location of the user on a digital map.
- 3.7. Tracking and Monitoring System - a secure and interactive web-based system used to provide the location and condition of transit cargo using GPS.
- 3.8. Transit - means the customs procedure under which goods are transported under customs control from one customs office to another as further specified in Section 4 hereof.
- 3.9. Transit Permit - clearance issued by Customs to allow the transit of goods.
- 3.10. Transshipment - means 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.
- 3.11. SAD - Single Administrative Document is an aligned trade and customs document adhering to international documentary requirements and best business practices conforming to the UN Layout Key.

4. SCOPE

This Order shall cover goods to be transported under customs transit in the customs territory:

- 4.1. From a port of entry to another port of entry as exit point for outright exportation (e.g. an import shipment of cigarettes off loaded at South Harbor and transported to Currimaos);
- 4.2. From a port of entry to another port of entry/inland customs office (e.g. a shipment of inputs for the production of semiconductors discharged at the Manila International Container Port [MICP] to the Port of Cebu with the Mactan Export Processing Zone as final destination);

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- 4.3. From an inland customs office to a port of entry as exit point for outright exportation (e.g. a shipment of computer motherboards for export from the Rosario Economic Zone in Batangas to NAIA for loading on to a cargo aircraft bound for overseas);
- 4.4. From one port of entry/inland customs office to another port of entry/inland customs office. (e.g. a shipment of semi-finished products from a Customs Bonded Manufacturing Warehouse (CBMW) under NAIA to another CBMW under the Port of Manila for further processing into finished products for export).

Considering the existence of Freeport areas and Special Economic Zones (SPZs) which are considered as being outside the Customs territory of the Philippines, the movement of goods or cargoes from a Customs office to Freeport areas and SPZs and vice-versa as well as from one Freeport area/SPZ to another crossing the Customs territory is considered as transit operation and thereby covered by this Order.

5. ADMINISTRATIVE PROVISIONS

5.1. Electronic GPS-equipped Barrier Seal (EGBS)

All containerized transit cargoes shall be secured with EGBS to ensure that the cargoes are not tampered with while in transit.

5.2. Customs Barcoded Seal.

For break bulk cargo, selected packages shall be sealed with sealing tapes equipped with a barcode that matches with the barcode on the Transit Permit.

5.3. Customs Coordinating and Audit Office (CCAO)

To be headed by the Deputy Commissioner for Assessment and Operations Coordinating Group (AOCG), there is hereby created the Customs Coordinating and Audit Office (CCAO) under the Office of the Commissioner that shall develop a scheme for accounting for and monitoring the use and deployment of the above Customs seals. The responsibilities of the CCAO are as follows:

- 5.3.1. Coordinating with Customs Transit Monitoring and Tracking Unit (CTMTU) as described below;
 - 5.3.2. The Audit of historical data on transit cargoes generated by the EGBS, focusing on those that are the subject of exception reports;
 - 5.3.3. Developing an aging scheme for transit cargoes to determine those that have not been covered by the appropriate entry and may therefore be the subject of abandonment proceedings;
 - 5.3.4. Tracking the deployment of EGBS and to ensure that each port maintains a sufficient number; and
 - 5.3.5. Constantly reviewing the performance of the Enhanced Customs Transit System and crafting needed policy recommendations to ensure that the system remains responsive to evolving needs of industry and the international trade community.
- ### 5.4. Establishment of a Customs Transit Monitoring and Tracking Unit

A Customs Transit Monitoring and Tracking Unit (CTMTU) headed by the Deputy Collector for Operations shall be established at each major port of entry. Each

CTMTU shall be staffed with sufficient personnel and be equipped with the capability to monitor transit cargo leaving or destined for the port. The CTMTU shall be responsible for:

- 5.4.1. Ensuring the collection of:
 - 5.4.1.1. Transit Processing Fee for containerized cargo - P1,100
 - 5.4.1.2. Transit Processing Fee for breakbulk cargo - P400
 - 5.4.1.3. Container Security Fee - \$5 per TEU
- 5.4.2. Uploading the transit cargo information onto the transit system;
- 5.4.3. Proper placing of EGBS as Customs seal of the transit cargo;
- 5.4.4. Informing the receiving port of destination of the pending arrival of the transit cargo as well as its estimated date and time of arrival;
- 5.4.5. Tracking and monitoring the transit cargo while in transit;
- 5.4.6. Informing the PNP immediately of any unauthorized diversion from designated transit route; and,
- 5.4.7. Checking for any breach in the integrity of the EGBS as Customs seal.

6. ACCREDITATION OF EGBSSP

The Accreditation Committee to be created by BOC and headed by the Deputy Commissioner for AOCG shall accredit qualified private sector providers that would be allowed to supply the required number of EGBS seals and the accompanying monitoring system.

6.1. Accreditation Criteria

The Accreditation Committee shall observe the published accreditation criteria and shall recommend any amendments thereto to the Commissioner for approval.

6.2. Accreditation Process

- 6.2.1. Through the Accreditation Committee (henceforth referred to as the Committee), the BOC shall publish an invitation for the accreditation of EGBSSPs. This invitation shall include the Eligibility Requirements.
- 6.2.2. A non-refundable processing fee in the amount of Fifty Thousand Pesos (P50,000.00) shall be imposed.
- 6.2.3. The Committee shall organize a Quality Assurance Team (QAT), composed of technical experts from both the field and central office, charged with determining the compliance of the candidate company's services to the requirements. These requirements shall also include, among others, the user-friendliness of system.
- 6.2.4. After the conduct of test and site visits, the Committee shall pre-qualify not more than three (3) candidates for accreditation.
- 6.2.5. The Committee shall review and evaluate the documents submitted by the pre-qualified candidate companies.
- 6.2.6. The Committee shall release to pre-qualified EGBSSPs the Terms of Reference (TOR) and the Non-Disclosure Understanding which will be signed by their authorized officials.
- 6.2.7. The Committee shall allow a reasonable time for the crafting and submission of technical and financial proposals by pre-qualified candidates.
- 6.2.8. The Committee shall develop and adopt a scoring system for judging the proposals.
- 6.2.9. The Committee shall select and accredit not more than three (3) EGBSSPs.

6.3. Conditions for Accreditation

6.3.1. Service Level Agreement

The accredited EGBSSP shall enter into a Service Level Agreement (SLA) with BOC. The SLA should expressly provide among others, that the EGBSSP is responsible for ensuring that:

- 6.3.1.1. Only authorized and registered EGBS is used to seal transit cargo;
- 6.3.1.2. Each port has a sufficient number of EGBS;
- 6.3.1.3. EGBS is properly maintained and are fully charged before being deployed;
- 6.3.1.4. EGBS is always properly accounted for and properly secured when not in use;
- 6.3.1.5. The required hardware and software are completely tested and properly deployed/installed;
- 6.3.1.6. Sufficient number of personnel in each port where the system is implemented are deployed;
- 6.3.1.7. Training on sealing, tracking monitoring and audit skills including user manuals are provided;
- 6.3.1.8. Preparation and deployment of software and hardware is conducted; and,
- 6.3.1.9. The system is sufficiently secure to prevent unauthorized access to the tracking and monitoring process and the data that the system generates.

The SLA should also spell out basic technical features of the GPS service (e.g. speed, frequency, power effectiveness, etc.) including a disaster recovery plan/business continuity plan which provides measures to avoid unnecessary delays in the transfer of cargo due to unavailability of GPS service.

6.3.2. Performance Bond

The accredited EGBSSP shall post a Performance Bond, issued by a BOC-accredited surety company, amounting to Five Million Pesos (PhP5,000,000), which shall be made to answer for any actual pecuniary damage resulting from any breach of undertaking by the accredited EGBSSP after the same has been established in an appropriate proceeding.

6.3.3. Technical Acceptance Tests and Evaluation

The pre-qualified candidate EGBSSP must successfully pass the technical acceptance tests (including data security and integrity, clamp inventory system, disaster recovery plan) and evaluation that shall be conducted by the QAT for accreditation. The QAT shall also conduct a yearly technical evaluation and validation to determine whether the EGBSSP qualifies for continuous accreditation.

6.3.4. Period and Renewal of Accreditation

The selected EGBSSP shall be given an accreditation status for a period of three (3) consecutive years, inclusive of the six-month probationary period, and will be renewable yearly thereafter subject to the evaluation of the quality of its performance as measured by the Service Level Agreement (SLA), and compliance with Eligibility requirements.

6.4. Technical Requirements

The EGBSSP shall be capable of providing the following:

6.4.1. EGBS as Customs Seal

EGBS as Customs seal shall be a reusable electronic device equipped with GPS that serves as a barrier seal to the container door to ensure that the cargo is not tampered with while in transit. It shall have the following features:

- 6.4.1.1. It shall be strong and durable using material with sufficient strength to prevent accidental breakage, early deterioration (due to weather conditions, chemical action, etc.) or undetectable tampering;
- 6.4.1.2. It shall be securely equipped with a tamper proof portable GPS with at least a 5-day battery life;
- 6.4.1.3. It shall be capable of being affixed easily and quickly as well as being checked and identified;
- 6.4.1.4. It should transmit a signal to alert the Customs monitor whenever the seal has been tampered and the container door opened;
- 6.4.1.5. To enhance seal monitoring and accounting, each seal shall be registered with the CCAO and marked with a unique, tamper-proof number; and,
- 6.4.1.6. It shall bear visible marks "Tampering of this Customs Seal is punishable under Customs Laws"

6.4.2. The Tracking and Monitoring System

The CSSP shall provide BOC – at no cost to BOC – with the necessary hardware and software to effectively track and monitor the condition of cargo while in transit. The tracking and monitoring system shall have the following minimum features:

- 6.4.2.1. It should allow real time tracking by BOC of the transit cargo through GPS;
- 6.4.2.2. The system should be sufficiently secure to prevent unauthorized access to the tracking and monitoring process and the data that the system generates;
- 6.4.2.3. The system should be capable of alerting BOC monitors of any deviations from predetermined routes; and
- 6.4.2.4. The system should be able to generate and store historical data of the transit voyage from the port of discharge to its final destination and should indicate incidents that are deemed unusual according to predetermined criteria.

6.4.3. EGBS Network at the Major Ports

The EGBSSP should be able to establish a network to effectively manage the deployment and maintenance of the EGBS such that there is always a sufficient number of fully functioning (with fully charged batteries) EGBS in ports where such seals are required for transit cargo.

6.4.4. Monitoring and Sealing Fee

- 6.4.4.1. The monitoring and sealing fee that will be charged by the EGBSSP shall be market-driven and subject to approval of the BOC.

6.4.4.2. To allow even intermittent users of the transit cargo process to continue availing of this mode of transfer, the EGBSSP should offer among its payment schemes, one that would allow charges on a per-use basis, thereby freeing such intermittent users from the burden of having to shoulder investment costs that usually underlie long time use.

6.4.5. Conduct of Trainings

EGBSSP shall conduct trainings on sealing, tracking, monitoring and audit skills. Corresponding user manuals shall likewise be made available by the EGBSSP.

6.5. Revocation of Accreditation

Failure to fulfill any of the above criteria would be basis for denial or revocation of accreditation.

7. OPERATIONAL PROVISIONS

The Commissioner shall issue a Customs Memorandum Order (CMO) on the enhanced customs transit system incorporating the following, among others:

- 7.1. The transit cargo shall be subjected to Selectivity criteria.
- 7.2. Through the CTMTU, the Deputy Collector for Operations of the port of discharge shall ensure that the transit cargo is securely sealed with the appropriate EGBS;
- 7.3. The CTMTU of the port of discharge shall immediately notify through email the concerned CTMTU of the port of destination and the CCAO about the transit cargo;
- 7.4. The CTMTU of the port of destination shall be primarily responsible for supervising the removal of the EGBS as Customs seal to determine if there is breach in the integrity of the seal and the transit cargo; and
- 7.5. The CTMTU of the port of destination shall notify the CTMTU of the port of discharge of the arrival of the transit cargo.

8. REPORTING SYSTEM

Each CTMTU shall submit to CCAO the following computerized transit reports, generated from the Monitoring and Tracking System on a daily basis:

- 8.1. Shipment released (no. of containers, declarant, permit number, date);
- 8.2. Shipment received (no. of containers, declarant, permit number, date, content discrepancy if any); and
- 8.3. Matching report.

9. AGREEMENT WITH THE PNP AND OTHER AUTHORIZED LAW ENFORCEMENT AGENCIES

The Commissioner of Customs is mandated to enter into a Memorandum of Agreement (MOA) with the Philippine National Police (PNP) and other authorized Law Enforcement Agencies to pursue transit cargo when any unauthorized diversion from designated transit route occurs.

10. PENALTY

The penalties prescribed under the TCCP, as amended, as may be pertinent or applicable shall be imposed for violations of the provisions of this Order.

Likewise, any violation of any of the provisions of this Order shall cause the suspension or revocation of the accreditation of the EGBSSP as the case may be after due administrative notice and hearing without prejudice to the filing thereafter of appropriate administrative, civil or criminal charges against the erring EGBSSP, if warranted.

In addition to the sanctions imposed under the TCCP as amended, and Civil Service laws, rules and regulations, any BOC official and/or employee found to have violated any of the provisions of this Order shall be immediately relieved and if warranted after due administrative notice and hearing, be transferred to another office or assigned to a less sensitive position in the BOC.

11. PILOT PROJECT

The BOC may conduct a Pilot Project first before full implementation of this system under such terms and conditions required by the prevailing circumstances.

12. REPEALING CLAUSE

All orders, memoranda, circulars and such other issuances inconsistent herewith are hereby repealed and/or deemed modified accordingly.

13. SEPARABILITY CLAUSE

If any part or provision of this Order is later on found invalid or illegal, the remaining portion shall remain valid and unaffected.

14. EFFECTIVITY CLAUSE

This Order shall take effect fifteen (15) days after publication in a newspaper of general circulation.

APPROVED:



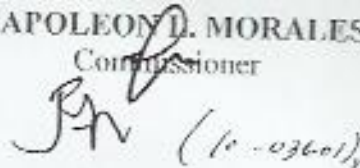
MARGARITO B. TEVES

Secretary of Finance

Date: JUN 21 2010

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NAPOLEON D. MORALES
Commissioner



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