



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

CUSTOMS ADMINISTRATIVE ORDER (CAO)

NO. _____

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, 425, 1100-1102, 1104, 1106-1110, 1126, 1128 and 1136 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 and judicial remedies of an aggrieved importer or exporter by a decision of the Bureau pertaining to dispute settlement or protest arising from customs valuation, rules of origin, tariff classification under certain circumstances, and other customs issues.

Section 2. Objectives.

- 2.1.** To provide fair and expeditious resolution of dispute settlement and protest arising from customs valuation, rules of origin, tariff classification under certain circumstances, and other customs issues.
- 2.2.** To help ensure uniformity and consistency in the application of customs policies, rules and regulations on dispute settlement protest.
- 2.3.** To align the administrative and judicial remedies provided by law with the standards set out in the Revised Kyoto Convention (RKC), the World Trade Organization's (WTO) Agreement on Trade Facilitation, and other international trade facilitation agreements, and international best customs practices.

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

- 3.1. Advance Ruling** – refers to an official written and binding ruling issued by the Bureau on the proper application of the rules on customs valuation, or rules of origin, or by the Commission on the proper application of the rules on tariff classification, prior to importation or exportation, as the case may be.¹

¹ cf. Customs Administrative Order 3-2016
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- 3.2. **Commission** – refers to the Tariff Commission
- 3.3. **Customs Officer** – refers to an employee of the Bureau authorized to perform assessment function.
- 3.4. **Other Customs Issues** – refers to customs issues other than those involving tariff classification, customs valuation and rules of origin.
- 3.5. **Rules of Origin Issue** – refers to issues that arises when, in case of imported goods, the Customs Officer challenges the authenticity or veracity of the Certificate of Origin issued or the matter of whether the imported goods is originating or not from the Country of Origin, or in case of goods for export, when the Bureau does not issue a Certificate of Origin for goods intended to be exported and the exporter does not agree with the position of the concerned customs authorities.
- 3.6. **Security** – refers 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. ²
- 3.7. **Tariff Classification Issue** – refers to issues that arises when the Customs Officer raises a question on the correctness of the declared tariff classification and reclassifies the goods, with which the importer does not agree.
- 3.8. **Tariff Classification Ruling** – refers to a written decision on a disputed tariff classification issued by the Commission which provides the importer, exporter or the Bureau, the appropriate classification of goods under the ASEAN Harmonized Tariff Nomenclature (AHTN) during importation or exportation.
- 3.9. **Valuation Issue** – refers to issues that arises when the Customs Officer challenges the customs value declared in the goods declaration, with which the importer does not agree.

Section 4. General Provisions.

4.1. Dispute Settlement may cover the following issues:

- 4.1.1. Tariff Classification;
- 4.1.2. Customs Valuation;

² CMTA, Title I, Chapter 2, Section 102 (mm)
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- 4.1.3.** Rules of Origin;
 - 4.1.4.** Other Customs Issues; and
 - 4.1.5.** Mixed issues of tariff classification, customs valuation, rules of origin and/or other customs issues.
- 4.2.** The Bureau shall, in accordance with international standards, utilize information and communications technology to enhance customs control and to support a cost-effective and efficient customs operations geared towards a paperless customs environment.
- 4.3.** The Bureau shall establish a docketing system for all dispute settlement or protest arising from customs valuation, rules of origin, tariff classification under certain circumstances, and other customs issues to ensure proper recording, inventory, accounting, monitoring, filing, and publication.
- 4.4.** The Bureau shall issue rules and regulation to govern the implementation of the decisions on dispute settlement or protest arising from customs valuation, rules of origin, tariff classification under certain circumstances, and other customs issues.

Section 5. Dispute Settlement.

5.1. Dispute Settlement Arising from Tariff Classification Issues.

- 5.1.1.** Upon lodgment of goods declaration and before assessment becomes final, 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, a tariff classification issue arises which he may, at any time before the reassessment becomes final, elevate the matter to the District Collector for determination whether a tariff classification dispute exists.
- 5.1.2.** If the District Collector determines that a valid tariff classification dispute exists involving technical questions that require further testing and review, he will immediately forward the same to the Commission for resolution. Pending resolution of the tariff classification dispute by the Commission³, the District Collector may, upon the request of the importer, allow the tentative release

³ cf. CMTA, Title XVI, Chapter 1, Section 1603 (d)

of the goods upon payment of the duties and taxes as declared in the goods declaration and posting of sufficient security to cover the disputed amount of duties and taxes and other charges and compliance with other pertinent applicable rules and regulations⁴.

5.1.3. However, if the District Collector adopts the findings of the Customs Officer, he shall notify the aggrieved importer of his decision in writing, the reasons thereof shall be indicated and with a directive to pay the duties and taxes in full based on the reclassification made by the Customs Officer. In such a case, the aggrieved importer may appeal the decision of the District Collector to the Commissioner by way of protest within fifteen (15) days from payment of the duties, taxes, and other charges as reassessed⁵. When the appeal by way of protest is received by the Commissioner, the tariff classification dispute shall be referred to the Commission for resolution within fifteen (15) days from receipt thereof.

5.1.4. The docketing of tariff classification disputes forwarded by the Bureau to the Commission shall be governed by the rules of the Commission. The Bureau, however, shall coordinate with the Commission on the docketing system to be used for all tariff classification disputes referred to the Commission as well as the decisions promulgated by the latter, for purposes of recording, inventory, accounting, monitoring, filing, and publication of these disputes and decisions.

5.1.5. When a shipment is covered by an alert order predicated on alleged misclassification that is in dispute, the tariff classification issue shall be referred to the Commission for a ruling.

5.2. Dispute Settlement Arising from Customs Valuation.

5.2.1. Upon lodgment of goods declaration and before assessment becomes final, the Customs Officer may challenge the declaration made by the importer as to the customs value of the goods pursuant to the Section 707 of the CMTA⁶.

⁴ cf. CMTA, Title IV, Chapter 3, Section 425, 2nd par.

⁵ cf. Customs Administrative Order 9-1993, Title IV, Section 8

⁶ "Nothing in this section shall be construed as restricting or calling into question the right of the Bureau to ascertain the truth or accuracy of any statement, document or declaration presented for customs valuation purposes. xxx"

- 5.2.2.** When there arises a customs valuation issue, the Customs Officer shall indicate the reasons thereof and a recommendation as to the correct Method of Valuation⁷ to be used and the resulting customs value to be adopted vice the customs value declared. If the importer does not agree with the findings and recommendation of the Customs Officer, the matter shall be referred to the District Collector for resolution.
- 5.2.3.** Pending resolution of the correct customs value, the District Collector may, upon the request of the importer, allow the tentative release of the goods upon payment of the duties and taxes as declared in the goods declaration and posting of sufficient security to cover the difference between the amount of duties and taxes as recommended by the Customs Officer and the duties and taxes computed based on the customs value declaration⁸.
- 5.2.4.** The District Collector shall resolve in writing the valuation dispute within fifteen (15) days from receipt of all position papers and any evidence submitted by the parties involved.
- 5.2.5.** In case of an adverse decision by the District Collector, the importer shall be required to pay the additional duties and taxes as adjudged. Any posted security shall be made to answer for the deficiency in duties and taxes resulting from the decision.
- 5.2.6.** The Bureau shall establish a process or a system in resolving customs valuation issues which shall include the docketing of the valuation cases, the responsibility of the Customs Officer to submit a report of findings or position paper in support of his action to challenge the customs value declaration, the right of an importer to confront the issues raised and submit his position paper and any evidence to support his customs value declaration and implementation of final decisions on valuation disputes.

⁷cf. CMTA, Title VII, Chapter 1, Section 701-706

⁸ cf. CMTA, Title IV, Chapter 3, Section 425, 2nd par.

5.3. Dispute Settlement Arising from Rules of Origin and Other Customs Issues.

5.3.1. When an action or inaction by any subordinate Customs Officer on rules of origin and other customs issues is challenged, the aggrieved party may elevate the matter in writing to the District Collector who, when the nature of the issue or issues requires, shall direct the parties involved to submit their respective position papers and any evidence on the issues within five (5) days from receipt of the complaint-dispute.

5.3.2. The District Collector shall resolve in writing the dispute within fifteen (15) days from receipt of all position papers and any evidence submitted by the parties involved.

5.4. Dispute settlement arising from mixed issues.

When the dispute involves mixed issues on declared tariff classification, valuation of goods, rules of origin or other customs issue, the issues shall, as far as practicable, be resolved by the Bureau without waiting for the resolution on tariff classification by the Commission. Otherwise, when the tariff classification is indispensable for other issue such as valuation, upon issuance of the tariff classification ruling, the District Collector concerned shall decide on the other issues in dispute in accordance with the applicable dispute settlement process.

Section 6. Protest.

6.1. The aggrieved importer or exporter or any stakeholder directly affected by the adverse decision of the District Collector in disputes arising from tariff classification in certain cases, valuation, rules of origin or other customs issues, may appeal by way of protest to the Commissioner within fifteen (15) days from receipt of the adverse decision of the District Collector or, when payment is made as a result of the adverse decision, within fifteen (15) days from such payment⁹.

6.2. In resolving the protest, the Commissioner shall provide the parties involved with sufficient opportunity to submit position paper and any evidence in support of their respective positions in the protest.

⁹ cf. Customs Administrative Order 9-1993, Title IV, Section 8
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- 6.3.** The Commissioner shall resolve the protest with fifteen (15) days from receipt of all position papers and any evidence from all parties involved in the protest.

Section 7. Motion for Reconsideration and Judicial Review.

- 7.1.** The importer aggrieved by the decision of the Commissioner may, within fifteen (15) calendar days, from receipt of the decision, file a Motion for Reconsideration with the Bureau. In case of denial of the Motion for Reconsideration, the aggrieved party may, within thirty (30) calendar days from receipt of the denial, appeal to the Court of Tax Appeals (CTA)¹⁰.
- 7.2.** Decisions of the Secretary of Finance when required by this CAO, may likewise be appealed to the CTA.¹¹
- 7.3.** Unless an appeal is made to the CTA in the manner and within the period herein prescribed, the decision of the Commissioner shall be final and executory.¹²
- 7.4.** In cases involving mixed issues with tariff classification issue, the appeal of the decision of the Commission has to be resolved first prior to the appeal on the other issues involved and shall be governed by the provisions of this CAO.

Section 8. Automatic Review.

- 8.1.** If the District Collector renders a decision or ruling adverse to the government, such decision together with the entire records of the case shall be elevated to the Commissioner for automatic review within five (5) days from the promulgation thereof.¹³
- 8.2.** If the Commissioner renders a decision which is adverse to the government, such decision together with the entire records of the case shall be elevated to the Secretary of Finance for automatic review within five (5) days from the promulgation thereof.¹⁴

¹⁰ cf. CMTA, Title XI, Chapter 9, Section 1136

¹¹ *Ibid.*

¹² *Ibid.*

¹³ cf. CMTA, Title XI, Chapter 5, Section 1127

¹⁴ cf. CMTA, Title XI, Chapter 5, Section 1128

- 8.3.** The decision of the Secretary of Finance shall be final and executory.
- 8.4.** The Commissioner shall decide on the automatic review within thirty (30) days from receipt of the records, or within ten (10) days in case of perishable goods.

Section 9. Publication of Rulings/Decision and Confidentiality.

- 9.1.** The Bureau and the Commission shall publish the summaries of Rulings on its website taking into account the need to protect commercially confidential information.
- 9.2.** All information which is by nature confidential or which is provided on a confidential basis for the purposes of tariff classification, valuation, rules of origin 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.

Section 10. Authority of the Commissioner to Promulgate Implementing Rules and Regulations in a Customs Memorandum Order. The Commissioner may promulgate rules and regulations to effectively implement the provisions of this CAO.

Section 11. Periodic Review. Unless otherwise, provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 12. 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 13. Repealing Clause. All previously issued Customs Administrative Orders, Customs Memorandum Orders, and other customs rules and regulations which are inconsistent with this CAO are hereby repealed and/or modified accordingly.

Section 14. Effectivity. This CAO shall take effect fifteen (15) 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 a three (3) certified copies of this CAO.

NICANOR E. FAELDON

Commissioner

APPROVED:

CARLOS G. DOMINGUEZ III

Secretary of Finance

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

1. History. This is the first CAO dealing exclusively on Dispute Settlement, Protest and Appellate Remedies.

2. Related Policies.

- Customs Administrative Order No. 9-1993 "Rules and Regulations Governing the Issuance of Warrants of Seizure and Detention, the Conduct of Seizure Proceedings and the Procedure in Appeals to the Commissioner and the Secretary of Finance."
- Agreement On Implementation Of Article VII of The General Agreement On Tariffs And Trade 1994

3. Webpage, Forms, Handbooks and other References. Unit webpage or other information relating to the regulations, such as guidelines, forms, charts, and handbooks, should not be incorporated into the body of the CAO but should be listed and hyperlinked in the additional information section after the text of the CAO. Hyperlinks should refer to the title of the document not the https address.

- Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention/RKC)