



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

CUSTOMS MEMORANDUM ORDER

NO. 2-2004

SUBJECT : APPLICATION OF EO 264

On 30 December 2003, Pres. Gloria Macapagal-Arroyo, issued Executive Order No. 264, "MODIFYING THE NOMENCLATURE AND THE RATES OF IMPORT DUTY ON VARIOUS PRODUCTS UNDER SECTION 104 OF THE TARIFF AND CUSTOMS CODE OF 1978 (PRESIDENTIAL DECREE NO. 1464, AS AMENDED);

Section 5 thereof provides that EO 264 shall "take effect following its complete publication in two (2) newspapers of general circulation." EO 264 was published in the Manila Times and Daily Tribune on 10 January 2004 and was circularized under CMC 28-2004 on 14 January 2004.

1. In view of the foregoing, the following are hereby clarified:
 - 1.1. EO 264 took effect on 11 January 2004, a day after its complete publication.

Thus, the applicable MFN rates under EO 264 shall be imposed on all shipments entered or withdrawn from warehouses for consumption (not on arrival of shipment or for which an LC was opened) on 11 January 2004 and thereafter.
 - 1.2. From 01 January 2004 up to 10 January 2004, the applicable MFN rates shall be those prescribed under EO 241, s. 2003; EO 91, s. 2002; EO 84, s. 2002; EO 83, s. 2002; EO 11, s. 2001; and EO 334, s. 2001. If the tariff lines in these EOs would not apply, the appropriate tariff lines in the TCCP June 2003 edition apply. Thus shall the above issuances serve to provide the "transition rates" during this period.
2. Accordingly, all issues relating to the applicability of EO 264 shall be resolved as above prescribed.
3. Any deviation from the above shall be resolved in an appropriate protest case or as a VCRC case.

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4. In case of a VCRC case, the following applies :
- 4.1. The shipment may qualify for Tentative Release upon payment of the taxes and duties as per declaration and the posting of cash bond to cover the tariff differential.
 - 4.2. The Tentative Release granted by the VCRC shall, prior to the release of the shipment from Customs custody, be subject to CLEARANCE by the Commissioner of Customs or his duly authorized representative. For this purpose, the District/Port Collector concerned shall forward to the Office of the Commissioner the Tentative Release papers, together with all supporting documents.

In the case of Outports, the required documents shall be faxed to the Office of the Commissioner of Customs to any of these numbers: 527-1953/527-4573.
 - 4.3. In resolving the tariff line issue, the VCRC shall consider the tariff line involved under EO 264 as against the tariff line in previous prevailing EO, stating the tariff differential and the absolute amount in terms of taxes/duties involved.
 - 4.4. Any VCRC decision adverse to the government shall be subject to automatic review by the Commissioner of Customs.
5. Accountability:
- 5.1. 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.
 - 5.2. All concerned Customs officers/personnel involved in the implementation of this Order are directed to perform their responsibilities as required herein.
 - 5.3. 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.



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6. All customs orders, rules and memoranda, or parts thereof, that are inconsistent with this Order are hereby repealed or modified accordingly.



ANTONIO M. BERNARDO
Commissioner

Date Signed JAN 30 2004