

2017-01-021



Republic of the Philippines
Department of Finance
Bureau of Customs
MANILA 1099

MASTER COPY

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MEMORANDUM

To : All District/Port Collectors
and Others Concerned

Subject: Computation of Duties on NFA Rice Importations
Covered by the Deferred Payment Scheme (DPS),
otherwise known as the Tax Expenditure Subsidy
Fund.

Date : December 21, 2016

In connection with the request of the National Food Authority (NFA) and agreement between the BOC and NFA to consider the declared tariff on Cost, Insurance & Freight (CIF) value as components of dutiable value excluding local charges in bringing the rice from port of loading to NFA designated warehouse which was itemized/disclosed in their Commercial Invoice such as:

- a. Survey/inspection cost
- b. Insurance from port of unloading to delivered NFA warehouse
- c. Cargo Handling (ATI)
- d. Other local charges

in other words the four afore-mentioned items are local charges and not expenses incurred abroad and are not to be included in the computation for tax and dutiable value. Computation of duties on NFA rice importations covered by the Deferred Payment Scheme (DPS), otherwise known as the Tax Expenditure Subsidy Fund is in accordance with Section 3.2.4 (a) of Customs Memorandum Order No. 22-2007, "Guidelines in the Determination of the Cost of Insurance & Freight as Components of Dutiable Value."

For your information and guidance.

A handwritten signature in black ink, located below the typed name of the Commissioner.
NICANOR E. FAELDON
Commissioner



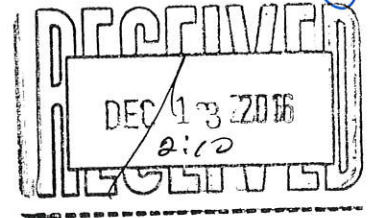
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Republic of the Philippines
Department of Finance
Bureau of Customs
MANILA 1099

MASTER COPY



MEMORANDUM

FOR : **NICANOR E. FAELDON**
Commissioner of Customs

Attention: **M/GEN. NATALIO C. ECARMA III (Ret.)**
Deputy Commissioner, RCMG

RE : **Meeting with NFA to Discuss Statement of Accounts/Billings for Duties on Rice Importations and Other Matters.**

DATE : December 13, 2016

X-----X

The undersigned requested a meeting with NFA to discuss and thresh-out issues on Statement of Accounts (SOA) / Billings issued by BOC covering 250,000 metric tons of NFA rice importations for the period September to October 2016 and other matters:

Highlights of the meeting with NFA

Time: 8:00 a.m. 5th Floor Office of the Assistant Administrator Ruben Reside, NFA

Present were:

NFA

1. Assistant Administrator Ruben Reside, Finance and Administration Accounting Services Department
2. Yolanda Nieves, Manager, Budget Treasury and Fund Management Department
3. Director Lemuel Pagayunan, Director, Grains Marketing Operations Department
4. Patricia Consuelo G. Jarci, Grains Marketing Operations Department

BOC

1. Ma. Lourdes L. Uy, OIC-Director, Collection Service, RCMG
2. Chito S. Doctor, DPS/TEF Processor, Collection Service, RCMG
3. Michael C. Uy, LAAD, Collection Service, RCMG

Issues discussed in the meeting:

1. Statement of Accounts (SOA) / Billings issued by BOC covering 250,000 metric tons of NFA rice importations for the period September to October 2016, based on submitted SOA of Port of Discharge on CIF-DAP value (Cost+Insurance+Freight+Delivery At Place – Charges / Expenses incurred abroad are dutiable and payable per Section 201 of TCCP).
2. SOA issued for 750,000 metric tons of rice importations discrepancy in the total amount of Php222,433,312.35.
3. Issue on the policy of FIRB Committee in the approval of Certificate of Entitlement to Subsidy (CES) that as matter of policy to limit the grant of the current year's tax subsidy to billings and/or assessments made by the Bureau of Customs in the current year only and not on Memorandum of Undertaking issued by NFA.
4. BOC explained that the basis of SOA are the presented Commercial Invoice bearing CIF + DAP which includes expenses incurred as reflected in the Invoice.

5. NFA explained that rice importations were based on CIF value as contained in their MOU excluding charges incurred locally, e.g. Survey Inspection Cost, Insurance from Port of Unloading to Delivered Warehouse and Other Cargo Handling in the Philippines and not expenses incurred abroad.
6. A letter was addressed to the undersigned copy furnished the Commissioner and Deputy Commissioner, RCMG dated December 5, 2016, explaining the letter of demand for the settlement of additional duties on previous importations of NFA.

The following were agreed upon to be undertaken by both BOC and NFA:

1. BOC will issue SOA/Billings for the 250,000 metric tons to be submitted by NFA to FIRB Committee for the issuance of CES in the total amount of Php1,616,432,783.00 bearing the CIF value.
2. The letter of demand in the amount of Php668,338,081.00 and Php222,433,312.35, respectively were explained in NFA letter dated December 5, 2016 to the undersigned that NFA has no additional duties to be settled.
3. Issues on Section 201 of the Tariff and Customs Code of the Philippines and Customs Memorandum Order No. 22-2007 dated September 06, 2007, that NFA rice importations will be based on CIF value excluding DAP locally charged expenses as reflected on the Commercial Invoice.

The meeting with NFA and BOC adjourned at 9:30 a.m.

For your information.


MA. LOURDES L. UY
OIC-Director, Collection Service, RCMG

Encl.: As stated.

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VIETNAM SOUTHERN FOOD CORPORATION (VINAFOOD II)
333 TRAN HUNG DAO STREET, CAU KHO WARD, DISTRICT
01, HO CHI MINH CITY, S.R.VIETNAM

HO CHI MINH CITY, 15 OCTOBER 2016

SUPPLIER'S COMMERCIAL INVOICE

No. 19/25/NFA-16

- VESSEL : M/V SONG NGAN
 - UNDER B/L NO. : 19/PH-25/16 DATED 15 OCTOBER 2016
 - PORT OF LOADING : HO CHI MINH CITY PORT, VIETNAM
 - PORT OF DISCHARGE : BACOLOD, PHILIPPINES.
 - THE PURCHASE CONTRACT NUMBER. : CONTRACT FOR THE
 PURCHASE AND SUPPLY OF MAXIMUM 150,000MT, 25% BROKENS
 WELL MILLED LONG GRAIN WHITE RICE, ON CIF-DAP (FOW) BASIS.

For account and risk of messrs

NATIONAL FOOD AUTHORITY (NFA),
PHILIPPINES SUGAR CENTER BUILDING,
NORTH AVENUE, DILIMAN, QUEZON CITY,
PHILIPPINES.

DESCRIPTION OF GOODS

LONG GRAIN WHITE RICE, 25% BROKENS,
WELL MILLED

NUMBER OF BAGS : 102,000 BAGS
 GROSS WEIGHT : 5,112.240 MT
 NET WEIGHT : 5,100.000 MT

PACKING :
 FIFTY (50) KILOGRAMS NET EACH IN POLYPROPYLENE BAGS
 (WITH A MINIMUM WEIGHT OF 110 GRAMS/PC)
 SUITABLE FOR RICE EXPORT WITH NFA'S MARKINGS.

VALUE OF THE COMMODITY : USD 2,166,735.00

SELLER WILL PROVIDE FREE EMPTY SACKS EQUIVALENT TO 1.5%
 OF TOTAL VOLUME (IN BAGS) LOADED ALSO SUITABLE FOR RICE
 EXPORT WITH NFA'S MARKINGS.
 (1530 BAGS).

AMOUNT TO BE PAID : USD 2,166,735.00

TOTAL : USD 2,166,735.00

BREAK-DOWN OF COST ITEMS :

+ CIF (COST, INSURANCE & FREIGHT)

AT USD 424.85 (US\$ FOUR HUNDRED TWENTY FOUR.CENTS EIGHTY
 FIVE) PER METRIC TON, ON CIF, DAP (FOW) TERMS:
 BACOLOD, PHILIPPINES.

A - FOB	: USD	354.25
B - MARITIME INSURANCE	: USD	4.75
C - FREIGHT	: USD	26.00
<u>TOTAL CIF</u>	<u>USD</u>	<u>385.00</u>

CONTRACT NO. NFA-VINAFOOD-II-2016-09-01
 DD 2016-09-14

++ OTHER COST

D - SURVEY/ INSPECTION COST	: USD	0.50
E - INSURANCE FROM PORT OF UNLOADING TO DELIVERIED WAREHOUSE	: USD	3.00
F - CARGO HANDLING	: USD	31.00
G - OTHERS	: USD	5.35
<u>TOTAL OTHER COST</u>	<u>USD</u>	<u>39.85</u>

MARKING: NFA'S MARKINGS

<u>TOTAL UNIT PRICE INVOICE VALUE</u>	<u>USD</u>	<u>424.85</u>
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PAYMENT BY D/P

SAY: US DOLLARS TWO MILLION ONE HUNDRED SIXTY SIX THOUSAND AND SEVEN HUNDRED THIRTY FIVE ONLY./.

FOR DIRECTOR

[Signature]
 VIETNAM SOUTHERN
 FOOD CORPORATION



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DEPARTMENT OF FOREIGN TRADE,
MINISTRY OF COMMERCE,
563 NONTHABURI ROAD, BANGKASOR, MUANG DISTRICT, NONTHABURI 11000 THAILAND

COMMERCIAL INVOICE

NO. P17/2559


Date 20 OCTOBER 2016

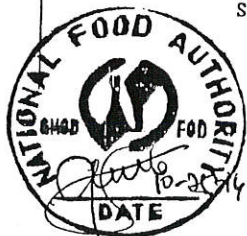
Invoice of: 98,000 BAGS OF LONG GRAIN WHITE RICE, 25% BROKENS, WELL MILLED CROP 2016

Shipped per: M.V. "PASCO 98"

Port of loading: BANGKOK, THAILAND Port of Discharge: ILOILO CITY PORT, PHILIPPINES

By order and Account of: NATIONAL FOOD AUTHORITY (NFA), THE PHILIPPINE SUGAR CENTER BUILDING, NORTH AVENUE,
DILIMAN, QUEZON CITY, PHILIPPINES

Marks & Nos.	Quantity	Descriptions	Amount
 FA RICE WELL MILLED GRADE NO. 1 SUPER NET WEIGHT: 50 kg	98,000 BAGS	LONG GRAIN WHITE RICE, 25% BROKENS, WELL MILLED, CROP 2016	
		PRICE: US\$ 424.85 PER METRIC TON, ON CIF, DAP (FOW) TERMS :-	
		CIF (COST, INSURANCE & FREIGHT)	
		FOB	US\$ 355.85
		MARINE INSURANCE	US\$ 1.00
		FREIGHT	US\$ 25.00
		TOTAL CIF	US\$ 381.85
		OTHER COSTS	
		SURVEY/INSPECTION COST	US\$ 1.00
		CARGO HANDLING	US\$ 31.00
		OTHERS	US\$ 11.00
		TOTAL OTHER COST	US\$ 43.00
		TOTAL CONTRACT PRICE	US\$ 424.85/MT
		SPECIFICATIONS :-	
		WHOLE KERNELS (MIN.%)	40.00 PCT
		BROKENS (MAX. %)	25.00 PCT
		DAMAGED GRAINS (MAX. %) 1/	1.50 PCT
		YELLOW/DISCOLORED GRAINS (MAX. %)	1.50 PCT
		CHALKY KERNELS (MAX. %)	8.00 PCT
		IMMATURE KERNELS (MAX. %)	1.00 PCT
		RED KERNELS (MAX. %)	5.00 PCT
		FOREIGN MATTER (MAX. %)	0.20 PCT
		WEED SEEDS AND OTHER CROP SEEDS	35.00
		(MAX. NO. PER 1,000 G)	
		PADDY (MAX. NO. PER 1,000 G)	25.00
MOISTURE CONTENT (MAX. %)	14.00 PCT		
SIZE OF BROKENS	<0.50 OF THE WHOLE KERNEL OR <3.2 MM IN LENGTH		
MILLING DEGREE	WELL-MILLED 2/		
CROP YEAR	HARVESTED DURING THE PERIOD FEBRUARY 2016 ONWARDS ONLY. STOCKS SHOULD BE FRESHLY MILLED NOT MORE THAN FOUR (4) MONTHS PRIOR TO LOADING AS CERTIFIED BY SELLER'S APPOINTED SURVEYOR		





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**PAMBANSANG
PANGASIWAAN
SA PAGKAIN**

NATIONAL FOOD AUTHORITY

Philippine Sugar Center Bldg. North Ave., Diliman, Quezon City Tel No. (02) 453-3900/981-3800 to 30 Website www.nfa.gov.p

December 5, 2016

MS. MA. LOURDES L. UY

Officer-in-Charge, Collection Service
Revenue Collection & Monitoring Group
Bureau of Customs
Port Area, Manila

Dear Ms. Uy:

This refers to your letters dated October 3 and November 24, 2016 requesting payment of unsettled Customs Duties amounting to P668,338,081.00 and P222,433,312.35, respectively.

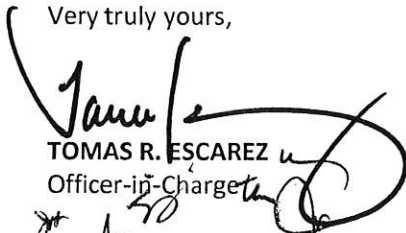
Please be informed that NFA cannot settle the amounts being billed due to the following:

1. One of the significant Audit Observations and Recommendations in COA's Annual Audit Report for the Fiscal Year Ended December 31, 2013 was the overvaluation of customs duties on 205,700 MT Rice Importation amounting to P233,526,935.00. This was due to the shift in rice importation terms from Cost and Freight – Free Out (CFR-FO) to Cost, Insurance and Freight - Duties Delivered Unpaid (CIF-DDU) which was not considered in the determination of declared dutiable cost for purposes of computation of customs duties by the BOC. Moreover, COA recommended that NFA performs independent review of the computation of the dutiable value of importation before submission of the Memorandum of Undertaking (MOU) to BOC with consideration on the contract terms to ensure the accuracy of the customs duties granted as tax subsidy and coordinates with the BOC on the difference in the computation of the dutiable cost and resulting customs duties in the 2013 importations, for appropriate adjustment, recording and reporting purposes.
2. On January 15, 2014, former Administrator Orlan A. Calayag wrote a letter to then Commissioner John Phillip P. Sevilla informing BOC of the overvaluation of customs duties billed to NFA.
3. A series of meetings was held at BOC with then Deputy Commissioner Maria Edita Z. Tan and her staff primarily to discuss and resolve the issue on the overvaluation of customs duties for NFA rice imports due the change in contract terms with the rice import suppliers. One of the highlights agreed during these meetings was for BOC to issue a Customs Memorandum Order to all BOC District Collectors in NFA disport provinces requiring them to observe and consider the declared tariff of NFA as the basis of their tax assessment. (Attached are NFA's letters to BOC on this issue).

4. Computation for customs duties for the 500,000MT and 800,000 MT rice importations on November 15, 2013 and April 4, 2014, respectively, still included the estimated expenses in bringing the rice from port of loading to NFA designated warehouses.
5. Following COA's recommendation, subsequent tax subsidy (CES/SARO) requested by NFA for its Rice Importations were based on FOB cost, freight charges and insurance as contained in the MOUs. This is in accordance with Section 3.2.4 of BOC Memorandum No. 22-2007 dated September 6, 2007 – Guidelines in the Determination of Cost of Insurance and Freight Charges as Components of Dutiable Value.

Please note that in the 2014 Annual Audit Report the findings on the overvaluation of customs duties on NFA's rice importation was reiterated.

Very truly yours,


TOMAS R. ESCAREZ
Officer-in-Charge

cc: Nicanor E. Faldon
Customs Commissioner
Port Area, Manila

mfj 12/12

Deputy Commissioner
Revenue Collection and Monitoring Group
Port Area, Manila