



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

INTERNAL ADMINISTRATION GROUP
CENTRAL RECORDS MANAGEMENT DIVISION

November 05, 2019

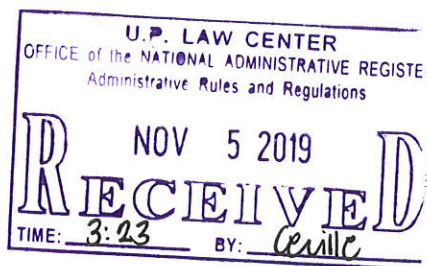
The Director

Office of the National Administrative Register (ONAR)
UP Law Center Diliman, Quezon City


Sir/Ma'am:

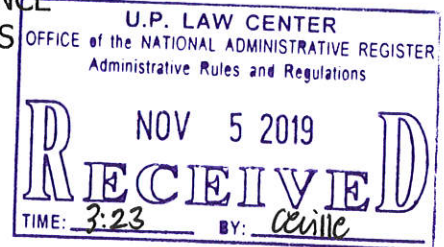
Transmitted are three certified true copies and soft copy (word format in compact disc rewritable) of the following Customs Memorandum Order and Customs Administrative Order, to wit:

CAO 16-2019: GOVERNMENT'S RIGHT OF COMPULSORY ACQUISITION.



Very truly yours,


GLADYS C. CABUGAWAN
Chief, CRMD



CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. 16-2019

SUBJECT: GOVERNMENT'S RIGHT OF COMPULSORY ACQUISITION

Introduction. This CAO implements Section 709, Chapter 2, Title VII and other relevant provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. This CAO applies to all imported goods suspected to be undervalued, including but not limited to consumption, warehousing, transshipment, consolidated goods and postal items.

Section 2. Objectives.

- 2.1. To protect government revenues in instances where there is substantial basis to make a finding that the imported goods are undervalued; and
- 2.2. To deter importers from underdeclaring the value of their imported goods.

Section 3. Definition of Terms. For purposes of this CAO, the following terms shall be defined as follows:

- 3.1. **Bureau** – shall refer to the Bureau of Customs.
- 3.2. **Compulsory Acquisition** – shall refer to the power of the government to acquire imported goods when the importers declared customs value is unconscionably low with reference to Section 4.2 hereof.
- 3.3. **Customs Facilities and Warehouses (CFW)** – shall refer to facilities for temporary storage of goods established and authorized by the Bureau pursuant to Title VIII, Chapter 2 of the CMTA. CFWs include yards, container freight stations, seaport temporary storage warehouses, airport temporary storage warehouses, and other premises for customs purposes.¹
- 3.4. **Duty Benchmark** – shall refer to the practice of paying uniform duty on certain categories of goods disregarding the quality, quantity and the actual value of the goods.

¹ cf. CAO No. 09-2019, Section 3.6.

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- 3.5. Duty Benchmark** — shall refer to the practice of paying uniform duty on certain categories of goods disregarding the quality, quantity and the actual value of the goods.
- 3.6. Imported Goods** — shall refer to goods brought in from a foreign territory into Philippine territory.²
- 3.7. Public Auction** — shall refer to a public sale of goods by the Bureau in accordance with the Bureau of Customs and Commission on Audit's rules and regulations.
- 3.8. Undervaluation** — shall refer to wrongful declarations committed when: (a) the declared value fails to disclose in full the price actually paid or payable or any dutiable adjustment to the price actually paid or payable; or (b) when an incorrect valuation method is used or the valuation rules are not properly observed, resulting in a discrepancy in duty and tax to be paid between what is legally determined as the correct value against the declared value.³
- 3.9. Notice of Compulsory Acquisition (NCA)** — shall refer to the preliminary order issued by the Commissioner identifying the goods subject for Compulsory Acquisition. This notice shall ripen into a Warrant of Compulsory Acquisition (WCA) upon the affirmation of the Commissioner's decision, or upon final resolution of the appeal.
- 3.10. Warrant of Compulsory Acquisition (WCA)** — shall refer to the decision of the Commissioner to acquire the goods subject for Compulsory Acquisition for a price equal to their declared customs value plus any duties already paid on the goods.⁴

Section 4. General Provisions.

- 4.1. Authority to Exercise Right of Compulsory Acquisition.** The Commissioner of Customs has the sole authority to exercise, motu proprio, or upon the recommendation of the District Collector, the power of Compulsory Acquisition.⁵
- 4.2. Badges of Undervaluation.**
- 4.2.1.** Duty Benchmarking, as defined in Section 3.4 of this CAO.
- 4.2.2.** Information coming from Customs Administration of other countries or report based on valid industry complaint or recommendation of reputable and recognized organizations or chambers that such importation is unconscionably low.

² cf. CMTA, Title I, Chapter 2, Section 102 (z).

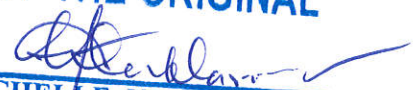
³ cf. CMTA, Title XIV, Chapter 1, Section 1400.

⁴ cf. CMTA, Title VII, Chapter 2, Section 709.

⁵ cf. CMTA, Title VII, Chapter 2, Section 709.



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4.2.3. A commodity is valued unconscionably low when the Bureau, after applying all the methods of valuation, still finds a discrepancy of at least thirty percent (30%) in the value declared as against other reference.

Section 5. Operational Procedures.

- 5.1.** The Commissioner may, motu proprio, issue the NCA upon determination that the goods are valued unconscionably low. In case forged or spurious documents are used, the goods shall be proceeded against under Section 1400 of the CMTA.
- 5.2.** If the issuance of the NCA is upon the recommendation of the District Collector, the Commissioner shall act on the recommendation within forty-eight (48) hours, and in case of perishable goods, within twenty-four (24) hours. The recommendation of the District Collector shall be deemed denied when no NCA is issued by the Commissioner within the period.
- 5.3.** Upon the issuance of the NCA, the goods shall immediately be transferred to a secured area or facility under the jurisdiction of the Bureau.
- 5.4.** The Bureau shall conduct the Compulsory Acquisition proceedings within three (3) working days after the issuance of the NCA and render a decision within five (5) working days from the termination thereof.
- 5.5.** Upon determination by the Commissioner that the value of the subject goods are unconscionably low, the Commissioner shall issue a WCA. A notice of the decision of the Commissioner shall be provided to the importer.
- 5.6.** The Bureau shall pay the importer the value of the goods equal to the declared customs value plus any duties already paid on the goods within ten (10) working days from issuance of the WCA.
- 5.7.** The importer may appeal the decision of the Commissioner to the Secretary of Finance within twenty (20) working days from the receipt of the WCA.
- 5.8.** When the decision of the Commissioner is affirmed by the Secretary of Finance, the importer may appeal to the Court of Tax Appeals within thirty (30) calendar days⁶ from receipt of the decision of the Secretary of Finance.
- 5.9.** If the decision of the Commissioner is reversed by the Secretary of Finance, said decision shall be final and executory.

⁶ cf. CMTA, Title XI, Chapter 1, Section 1104.



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- 5.10. When no appeal is taken within the prescribed period, or upon finality of the decision of the court affirming the exercise by the Commissioner to acquire the property, the WCA shall be final and executory.
- 5.11. Payment to the importer shall be made in cash based on the price equal to the declared customs value plus any duties already paid on the goods.
- 5.12. Goods subject of Compulsory Acquisition shall be disposed through Public Auction, negotiated sale or other mode of disposition allowed under the CMTA subject to appropriate rules and regulations. For this purpose, the floor price shall consider the cost of storage and all other expenses related to the safekeeping of the goods pending appeal.⁸

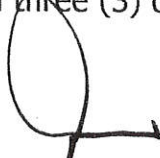
Section 6. Repealing Clause. This CAO amends or repeals previously issued CAOs and CMOs which are inconsistent with the provisions herein stated.

Section 7. Separability Clause. If any part of this order is declared unconstitutional or contrary to laws, the other parts not so declared shall remain in full force and effect.

Section 8. Review. This CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 9. Effectivity. This CAO shall take effect thirty (30) days from publication at the Official Gazette or a newspaper of national circulation.

The Office of the National Administrative Registrar (ONAR) of the UP Law Center shall be provided three (3) copies of this CAO.


REY LEONARDO B. GUERRERO
 Commissioner of Customs



BOC-02-00294

SEP 27 2019


Approved:


CARLOS G DOMINGUEZ
 Secretary of Finance

OCT 10 2019



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⁸ cf. CMTA, Title XI, Chapter 10, Section 1141.

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

History. This CAO is amendatory to all the previous issuances of the Bureau of Customs relating to Compulsory Acquisition.

"The collection, recording, storage maintenance, processing, sharing of data and information; and maintenance of data information in the CAO shall be secured and consistent with the principles and policy of Republic Act 10173, also known as The Data Privacy Act."

Related Policies.

- CAO 5-2016, "Consolidated Shipment of Duty and Tax-Free Balikbayan Boxes"
- CAO 3-2017, "Clearance of Postal Items"
- CAO 2-2016, "Imported Goods with De Minimis Value not subject to Duties and Taxes"
- CMO 66-1993, "Rules and Regulations in the Operation of Block 159 Model Security Warehouse"

Webpage, Forms, Handbooks and other References.

- Republic Act No. 10863 "Customs Modernization and Tariff Act"

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