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# BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



## MEMORANDUM

**TO :** PORT OPERATIONS SERVICE  
ALL DISTRICT AND SUB-PORT COLLECTORS  
DEPUTY COLLECTORS FOR OPERATIONS  
EXPORT COORDINATION DIVISION OR ITS EQUIVALENT  
UNIT  
ALL OTHERS CONCERNED

**FROM :** REY LEONARDO B. GUERRERO  
Commissioner   BOC-02-06939

**SUBJECT :** CLARIFICATORY MEMORANDUM RELATIVE TO THE  
IMPOSITION OF FINES AND SURCHARGES FOR CLERICAL  
ERRORS UNDER CAO NO. 01-2020 FOR EXPORT  
DECLARATIONS

**DATE :** 04 October 2021

This is to clarify the enforcement of Customs Administrative Order (CAO) No. 01-2020 on *"Fines and Surcharges for Clerical Errors, Misdeclaration, Misclassification and Undervaluation"* in view of the concerns raised by various stakeholders primarily engaged in the exportation of goods.

As a background, according to the position of the stakeholders, the penalties for errors under CAO 01-2020 impose undue financial burden on the exporters, considering that the accurate data needed for lodgement cannot be initially determined in most cases, and that the subsequent changes in the final export declaration are mainly due to factors and conditions in the exportation of goods, all of which are beyond the stakeholders' control.

To be more specific, it was submitted that the preparation and submission of export declaration entail some adjustments in the entries not necessarily stemming from inadvertence but due to varying business conditions such as cargo handling and cargo measuring factors, beyond their control. By way of example, adjustments are often made in the weight of the shipment due to the difference in actual volume of the goods loaded versus the declared volume prior to loading. The market conditions and the eventual customers of the goods likewise affect the price thereof. Consequently, the customs valuation is affected by these adjustments. Thus, it is also their position that since these are not inadvertent errors within the scope of CAO 01-2020, then the fine for every clerical error should not be imposed.

Foremost, it is worthy to emphasize that Section 3.7 of CAO No. 01-2020 defines inadvertent error as a mechanical, electronic or clerical error committed unintentionally by the Declarant which occurred notwithstanding the maintenance of internal controls necessary to avoid such errors. For purposes of the imposition of fine, an error may be considered as clerical when the same is inadvertent which may

include misspelling or incorrect input of data, **provided that it is not attendant with fraud and not due to gross negligence.**

The main objective of the policy imposing a fine for every clerical error is to ensure that goods are properly declared in accordance with the procedure, and deter commission of such small and inadvertent mistakes. To note, the law does not distinguish what kind of mistakes are covered by this provision. Instead, it only requires that the commission is not tainted with fraud.

Nonetheless, in order to address the concerns raised by the stakeholders, it is material to distinguish as to what constitutes inadvertent and clerical errors and the instances as to when the fees may be imposed as provided under the subject CAO in contrast with the proposed adjustments in the final export declaration.

To emphasize, the error contemplated under CAO No. 01-2020 is committed when there is an incorrect or erroneous input of data in the goods declaration while drafting, copying or transposing a document, provided that it is not attendant with fraud and not due to gross negligence, on the following:

- a. *Consignee(s)' name;*
- b. *Importing vessel or aircraft;*
- c. *Port of departure;*
- d. *Port of destination and date of arrival;*
- e. *Number and/or marks of packages;*
- f. *The quantity, the nature and correct commodity description of the Goods contained therein;*
- g. *Value as set forth in the invoice and packing list; and*
- h. *Such other information as may be required by rules and regulations.*

On the other hand, minor adjustments due to extraneous factors beyond the control of the exporter may not equate to an error as contemplated under the subject CAO, such as the following:

1. Changes in the net weight of the shipment due to the difference in actual volume of the goods loaded *vis-a-vis* the declared volume prior to loading by reason of cargo handling or cargo measuring factors;
2. Changes in shipping details upon the advice (email notification) of the shipping lines, provided that errors in encoding the shipping details are considered inadvertent unless the same are covered by such advice; or
3. Any other circumstance which necessitates adjustments to accurately reflect the information required for the export declaration.

Thus, adjustments in the export declarations may be considered provided that these are reasonably explained, coupled with the appropriate documentary evidence, without prejudice to the issuance of any demand for payment should there be subsequent findings of errors or any violation contemplated under CAO No. 01-2020 after the release thereof from customs jurisdiction.

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Moreover, pursuant to Section 5 of CAO No. 01-2020 and CAO 02-2020 on "Dispute Settlement and Protest", a concerned stakeholder may exercise or avail of the remedy of a formal customs dispute settlement arising from customs valuation, rules of origin, tariff classification, and other customs issued.

For reference and strict compliance.