



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

INTEGRITY

ACCOUNTABILITY

01 June 2021

CUSTOMS MEMORANDUM CIRCULAR (CMC)

NO. 108-2021

SUBJECT: EO 135 (SERIES OF 2021) ON "TEMPORARILY MODIFYING THE RATES OF IMPORT DUTY ON RICE UNDER SECTION 1611 OF REPUBLIC ACT NO. 10863, OTHERWISE KNOWN AS THE "CUSTOMS MODERNIZATION AND TARIFF ACT"

In view of the effectivity of **Executive Order No. 135 (series of 2021)** on "Temporarily Modifying the Rates of Import Duty on Rice under Section 1611 of Republic Act No. 10863, otherwise known as the "Customs Modernization And Tariff Act" on **02 June 2021**, which shall be effective for a period of one (1) year from such date, all concerned are informed that all articles specifically listed in Annex A of EO 135 (s. 2021), which are entered into or withdrawn from warehouses in the Philippines for consumption, shall be levied the temporary MFN rates of duty as prescribed therein.

Thus, the Bureau of Customs' Electronic to Mobile (E2M) System is hereto required to reflect the temporary MFN rates of duty pursuant to the said EO.

All District and Sub-Port Collectors, and all others concerned are hereby directed to confirm the dissemination of this Order throughout their offices within five (5) days from receipt thereof for records purposes.

This Order shall take effect immediately.

REY LEONARDO B. GUERRERO

Commissioner **JUN 01 2021**



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 135

TEMPORARILY MODIFYING THE RATES OF IMPORT DUTY ON RICE UNDER SECTION 1611 OF REPUBLIC ACT NO. 10863, OTHERWISE KNOWN AS THE "CUSTOMS MODERNIZATION AND TARIFF ACT"

WHEREAS, rice remains the staple food for most Filipinos, and accounts for a significant portion of the food expenses of families;

WHEREAS, despite an increase in the total stock of rice, the estimated local production may still fall short of the total demand, necessitating importation from other countries;

WHEREAS, there has been a continuous increase in the price of rice from other countries, especially those imported from the Association of Southeast Asian Nations region;

WHEREAS, the current global economic situation brought about by the COVID-19 pandemic, as well as other factors affecting the country's traditional sources of imported rice, cause uncertainty in the steady supply of rice;

WHEREAS, considering the increase in global rice prices and the uncertainties relative to the supply of rice, there is an urgent need to temporarily reduce the Most Favoured Nation (MFN) tariff rates on rice, to diversify the country's market sources, augment rice supply, maintain affordable prices, and reduce inflationary pressures, all for the purpose of ensuring food security in the country and protecting consumers;

WHEREAS, under Section 7(a) of Republic Act (RA) No. 8178, as amended, the President may increase, reduce, revise, or adjust existing rates of import duty up to the bound rate committed by the Philippines under the World Trade Organization Agreement on Agriculture;

WHEREAS, Section 1608 of RA No. 10863 empowers the President, in the interest of general welfare and national security, and upon recommendation of the National Economic and Development Authority (NEDA), to increase, reduce or remove existing rates of import duty; and

WHEREAS, on 11 March 2021, the NEDA Board endorsed *ad referendum* the temporary modification of the MFN tariff rates on rice falling under AHTN 2017 Heading 10.06;

THE PRESIDENT OF THE PHILIPPINES

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

SECTION 1. Rates of Import Duty. The articles specifically listed in Annex A hereof, as classified in compliance with Section 1611 of RA No. 10863, shall be subject to the MFN rates of duty in accordance with the schedule indicated opposite the article.

Upon the effectivity of this Order, all articles specifically listed in Annex A hereof, which are entered into or withdrawn from warehouses in the Philippines for consumption shall be levied the MFN rates of duty as prescribed therein.

SECTION 2. Repeal. All other issuances, administrative rules and regulations, or parts thereof, which are inconsistent with this Order are hereby repealed or modified accordingly.

SECTION 3. Separability. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

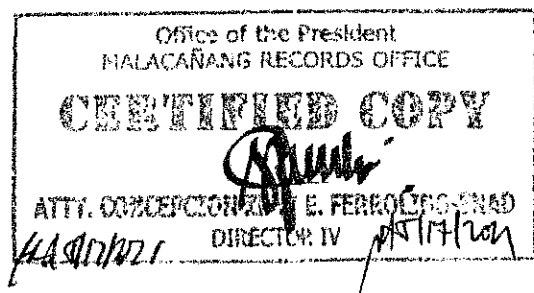
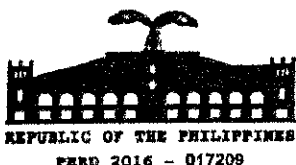
SECTION 4. Effectivity. This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation, and shall be effective for a period of one (1) year from such date.

DONE, in the City of Manila, this 15th day of **May** in the year of Our Lord, Two Thousand and Twenty One.




By the President:


SALVADOR C. MEDIALDEA
Executive Secretary



ANNEX A

Hdg. No.	AHTN Code 2017	Description	MFN Rates of Duty (%)	
			Upon Effectivity	After the 12 th month
(1)	(2)	(3)	(4)	(5)
10.06		Rice.		
	1006.10	- Rice in the husk (paddy or rough) :		
	1006.10.10	-- X X X		
	1006.10.90	-- Other :		
	1006.10.90A	--- In-Quota	35	40
	1006.10.90B	--- Out-Quota	35	50
	1006.20	- Husked (brown) rice :		
	1006.20.10	-- Hom Mali rice :		
	1006.20.10A	--- In-Quota	35	40
	1006.20.10B	--- Out-Quota	35	50
	1006.20.90	-- Other :		
	1006.20.90A	--- In-Quota	35	40
	1006.20.90B	--- Out-Quota	35	50
	1006.30	- Semi-milled or wholly milled rice, whether or not polished or glazed :		
	1006.30.30	-- Glutinous rice :		
	1006.30.30A	--- In-Quota	35	40
	1006.30.30B	--- Out-Quota	35	50
	1006.30.40	-- Hom Mali rice :		
	1006.30.40A	--- In-Quota	35	40
	1006.30.40B	--- Out-Quota	35	50
		-- Other :		
	1006.30.91	--- Parboiled rice :		
	1006.30.91A	--- In-Quota	35	40
	1006.30.91B	--- Out-Quota	35	50
	1006.30.99	--- Other :		
	1006.30.99A	--- In-Quota	35	40
	1006.30.99B	--- Out-Quota	35	50
	1006.40	- Broken rice :		
	1006.40.10	-- Of a kind used for animal feed :		
	1006.40.10A	--- In-Quota	35	40
	1006.40.10B	--- Out-Quota	35	50
	1006.40.90	-- Other :		
	1006.40.90A	--- In-Quota	35	40
	1006.40.90B	--- Out-Quota	35	50

SC ends oral argument on ATA, cuts short Esperon's testimony

By BILL RUIAS/IAN Altamirano/IS

THE Supreme Court has decided to cut short the testimony of National Security Adviser Hermogenes Esperon after he linked several groups with terrorist the Communist Party of the Philippines-New People's Army (CPP-NPA) during last week's continuation on the oral argument on the 37 petitions assailing the constitutionality of the Anti-Terrorism Law.

At the start of the ninth and last day of the oral argument, Chief Justice Alexander Gesmundo said the Court would instead issue a resolution detailing the specific questions that the justices would like Esperon to answer.

The Chief Justice said Esperon's response to the questions would have to be incorporated in the memorandum that would be submitted by the Office of the Solicitor within 30 days upon issuance of the resolution.

The Court made the decision following the filing of a motion by several petitioners assailing the constitutionality of ATA, seeking to expunge the testimony of Esperon and to delete from its records the controversial videos that Esperon was presented to the justices during oral arguments last Wednesday.

With regards to motion to expunge [the] testimony, video presentation and annotations of respondent Hermogenes Esperon... the Court resolves to require respondent to comment," CJ Gesmundo announced.

"The Court also decided not to continue the interpellation of Esperon based on the compliance that he has submitted earlier," the chief magistrate added.

On the other hand, the CJ Gesmundo announced that Court agreed to issue a show-cause order to Free Legal Assistance Group (FLAG) lawyer and one of the counsel-petitioners Theodore Te for his statement posted in social media castigating the Court for allowing Esperon to red-tag several groups in open session last week.

During the court proceedings, Esperon played a two-minute video of self-exiled CPP founder Jose Maria Sison wherein the latter can be heard mentioning the names of 18 organizations whom the latter called "allied organizations."

He also played a 1987 video of Sison supposedly naming the legal organizations in the supposed National Democratic Revolution.

Esperon disclosed that about 75 organizations such as the Alliance of Concerned Teachers, Anakbayan, Kilusang Mayo Uno, Bagung Alyansang Makabayan, Gabriela and several others were present in a meeting presided by Sison in Hong Kong sometime in 2020.

These groups, he said, are part of the so-called International League of People's Struggles which meets every year. The petitioners said Esperon should not have been allowed to

testify since the SC is not a "trier of facts."

In doing so, the petitioners said, of the Court provided Esperon the opportunity to openly red-tag progressive groups, which is one the main issues raised in the petitions.

Amici curiae's opposing views MEANWHILE, former Chief Justice Reynato Puno and former SC Associate Justice and ex-Solicitor General Francis Jardeleza, gave contrasting opinions on the issues raised against the ATA.

Both Puno and Jardeleza were designated by the Court as amici curiae (friends of the court) to give their impartial and expert opinion on the matter.

In his position paper submitted to the Court, Puno called on the SC to strike a balance between the protection of rights guaranteed under the Constitution and national security in resolving the 37 petitions seeking to declare the ATA of 2011 as unconstitutional.

"Your Honors, we are to seek the right balance between individual liberty and national security. This is not case of all or nothing matter but a matter of more or less," Puno told the High Tribunal.

"The balance should not reduce individual rights into insignificance for they are inherent to human dignity. Neither should the balance put an end to the security of the people for they did not enter into a 'suicide pact' when they ratified the Constitution. The ideal is for us to be both free and safe," Puno stressed.

Puno admitted that there were certain provisions in the ATA that he considers as a matter of "constitutional concern," particularly in the process of designation of terrorists.

Among these provisions are Sections 25, 35, 36, 38 and 41 with respect to designation of terrorists and the power of the Anti-Money Laundering Council (AMLC) to order freezing of their assets.

He questioned the Anti-Terrorism Council's automatic adoption of the list of terrorists that comes from the UN Security Council (UNSC).

Puno explained that it is not clear whether the UNSC Resolution 1375 mandatorily ordered member-states to automatically adopt its list of terrorists.

"The process followed by the UN Security Council in arriving at the list may not conform with our Constitution. We are not aware how much of the pro-

cess is open and how much is in camera," the former Chief Justice told the Court.

"The standard of fairness in the listing process should be our legitimate concern. The criteria that guided the Security Council in preparing the black list can be changed from time to time. The change may be demanded by the lay of the legal landscape, which will vary from country to country. The change in criteria may not always be in accord with our fundamental law and automatically adopting the UN list may not give us any wiggle room to avoid unconstitutional difficulties," Puno elaborated.

Another concern raised by Puno dwells on ATC's authority to determine the person or organization to be designated as terrorists based on a probable cause.

"The disconcerting question is whether there is a meaningful remedy on the part of a person or organization designated by ATC as a terrorist when it's finding of probable cause rests on erroneous ground," Puno stressed.

Puno's concern was anchored on the lack of express provision in the ATA that allows aggrieved parties to assail the factual basis of the designation made by ATC. With regard to the freezing of assets of designated terrorists, Puno noted that AMLC's may issue a freeze order valid only for 20 days but may be extended for a period not exceeding six months by the Court of Appeals.

He said this was in contrast with regard to the freeze orders involving terrorists determined by the UNSC and adopted by the ATC, which is indefinite until ordered lifted.

"When law makes distinction when there is no difference, there is a violation of the equal protection clause of the Constitution," Puno pointed out.

Puno also raised the possibility of violation of the principle of equal protection under the Constitution with regard to the implementation of Sections 26, 27, 28 and 36 pertaining to prescription of terrorists.

He noted that the prescription is used only for terrorist organizations, association or groups of persons and not for individual persons listed as terrorists by designation.

Furthermore, the former Chief Justice raised the possibility of violation of existing rights of arrested persons with the implementation of Section 29 of the ATC, which authorizes in writing law enforcers to take custody suspected terrorists and detain them for a period of 14 days which can be extended for a maximum of 10 more days depending on several conditions.

"Undoubtedly, there will be cuts on the rights of detainees under our present law. Again, the difficult constitutional question to resolve is how deep can these cuts be allowed on detainees without destroying the essence of their rights," Puno explained.

Likewise, Puno raised some "bothersome" provisions covering surveillance of terrorists such as the continued surveillance of persons already charged with terrorism and the use of any mode to perform this act.

"This runs against the conventional thinking that when a person is charged, the State has already the quantum of evidence to convict the person beyond reasonable doubt," Puno said.

On the other hand, Jardeleza told the magistrates that the petitions should be dismissed on the grounds of lack of legal standing and that the Court is not a trier of facts.

"While a case for 'pre-enforcement review' of a criminal statute is possible, the same is allowed solely on grounds of vagueness. Since none of the petitioners has sought to avail of this exception, I humbly submit that...37 petitions should be dismissed," Jardeleza said.

He added that cases presenting factual issues, such as the alleged torture of petitioners Japer Gurung and Junior Ramos, should be tried first under the doctrine of hierarchy of courts—before the lower court first—then the Court of Appeals.

Guru and Ramos, both Aetas, were charged with non-bailable offenses of illegal possession of firearms and explosives and for violation of the provision of the ATA before the Regional Trial Court of Olongapo City last September.

Gurung and Ramos and two other female Aetas are accused of being members of the communist New People's Army (NPA).

"Petitioners cannot short-circuit this process by simply invoking the 'transcendental or paramount' importance of their case," he explained.

While the issues raised by petitioners against the ATA are important as it involves civil liberties, Jardeleza admitted that the facts presented by petitioners are insufficient for the Court to rule against the ATA.

"My point, Judges of the RTC and justices of the Court of Appeals are not only equipped to receive and ascertain the facts for this Court, they also, in their own right, make constitutional law," the former magistrate said. "If it is my time we start hearing from them by giving them the first crack at cases such as these," he added.

Jardeleza also indicated that the observance of the doctrine of hierarchy of courts is necessary in order to unlog the Court's docket and hasten the resolution of cases.

He noted that based on the Judiciary Annual Report of 2016, the Court has a total case load of 14,491 as of December 31, 2016; 14,411 cases in 2017, 15,339 cases in 2018 and 14,760 cases in 2019.

Despite efforts to introduce reforms by three former chief justices, namely, Teresita de Castro, Lucas Bersamin and Diosdado Peralta to unlog the Court's docket, the number of pending cases from 2016 to 2019 also remained at the same level.

Thus, Jardeleza proposed that the Court consider imposing strict work or page limits to petitions filed before it and declaring that the 24-month period mandated by the Constitution to decide a case is mandatory and should be dutifully observed across all levels of the courts.

At the end of the oral argument, CJ Gesmundo said the Court has decided to require the petitioners to submit their memoranda on the issues they agreed to present in the oral argument.

He said a resolution would be issued setting forth the contents of the memoranda and would give the parties 30 days within which to submit their memoranda.

Executive Order No. 131: TEMPORARILY MODIFYING THE RATES OF IMPORT DUTY ON RICE UNDER SECTION 1611 OF REPUBLIC ACT NO. 10463 OTHERWISE KNOWN AS THE CUSTOMS MODERNIZATION AND TARIFF ACT. Includes sections on Rates of Import Duty, Importation of Rice, and other provisions.



REPUBLIC OF THE PHILIPPINES

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 133

TEMPORARILY MODIFYING THE RATES OF IMPORT DUTY ON RICE UNDER SECTION 1611 OF REPUBLIC ACT NO. 10663 OTHERWISE KNOWN AS THE "CUSTOMS MODERNIZATION AND TARIFF ACT"

WHEREAS rice remains the staple food for most Filipinos and accounts for a significant portion of the food expenditure of families;

WHEREAS despite an increase in the total stock of rice, the estimated rice production may still fall short of the total demand necessitating importation from other countries;

WHEREAS there has been a continuous increase in the price of rice both at the consumer, especially those imported from the Association of Southeast Asian Nations region;

WHEREAS the current global economic situation brought about by the COVID-19 pandemic, as well as other factors affecting the country's traditional sources of imported rice, cause uncertainty in the steady supply of rice;

WHEREAS considering the increase in global rice prices and the uncertainties relative to the supply of rice, there is an urgent need to temporarily reduce the Most-Favored-Nation (MFN) tariff rates on rice to diversify the country's market sources, augment our supply, maintain affordable prices, and reduce inflationary pressures, all for the purpose of ensuring food security in the country and protecting consumers;

WHEREAS under Section 1611 of Republic Act (RA) No. 10663, as amended, the President may increase, reduce, remove or adjust existing rates of import duty up to the bound rate authorized by the Philippines under the World Trade Organization Agreement on Agriculture;

WHEREAS Section 1616 of RA No. 10663 empowers the President in the interest of general welfare and national security and upon recommendation of the National Economic and Development Authority (NEDA), to increase, reduce or remove existing rates of import duty; and

WHEREAS on 13 March 2021, the NEDA Board endorsed as referendum the temporary modification of the MFN tariff rates on rice falling under AHTN 2017 heading 10.09;

NOW, THEREFORE, I, RODRIGO DUA DUTERTE, President of the Republic of the Philippines, by virtue of the power vested in me by the Constitution and existing laws, do hereby order:

SECTION 1. Rates of import Duty. The articles specifically listed in Annex A hereto, as classified in compliance with Section 1611 of RA No. 10663, shall be subject to the MFN rate of duty in accordance with the schedule indicated opposite the article.

Upon the effectivity of this Order, all articles specifically listed in Annex A hereto which are entered into or withdrawn from warehouses in the Philippines for consumption shall be levied the full rate of duty as provided therein.

SECTION 2. Repeal. All other executive administrative rules and regulations, or parts thereof, which are inconsistent with this Order are hereby repealed or modified accordingly.

SECTION 3. Separability. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 4. Effectivity. This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation, and shall be effective for a period of one (1) year from such date.

DONE in the City of Manila this 15th day of May, 2021, the year of Our Lord, Two Thousand and Twenty One.

By the President

[Signature]

SALVADOR C. MEDALDEA
Executive Secretary



ANNEX A

Table with columns: HTS No., AHTN Code 2017, Description, MFN Rate of Duty (%) Upon Effectivity, MFN Rate of Duty (%) After the 12* month. Rows list various rice categories like 'Rice in the husk (grossly or roughly)', 'In-Quota', 'Out-Quota', etc.