



Date JAN 22 2021

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## CUSTOMS MEMORANDUM ORDER (CMO)

NO. 04-2021

### SUBJECT: CODIFICATION OF THE APPEALS PROCEDURES UNDER THE CUSTOMS MODERNIZATION AND TARIFF ACT (CMTA) AND RELEVANT RULES AND REGULATIONS

**Introduction.** This CMO is a consolidation of the administrative and judicial appeal processes under Republic Act No. 10863 otherwise known as the "Customs Modernization and Tariff Act" (CMTA) and its implementing rules and regulations into a singular document to be known as the "Manual of Appeal Procedures."

**Section 1. Scope.** This CMO covers all the appeal process available to the stakeholders of the Bureau under the CMTA in relation to customs rules and regulations.

#### Section 2. Objectives.

- 2.1. To establish an integrated manual containing the different appeals processes which can be afforded by Bureau's stakeholders;
- 2.2. To ensure compliance with existing international standards and customs practices in providing for an administrative and judicial remedies in any customs issue; and

**Section 3. Basic Guide.** This Manual of Appeal Procedures does not supplement nor supplant the appeal provisions under the CMTA and its implementing rules and regulations. Thus, after determining the applicable mode of appeal, reading the text of the actual provision in the CMTA or the particular Customs Administrative Order (CAO) is highly encouraged to ascertain the context of the penalty being imposed.

**Section 4. Period and Manner of Appeal.** In cases where the decision of the Port, Office, or the Commissioner is adverse to the claimant or stakeholder, the following administrative and/or judicial appeal or remedy may be availed of, depending on the issue involved, and with the corresponding prescribed period under the CMTA:

TOPIC   ISSUE	PERIOD
Compulsory Acquisition	Administrative: Appeal to the Secretary of Finance (SOF) within 20 working days after notice <sup>1</sup>  Judicial: Appeal to the Court of Tax Appeals (CTA) (period under existing regulation)

<sup>1</sup> cf. CMTA, Title VII, Chap 2, Section 709 and CAO No. 16-2019

<p>Refund</p>	<p>Administrative: Appeal to the Commissioner within 30 days from receipt of denial of the District Collector</p> <p>Judicial: Appeal to CTA within 30 days from receipt of the Commissioner's decision<sup>2</sup></p>
<p>Abandonment</p>	<p>Administrative: Motion for Reconsideration (MR) to District Collector or Appeal to Commissioner within 15 days from receipt of Order/Decree/Decision of Abandonment<sup>3</sup></p>
<p>Valuation Rules of Origin Other customs issues (Except fixing of fines in seizure cases)</p>	<p>Administrative: Appeal by way of Protest to Commissioner upon payment or within 15 days from the receipt of the ruling of the Port<sup>4</sup></p>
<p><i>Classification Ruling</i></p>	<p>Judicial: Appeal to the CTA within 30 days from receipt of an adverse ruling of SOF<sup>5</sup></p>
<p>Advance Ruling</p>	<p>Administrative: MR to Commissioner within 15 days from receipt of Ruling or Decision</p> <p>Judicial: Appeal to CTA within 30 days from receipt of denial<sup>6</sup></p>
<p>Seizure and Forfeiture</p>	<p>Administrative: File a Notice of Appeal to the District Collector within 15 days or 5 days if perishable, from receipt of Decision<sup>7</sup></p>
<p>Deficiency Assessment issued by PCAG</p>	<p>Administrative: MR or reinvestigation to the Commissioner within 15 days from receipt of Demand Letter<sup>8</sup></p>
<p>Disapproval of Application for Accreditation of Customs Broker</p>	<p>Administrative: If denial is by the Commissioner, MR to Commissioner within 10 calendar days from receipt of disapproval</p> <p>Administrative: If denial is by a delegated Bureau Official, Appeal to Commissioner within 15 calendar days from receipt of Notice of Disapproval<sup>9</sup></p>
<p>Application as AEO Member</p>	<p>Administrative: MR to Commissioner not later than 90 calendar days after the Decision of the Denial of Application</p>

<sup>2</sup> cf. CMTA, Title IX, Chap 2, Section 913

<sup>3</sup> cf. CMO No. 17-2019

<sup>4</sup> cf. CMTA, Title XI, Chap 2, Section 1106

<sup>5</sup> cf. CAO No. 02-2020

<sup>6</sup> cf. CAO No. 03-2016

<sup>7</sup> cf. CMTA, Title XI, Chap 5, Section 1126 and CAO No. 10-2020

<sup>8</sup> cf. CAO No. 01-2019

<sup>9</sup> cf. CAO No. 05-2019

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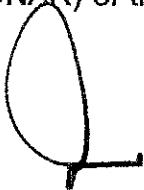
Other Decisions relating to AEO	Administrative: MR to Commissioner not later than 30 calendar days from the adverse decision <sup>10</sup>
General Appeal Clause	Appeal within 15 days from receipt of questioned Decision or Order <sup>11</sup>
General Appeal Clause	Judicial: Appeal to CTA within 30 days from receipt of adverse ruling <sup>12</sup>

**Section 5. Manner of Presentation.** The supplement to this Manual, attached as **Annex A** of this Order, is presented in a matrix format to make it easily searchable, reflecting the topic or issue, title, the basis under the CMTA or its implementing rules and regulations, the provisions, and a quick summary of the period indicated.

**Section 6. Responsibility of Bureau Personnel.** All indicated Offices responsible in the resolution of the appeal or request for reconsideration as indicated herein are directed to strictly adhere to the same and ensure compliance with the procedures required in the CMTA and/or its implementing rules and regulations.

**Section 7. Effectivity.** This Order shall take effect on JAN 22 2021.

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

  
**REY LEONARDO B. GUERRERO**  
 Commissioner  
 JAN 22 2021



<sup>10</sup> cf. CAO No. 5-2017  
<sup>11</sup> cf. CMTA, Title I, Chap 2, Section 114  
<sup>12</sup> cf. CMTA, Title XI, Chap 1, Section 1104



PROFESSIONALISM INTEGRITY ACCOUNTABILITY

**Annex "A"**

**APPEAL PROCEDURES**

TOPIC   ISSUE	TITLE	CMTA SECTION/ISSUANCE/ BASIS	APPEALING CLAUSE	PERIOD
Compulsory Acquisition	Government's Right of Compulsory Acquisition	Section 709	<p><b>Sec. 709. Government's Right of Compulsory Acquisition.</b> – In order to protect government revenues against undervaluation of goods, the Commissioner may, <i>motu proprio</i> or upon the recommendation of the District Collector, acquire imported goods under question for a price equal to their declared customs value plus any duties already paid on the goods, payment for which shall be made within ten (10) working days from issuance of a warrant signed by the Commissioner for the acquisition of such goods.</p> <p>An importer who is dissatisfied with a decision of the Commissioner pertaining to this section may, within twenty (20) working days after the date on which notice of the decision is given, appeal to the Secretary of Finance, and thereafter, if still dissatisfied, to the CTA as provided for in Section 1136 of this Act.</p> <p>Where no appeal is made by the importer, or upon reaffirmation of the Commissioner's decision during the appeals process, the Bureau or its agents shall sell the acquired goods pursuant to existing laws and regulations.</p> <p>Nothing in this section limits or affects any other powers of the Bureau with respect to the disposition of the goods or any liability of the importer or any other person with respect to an offense committed in the importation of the goods.</p>	<p>Administrative: 20 working days after notice to SOF</p> <p>Judicial: CTA (period existing under regulation)</p>
	Government's Rights to Compulsory Acquisition	CAO 16-2019	<p><b>Section 5. Operational Procedures</b></p> <p>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.</p>	<p>Administrative: 20 working days from receipt of WCA</p>

	Refund		<p>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 days from the receipt of the decision of the Secretary of Finance.</p> <p>5.9. If the Decision of the Commissioner is reversed by the Secretary of Finance, said decision shall be final and executory.</p> <p>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.</p> <p><b>Sec. 913. Claims for Refund.</b> -- All claims and application for refund of duties and taxes shall be made in writing and filed with the Bureau within twelve (12) months from the date of payment of duties and taxes.</p> <p>If, as a result of the refund of duties, a corresponding refund of internal revenue taxes on the same importation becomes due, the Bureau shall cause the refund of internal revenue taxes in favor of the importer after issuance of a certification from the Commissioner of Internal Revenue, when applicable.</p> <p>The importer may file an appeal of a denial of a claim for refund or abatement, whether it is a full or partial denial, with the Commissioner within thirty (30) days from the date of the receipt of the denial. The Commissioner shall render a decision within thirty (30) days from the receipt of all the necessary documents supporting the application. Within thirty (30) days from receipt of the decision of the Commissioner, the case may also be appealed to the CTA.</p> <p>Notwithstanding the provisions in the preceding paragraphs, the filing of claims for refund of national internal revenue taxes shall be governed by the provisions provided under the NIRC of 1997, as amended.</p>	<p>Judicial: 30 calendar days from receipt of decision</p>
	Claims for Refund	Section 913	<p><b>Sec. 913. Claims for Refund.</b> -- All claims and application for refund of duties and taxes shall be made in writing and filed with the Bureau within twelve (12) months from the date of payment of duties and taxes.</p> <p>If, as a result of the refund of duties, a corresponding refund of internal revenue taxes on the same importation becomes due, the Bureau shall cause the refund of internal revenue taxes in favor of the importer after issuance of a certification from the Commissioner of Internal Revenue, when applicable.</p> <p>The importer may file an appeal of a denial of a claim for refund or abatement, whether it is a full or partial denial, with the Commissioner within thirty (30) days from the date of the receipt of the denial. The Commissioner shall render a decision within thirty (30) days from the receipt of all the necessary documents supporting the application. Within thirty (30) days from receipt of the decision of the Commissioner, the case may also be appealed to the CTA.</p> <p>Notwithstanding the provisions in the preceding paragraphs, the filing of claims for refund of national internal revenue taxes shall be governed by the provisions provided under the NIRC of 1997, as amended.</p>	<p>Administrative: 30 days from receipt of denial to the Commissioner</p> <p>Judicial: 30 days from receipt of the Commissioner's decision to CTA</p> <p>(One year prescriptive period)</p>
Abandonment	Guidelines on the Recall / Lifting / Reconsideration /	CMO 17-2019	<p>3. In case the District Collector issues an Order/Decree/Decision of Abandonment, the aggrieved party may file a written motion to Recall/Lift/Reconsider/Set Aside with the District Collector that</p>	<p>Administrative: 15 days from receipt</p>

	Setting Aside of any Order / Decree / Decision of Abandonment		<p>issued the same within a period of fifteen (15) days from receipt thereof. The motion shall specifically state the grounds relied upon and the timeliness of the filing thereof.</p> <p>5. The Decision of the District Collector duly confirmed by the Office of the Commissioner shall become final and executory within fifteen (15) days from receipt by the owner/Importer/consignee of the questioned Order/Decree/Decision unless appealed to the Commissioner in the manner and time specified in Section 114 of the CMTA.</p>	Y
Valuation Rules of Origin Other customs issues (Except fixing of fines in seizure cases)	Protest	Section 1106	<p><b>Sec. 1106. Protest</b> – When a ruling or decision of the District Collector or customs officer involving goods with valuation, rules of origin, and other customs issues is made, except the fixing of fines in seizure cases, the party adversely affected may appeal by way of protest against such ruling or decision by presenting to the Commissioner at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, a written protest setting forth the objection to the ruling or decision in question and the reasons therefore.</p> <p>Subject to the approval of the Secretary of Finance, the Commissioner shall provide such rules and regulations as to the requirement for payment or nonpayment of the disputed amount and in case of nonpayment, the release of the importation under protest upon posting of sufficient security.</p>	Administrative: Upon payment or 15 days from the receipt of ruling
Classification Ruling  Protest	Dispute Settlement and Protest	CAO 02-2020	<p>5.9 In case the ruling of the Tariff Commission is favorable to the importer, the same shall be binding upon the Bureau unless the Secretary of Finance shall rule otherwise.</p> <p>The Importer aggrieved by the order of the Secretary of Finance reversing the ruling of the Tariff Commission may, within (30) days from receipt of an adverse ruling, appeal the same to the CTA.</p> <p>10.1 The aggrieved importer or exporter or any stakeholder directly affected by the adverse ruling of the District Collector in all Protestable Cases arising from tariff classification, valuation, rules of origin or other customs issues, may appeal by way of protest in writing to the Commissioner within fifteen (15) days from receipt of the adverse ruling of the District Collector or, when payment is</p>	Judicial: 30 days from receipt of an adverse ruling of SOF

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<sup>from</sup>  
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Advance Ruling	Establishment of an Advance Ruling System for Valuation and Rules of Origin	CAO 03-2016	<p>made as a result of the adverse ruling, within fifteen (15) days from such payment.</p> <p><b>Section 11. Motion for Reconsideration.</b> The importer aggrieved by the ruling of the Commissioner, other than a ruling on tariff classification, may, within fifteen (15) calendar days, from receipt of the ruling, file a Motion for Reconsideration with the Commissioner.</p> <p><b>4.10 Appellate Remedy.</b> The requesting person aggrieved by the Ruling of the Bureau or its decision to modify revoke or invalidate an Advance Ruling may, within fifteen (15) calendar days, from receipt of the Ruling or decision, file a Motion for Reconsideration with the Bureau.</p> <p>In case of denial of the Motion for Reconsideration, the Requesting Person may, within thirty (30) calendar days from the receipt of the denial, appeal the adverse ruling to the Court of Tax Appeals (CTA).</p>	<p>Administrative: 15 days from receipt of Ruling or Decision</p> <p>Judicial: 30 days from receipt of denial</p>
Seizure and Forfeiture	Appeal to the Commissioner	Section 1126 CAO 10-2020	<p><b>Sec. 1126. Appeal to the Commissioner.</b> – In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days or five (5) days in case of perishable goods, from receipt of the decision, file a written notice of appeal, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. The District Collector shall immediately transmit all the records of the proceedings to the Commissioner, who shall review and decide on the appeal within thirty (30) days from receipt of the records, or fifteen (15) days in the case of perishable goods: <i>Provided</i>, That if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed. An appeal filed beyond the period herein prescribed shall be dismissed.</p> <p>Appeals to protest cases shall be governed by Section 114 of this Act.</p> <p>The decision of the Commissioner may be served through the recognized modes of service under existing law.</p>	<p>Administrative: 15 days or 5 days if perishable from receipt of Decision to the Commissioner</p>

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	Seizure and Forfeiture Proceedings and Appeals Process	CAO 10-2020	<p><b><u>Section 16. Appeal to the Commissioner.</u></b></p> <p>16.1. The Aggrieved importer or exporter or any stakeholder directly affected by the adverse Decision of the District Collector may appeal the Decision by filing a Notice of Appeal with a corresponding Memorandum on Appeal within fifteen (15) days or five (5) days in case of Perishable Goods, from receipt thereof.</p> <p>16.2. Upon receipt of Notice of Appeal and Memorandum on Appeal with proof of payment of the requisite appeal fee, the District Collector shall immediately transmit all the records of the proceedings to the Appellate Division, Legal Service within five (5) working days, from the receipt of the appeal. A soft copy of the Decision shall also be sent to the Appellate Division, Legal Service via electronic mail at <a href="mailto:appellatedivision888@gmail.com">appellatedivision888@gmail.com</a></p> <p>16.3. An appeal filed beyond the prescribed period or an appeal filed without the payment of the required appeal fee or payment of the appeal fee beyond the period to file an appeal shall be dismissed.</p> <p>16.4. The filing of the Notice of Appeal without the corresponding Memorandum on Appeal shall likewise be dismissed.</p>	Administrative: 15 days or 5 days if perishable
Deficiency Assessment issued by PCAG	Post Clearance Audit and Prior Disclosure Program	CAO 01-2019	<p><b>5.5.1 (f.) Reconsideration or Reinvestigation on Audit Findings.</b> The importer adversely affected by the deficiency assessment issued by the PCAG and approved by the Commissioner may file a request for reconsideration or reinvestigation to the Commissioner within fifteen (15) days from receipt of the Demand Letter.</p> <p>For request for reinvestigation, the importer shall submit all relevant supporting documents in support thereof within thirty (30) days from the date of filing, otherwise, the request shall be denied. The Bureau, through the PCAG, shall have sixty (60) calendar days from submission of complete documents to resolve the request.</p>	Administrative: 15 days from receipt of Demand Letter
Disapproval of Application for	Rules and Regulations Governing the	CAO 05-2019	<p><b><u>Section 5. Administrative Provisions.</u></b></p>	Administrative: If denial is by the Commissioner, MR to



<p>Accreditation of Customs Broker</p>	<p>Registration of Customs Brokers Transacting with the Bureau of Customs and for other Purposes</p>	<p><b>5.5.3 Motion for Reconsideration.</b> An applicant whose application has been disapproved on the ground other than lack of documentary requirements, may file a Motion for Reconsideration within ten (10) calendar days from the receipt of the notice of disapproval for reconsideration of the Commissioner upon recommendation of AMO, which Motion shall be resolved within ten (10) working days.</p> <p>The Bureau shall entertain only one (1) Motion for Reconsideration, and the action of the Commissioner on the Motion for reconsideration shall be final.</p> <p>Detailed requirements for Motion(s) for Reconsideration shall be provided in the corresponding CMO.</p> <p><b>5.5.4. Appeal.</b> In case where the authority to approve or disapprove the application has been delegated to a Bureau official, the Customs Broker whose registration application has been disapproved may appeal the same before the Commissioner within fifteen (15) calendar days from receipt of the notice of disapproval.</p> <p>The Commissioner shall act on the said Appeal within fifteen (15) working days from receipt thereof. The action of the Commissioner on cases appealed before him shall be final.</p> <p>Detailed requirements for the Appeal shall be provided in the corresponding CMO.</p>	<p>Commissioner within 10 calendar days from receipt of disapproval</p> <p>Administrative: If denial is by a delegated Bureau Official, Appeal to Commissioner within 15 calendar days from receipt of Notice of Disapproval</p>
<p>Application as AEO Member</p>	<p>Establishment of Authorized Economic Operator (AEO) Program</p>	<p><b>4.4.3. Request for Reconsideration</b></p> <p>a. An AEO member may file a request for reconsideration of the adverse decision of the Head of AEO Office pursuant to Section 4.4.2.a. It shall be filed with the Commissioner not later than ninety (90) calendar days after the date of the decision, and the Commissioner shall resolve the request not later than one hundred eighty (180) calendar days after the request is filed.</p>	<p>Administrative: Not later than 90 calendar days after the Decision of the Denial of Application</p>

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<p>General Appeal Clause</p>	<p>Decision and Ruling</p>	<p>Section 113</p>	<p>b. <b>Reconsideration of other decisions.</b> An AEO member may file a request for reconsideration of the adverse decision of the Head of AEO Office pursuant to Section 4.4.2.b. It shall be filed with the Commissioner not later than thirty (30) calendar days after the date of the decision, and the Commissioner shall resolve the request not later than one hundred (100) calendar days after the request is filed.</p>	<p>Administrative: Not later than 30 calendar days from the adverse decision</p>
		<p>Section 113</p>	<p><b>Sec. 113. Decision and Ruling.</b> – The Bureau shall, consistent with Section 1502 of this Act, issue binding and advance decision and ruling at the request of an interested party on matters pertaining to importation or exportation of goods.</p> <p>Upon written request of the interested party, the Bureau shall notify the party of its decision in writing within the period specified in this Act or by regulation. Should the decision be adverse to the requesting interested party, the reasons thereof shall be indicated and the party shall be advised of the party's right of appeal.</p> <p>The ruling and decision shall be issued by the Bureau within thirty (30) days from the submission of the necessary documents and information.</p>	
	<p>Right of Appeal, Forms and Ground</p>	<p>Section 114</p>	<p><b>Sec. 114. Right of Appeal, Forms and Ground.</b> – Any party adversely affected by a decision or omission of the Bureau pertaining to an importation, exportation, or any other legal claim shall have the right to appeal within fifteen (15) days from receipt of the questioned decision or order.</p> <p>An appeal in writing shall be filed within the period prescribed in this Act or by regulation and shall specify the grounds thereof.</p> <p>The Bureau may allow a reasonable time for the submission of supporting evidence to the appeal.</p>	<p>Appeal within 15 days from receipt of questioned Decision or Order</p>
	<p>Review by the CTA</p>	<p>Section 1136</p>	<p><b>Sec. 1136. Review by the CTA.</b> – Unless otherwise provided in this Act or by any other law, the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA.</p>	

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			<p>Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the ruling or decision of the Commissioner or the Secretary of Finance shall be final and executory.</p> <p><b>Sec. 1104. Administrative and Judicial Appeals.</b> – An aggrieved party may, within thirty (30) days from receipt of an adverse ruling or decision, appeal the same to the CTA without prejudice to the authority of the Secretary of Finance to review decisions adverse to the government in accordance with Sections 1127 and 1128 of this Act, as the case may be.</p>	Judicial: 30 days from receipt of adverse ruling to CTA
Administrative and Judicial Appeals	Section 1104			

**From:** Office of the National Administrative Register Printing Section UP Diliman College of Law  
<onar\_law.upd@up.edu.ph>

**Sent:** Monday, January 25, 2021 2:37 PM

**Subject:** Re:

This is to acknowledge receipt of your Customs Memorandum Order No. 04-21 Re: Codification of the Appeals Procedures under the Customs Modernization and Tariff Act (CMTA) and Relevant Rules and Regulations on 25 January 2021.

Please submit three certified copies of this CMO as soon as the GCQ is lifted and please attach this acknowledgement upon submission.

Thank you.

Cecille Nagtalon

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**Office of the National Administrative Register (ONAR)**

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