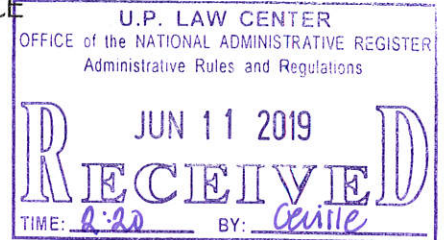




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099



CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. D8-2019

**SUBJECT: POLICIES ON ADMISSION, MOVEMENT, AND RE-EXPORTATION
OF CONTAINERS AT THE SEAPORTS**

Introduction. This CAO institutionalizes a system of accounting and monitoring of movement of all incoming and outgoing containers subject to the provisions of the 1972 Customs Convention on Containers, Revised Kyoto Convention (RKC) and other international standards and customs best practices in relation to Section 1514 of Republic Act 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. This CAO covers the guidelines and procedure for the monitoring and control of the movement of all types, categories or classification of containers, whether loaded or empty at the seaports.

Section 2. Objectives.

- 2.1. To prescribe the dwell time of all incoming containers, whether loaded or empty, which are granted Temporary Admission and provide a system of monitoring all incoming and outgoing containers whether loaded or empty;
- 2.2. To effectively institute safeguard measures over all incoming and outgoing containers;
- 2.3. To ensure proper collection of government revenues from overstaying containers as a source of non-traditional revenues;
- 2.4. To provide a system for monitoring and validation of data and statistics on all incoming and outgoing containers; and
- 2.5. To establish a database of all incoming and outgoing containers in all ports, as to transfers, transits and status of the containers, whether overstaying or not, through the full use of Information and Communications Technology (ICT) – enabled system.



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Section 3. Definition of Terms. For purposes of this CAO, the following terms are defined accordingly:

- 3.1. Carrier-Owned Container (COC)** — shall refer to the container owned by the carrier or shipping line¹ – new or used – to transport goods by providing both the container and the transportation service.
- 3.2. Container** — shall refer to an article of transport equipment (lift-van, movable tank or other similar structure):
- i. fully or partially enclosed to constitute a compartment intended for containing goods;
 - ii. of a permanent character and accordingly strong enough to be suitable for repeated use;
 - iii. specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;
 - iv. designed for ready handling, particularly when being transferred from one mode of transport to another;
 - v. designed to be easy to fill and to empty; and
 - vi. having an internal volume of one cubic meter or more.

The term "container" shall include demountable bodies, the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container.²

- 3.3. Container Delivery Confirmation (CODECO)** — shall refer to the message that is used by the terminal operators and depositary managers to report to the shipping company and his ship's agent which containers have reached (gate-in) or left (gate-out) the container terminal.³ This is also referred to as the daily movements of containers.

- 3.4. Container Arrival (COARRI)** — shall refer to the message that is used by the terminal operators to report to the shipping company

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SYCOO
CRMD - BUC



¹ Glossary—useful terms and acronyms from the container world, accessed July 7, 2017, <https://www.csiu.co/resources-and-links/glossary-of-the-container-world>

² 1972 Customs Convention on Containers, Chapter 1, Article 1 (c).

³ Port of Antwerp-CODECO, accessed July 7, 2017, <http://www.portofantwerp.com/apcs/en/node/442>

and his ship's agent which containers have been loaded or discharged.⁴

- 3.5. Container Discharging List** — shall refer to a document providing, among other information, the list of containers in alphabetical order to be discharged or unloaded from the vessel.
- 3.6. Discharge** — shall refer to the unloading of containers or cargoes from a vessel, ship, aircraft at the port of entry.⁵
- 3.7. Foreign Transshipment** — shall refer to the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office, which is the office of both importation and exportation.⁶
- 3.8. Leased Container (LC)** — shall refer to a container leased by the carrier (lessee) from a third party leasing company (lessor). The lessee shall be the accountable party, unless it can be shown that the empty container has been surrendered by the lessee-carrier to the leasing company-lessor upon termination/expiration of the lease (off-hire) in which case the accountable party shall be the leasing company or its agent in the Philippines.
- 3.9. Loading** — shall refer to putting in or on something for conveyance or transportation.
- 3.10. Loading Sequence List** — shall refer to a document providing for, among other information, the list of containers in alphabetical order and the sequence of containers to be loaded to the vessel.
- 3.11. Shipper-Owned Container (SOC)** — shall refer to the container owned or leased by the shipper thus the consignee or shipper is the accountable party. The shipping lines are contracted only to provide the transport service⁷.
- 3.12. Special Permit to Load (SPL)** — shall refer to a document that grants the authority to load empty containers of shipping lines for their return to their principals abroad, or those loaded containers which are previously cleared and transited from an inland customs office.

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SVCOO
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⁴ Port of Antwerp-COARRI, accessed July 7, 2017, <http://www.portofantwerp.com/apcs/en/node/448>

⁵ CMTA, Title I, Chapter 2, Section 102 (ii).

⁶ CMTA, Title I, Chapter 2, Section 102 (ss).

⁷ Glossary- glossary-of-the-container-world, accessed July 7, 2017, <https://www.csiu.co/resources-and-links/glossary-of-the-container-world>

3.13. Temporary Admission — shall refer to the Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved from payment of import duties and taxes such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of the goods.⁸

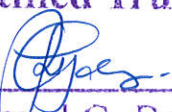
Section 4. Treatment of Containers.

- 4.1.** Containers granted Temporary Admission in connection with a commercial operation shall not be subject to any form of security,⁹ or to payment of duties and taxes within ninety (90) days from the date of discharge of the last package¹⁰ unless the container itself is the object of the importation.¹¹
- 4.2.** The shipping line and/or the carrying vessel shall be accountable for the movement, storage, monitoring, and inventory of containers whether carrier-owned, leased or shipper's owned, including concomitant liability, provided that in case of LCs and SOCs, the accountability may only be transferred to the lessor or shipper upon presentation of clear evidence therefor.
- 4.3.** Containers which have not been re-exported within the prescribed period shall be considered importation.

Section 5. Discharging and Loading of Containers.

- 5.1. Discharging of Containers.** Immediately upon arrival of the carrying vessel, the shipping line agent or representative shall furnish the Bureau, both in electronic and hard copy, the Container Discharging List for loaded and for empty containers, respectively, indicating therein the following information:
- a.** Name, voyage no., and registry of the carrying vessel;
 - b.** Estimated date of arrival;
 - c.** Container no., size, status (loaded or empty), weight, label, temperature, if available;
 - d.** Discharging sequence of containers;
 - e.** Port of loading, port of discharge, port of destination;

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Raguél G. De Jesus
SVC/IG
CRMD-BOC

⁸ Revised Kyoto Convention, Specific Annex J, Chapter 1, E5./ F1.

⁹ cf. 1972 Customs Convention on Containers, Article 6.

¹⁰ cf. RKC, Specific Annex G, Chapter 1, Recommended Practice 2.

¹¹ cf. 1972 Customs Convention on Containers. Chapter II, Article 3.

- f. Category or operator (Carrier-Owned Container (COC), Shipper-Owned Container (SOC) or Leased Container (LC)), accountable party; and
- g. Summary of total number of containers whether loaded or empty to be discharged including the respective operators.

The electronic copy of the Container Discharging List shall be both in excel and PDF format. The electronic copy in excel format shall be used by the Bureau to facilitate the counterchecking of containers actually discharged and the date thereof as indicated in the PDF file. The Container Discharging List in excel format must have separate files for loaded and empty containers.

5.2. Loading of Containers for Re-exportation.

5.2.1. Prior to loading and departure of the carrying vessel, the concerned shipping line or its agent shall submit, both in electronic and hard copy, the following:

- a. Loading Sequence List for loaded and for empty containers, respectively; and
- b. Application for Special Permit to Load (SPL), in case of empty containers or loaded containers which are previously cleared and transited from an inland customs office.

The electronic copy of the Loading Sequence List shall be both in excel and PDF format. The electronic copy in excel format shall be used by the Bureau to facilitate the counterchecking of containers actually loaded and the date thereof as indicated in the PDF file. The Loading Sequence List in excel format must have separate files for loaded and empty containers.

5.2.2. The information from the Loading Sequence List and SPL shall be validated by the Bureau using the information from the COARRI file provided by the terminal facility operator and the data on the last discharge of the package involving said containers.

5.2.3. In case of loaded containers, the authority to load may be affixed or stamped in the corresponding Export Declaration.

5.2.4. Shipments under Foreign Transshipment and co-loading scheme pursuant to Republic Act No. 10668 shall be included in the Loading Sequence List for loaded containers.

5.2.5. In case of empty containers, the electronic copy of the application for SPL shall be sent at least seventy-two (72)

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Raquel G. De Jesus
SVCOG
CRMD - BOC



hours before the start of the actual loading to the carrying vessel. The hard copy of the application shall be filed not less than twenty-four (24) hours prior to loading. Upon verification by the assigned customs officer, the application shall be approved through the issuance of an authority to load, which may be affixed in the application for SPL.

The shipping line may amend the original list of containers for loading, which shall be clearly indicated in the submitted hard copy of the application for SPL, provided that, any additional empty containers shall not exceed twenty percent (20%) of the total number of containers from the original application. Provided further, that an electronic copy of the amended SPL shall be sent immediately upon approval of the application.

Section 6. Dwell Time of Containers.

- 6.1.** Containers arriving, whether loaded or empty, shall be re-exported within ninety (90) days from the date of discharge of the last package. The period shall be based on the Inspector's Certificate of Last Cargo Discharge on file with the Bureau.
- 6.2.** Containers may be re-exported through a Customs office other than that through which they were imported.¹²
- 6.3.** Fifteen (15) days prior to the expiration of the ninety (90) day period, the Bureau shall notify the shipping line concerned, or the lessor or shipper when accountability has been clearly acknowledged, through its registered electronic mail address, to either re-export the container, or to pay the duties and taxes due thereon. Such notice shall be deemed notice to lodge or file the goods declaration.

Section 7. Suspension of the Counting of Prescriptive Period to Re-export.

The counting of the period to re-export shall be suspended under the following circumstances:

- 7.1.** When there is an alert order issued against the shipment;
- 7.2.** When a warrant of seizure and detention has been issued;
- 7.3.** When the shipment has been declared abandoned; or
- 7.4.** When the shipment is forfeited in favor of the government.

The running of the period shall resume upon lifting of the alert order or WSD for the continuous processing of the goods declaration and release of the shipment. In cases

¹² cf. 1972 Customs Convention on Containers, Article 4.



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Raquel G. De Jesus
SVCDO
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where the goods have been forfeited or declared abandoned, the period to re-export shall resume when the goods have been completely unloaded and the empty container is returned to the shipping line.¹³

Section 8. Termination of Temporary Admission.

8.1. Temporary Admission is terminated by re-exportation of the containers or upon filing of goods declaration for domestic consumption and payment of duties and taxes.¹⁴

8.2. Temporary Admission may also be terminated on or before the expiration of the prescribed dwell time on the following instances:

8.2.1. Where the containers have been seriously damaged by accident or force majeure and are, as the District Collector may decide:

a. Subjected to the import duties and taxes to which they are liable at the time when they are presented to the Bureau in their damaged condition for the purpose of terminating Temporary Admission;

b. Abandoned while inside the terminal facility, free of all expense, to the Bureau, in which case the person benefiting from Temporary Admission shall be free of payment of import duties and taxes; or

c. Destroyed while under customs supervision, provided that after the accident or force majeure, parts or materials of the containers recovered by the shipping line, lessor or shipper, at their own expense, shall be subject to payment of duties and taxes. Provided further, that the same were cleared for domestic consumption.¹⁵

8.2.2. The containers are expressly abandoned, or after the accident or force majeure, payment of duties and taxes has been made on parts or materials of the containers recovered by the shipping line, lessor or shipper, at their own expense, and the containers were cleared for domestic consumption.¹⁶

8.2.3. At the request of the shipping line, lessor or shipper and upon verification by the District Collector of the destruction or total loss of the containers by accident or force majeure.

¹³ cf. 1990 Convention on Temporary Admission, Article 7, par. (3).

¹⁴ cf. 1990 Convention on Temporary Admission, Article 9.

¹⁵ cf. 1990 Convention on Temporary Admission, Article 14.

¹⁶ cf. 1990 Convention on Temporary Admission, Article 14.

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In that case, the shipping line, lessor or shipper shall be free of payment of import duties and taxes.¹⁷


Section 9. Overstaying Containers.

- 9.1.** After the lapse of the period provided under Section 6.1 of this CAO, the Bureau shall issue corresponding assessment notice against the overstaying containers which shall be paid by the shipping line concerned, or the lessor or shipper when accountability has been clearly acknowledged, within fifteen (15) days from notice. Otherwise, the assessment shall be deemed final.
- 9.2.** After fifteen (15) days from final assessment and no duties and taxes have been paid, the containers shall be deemed abandoned if still inside the terminal facility or its accredited inland container depot. In case the overstaying containers are located outside the terminal facility or inland container depot, the Bureau shall issue a warrant of seizure and detention against the same.
- 9.3.** In the event that the containers were sold or introduced domestically without payment of duties and taxes, the owner or possessor in good faith of said containers has the obligation to file the goods declaration and pay the corresponding duties, taxes, and penalty or interest, if any, upon demand. Such demand shall be considered as notice of final assessment. Otherwise, the said containers shall be seized.

Section 10. Monitoring of Containers.

- 10.1.** The terminal facility operator shall electronically transmit to the Bureau the CODECO and COARRI files upon discharge, loading, gate-in and gate-out of containers.
- 10.2.** Any transfer of an empty container from the empty container yard or depot, inland container depot, container yard-container freight station or terminal facility shall be covered by a request to be filed at the Port of Discharge indicating the name and location of the empty container yard, depot or facility where the containers are stored and the intended destination. Empty containers shall not be released without the approval of the said request.
- 10.3.** The Bureau shall ensure the posting and recording of all container transfers whether destined to off-dock CFW or transited for warehousing, outright exportation, admission into and withdrawal from Free Zones, and movement from one customs office to another.

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SVC00
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¹⁷ cf. 1990 Convention on Temporary Admission, Article 14.

10.4. The shipping line, lessor or shipper shall be required to check the movements of containers granted Temporary Admission, and records thereof shall be kept by the owners or operators or their representatives.¹⁸ For this purpose, the shipping line, lessor or shipper shall:

10.4.1. Have its duly authorized representative or agent in the country;

10.4.2. Undertake in writing:

- a.** to supply the Bureau upon request, detailed information concerning the movements of each container granted temporary admission including the dates and places of discharge and re-exportation; and
- b.** to pay such import duties and taxes as may be required in cases where the conditions of temporary admission have not been fulfilled.¹⁹

10.5. To ensure effective monitoring of dwell time of all containers, the Bureau shall develop a centralized ICT-enabled system that tracks the movements of containers in all ports by making full use of CODECO and COARRI files submitted by all terminal facility operators, and other available information.

Section 11. Penal Provision. A penalty of Three Hundred Thousand Pesos (Php300,000.00) shall be imposed against the shipping line, lessor or shipper for every violation of any of the following:

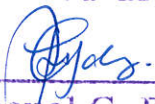
11.1. If a container is sold or donated and duties and taxes are not paid at the time of sale or donation.

11.2. If a container is used other than its intended purpose of transporting goods without payment of duties and taxes.

11.3. If after the lapse of fifteen (15) days from final assessment, no payment of duties and taxes plus interest has been made, unless a declaration to expressly abandon the container in favor of the government has been submitted to the Bureau.

11.4. Allowing an overstaying container which is deemed abandoned or subject of a Warrant of Seizure and Detention to be used by exporters for their export cargoes, without prejudice to the filing of criminal case, if warranted.

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Raquel G. De la Cruz
Secretary
Bureau of Customs



¹⁸ cf. 1972 Customs Convention on Containers, Annex 2.

¹⁹ cf. 1972 Customs Convention on Containers, Annex 2.

Any violation of the provisions of this CAO not included in the above enumeration shall be meted with a penalty of One Hundred Thousand Pesos (Php100,000.00).

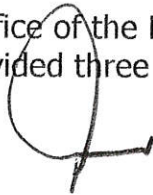
The District Collector shall accord due notice and hearing before any penalty, may be imposed against the shipping line, lessor or shipper for any violation of this CAO.

Section 12. Transitory Provision. In case of imported loaded containers which arrived prior to the effectivity of this CAO, the Bureau shall accept the date indicated in the Equipment Interchange Receipt (EIR) for purposes of counting the dwell time. However, such containers shall be re-exported not later than ninety (90) days from the effectivity of this CAO. After the lapse of the period, the reckoning date to establish dwell time pursuant to this CAO shall be strictly implemented.

Section 13. Repealing Clause. All other rules and regulations issued by the Bureau which are inconsistent with this CAO are deemed repealed or modified accordingly.

Section 14. Effectivity. This CAO shall take effect thirty (30) days after its complete publication at the Official Gazette or a newspaper of national circulation.

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



REY LEONARDO B. GUERRERO

Commissioner of Customs

MAY 02 2019

Approved:



CARLOS G DOMINGUEZ

Secretary of Finance

MAY 28 2019



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Raquel G. De Jesus
SVCOO
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Infomational Section. As the title denotes this only provide information and does not give rise to any substantive or formal rights or obligations.

History. This is the first CAO dealing with Policies on Admission, Movement, and Re-Exportation of Containers at the Seaports.


Related Policies.

- CAO 04-2009 - Temporary Suspension of Operations Provisions of CAO 2-97 150-Day Allowable Dwell-Time of Foreign Containers in the Philippines
- CAO 01-2010 – Extension of the Temporary Suspension of the Operational Provisions of CAO No. 03-97 Governing 150-day Allowable Dwell-Time of Foreign Containers in the Philippines
- CAO 01-2015 - Shortening of Period for Re-export of Empty Containers from 150 to 90 days
- CMO 13-2019 - Interim Guidelines on the Return of Empty Containers at the Port of Manila (POM) and Manila International Container Port (MICP)
-

Webpage, Forms, Handbooks and other References.

- Republic Act No. 10863 "Customs Modernization and Tariff Act"
- Republic Act No. 10668 "An Act Allowing Foreign Vessels to Transport and Co-Load Foreign Cargoes For Domestic Transshipment And For Other Purposes"
- Revised Kyoto Convention (RKC)
- 1972 Customs Convention on Containers
- 1990 Convention on Temporary Admission

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SVCNO
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