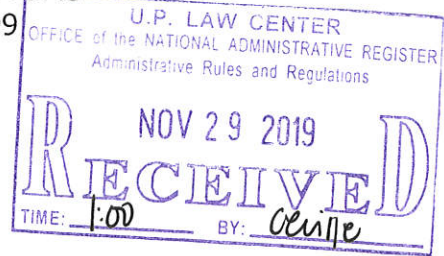




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099



CUSTOMS ADMINISTRATIVE ORDER (CAO)
No. 17 - 2019

SUBJECT: ABANDONMENT: KINDS, EFFECTS, AND TREATMENT

Introduction. This CAO implements Sections 1129 and 1130, Chapter 6, Title XI and other related provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. This Customs Administrative Order (CAO) shall cover all imported goods, whether for consumption, warehousing or admission.

Section 2. Objectives.

- 2.1. To harmonize and consolidate all existing policies, rules and regulations on the abandonment of imported goods.
- 2.2. To effectively implement the provisions of the CMTA on abandonment of imported goods.
- 2.3. To establish and implement a management information system making full use of Information and Communications Technology (ICT) to monitor the abandonment of imported goods.

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

- 3.1. **Affidavit of Abandonment** – shall refer to the written or printed declaration or statement of facts, made voluntarily by the owner, importer, and consignee expressly abandoning the imported goods in favor of the government, confirmed by oath or affirmation and taken before an officer having authority to administer such oath.
- 3.2. **Assessment Notice** – shall refer to the notice given to the owner, importer, or consignee which shall also serve the following purpose:

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- a. As payment instruction to the authorized agent bank to debit the amount of duties, taxes and other charges from the account of the owner, importer or consignee;
 - b. As information that the completed assessment shall be deemed final fifteen (15) calendar days after receipt thereof, and the unpaid completely assessed duties, taxes and other charges shall incur legal interest of twenty percent (20%) per annum from the date of Final Assessment¹; and
 - c. As warning that the subject imported goods shall be deemed abandoned fifteen (15) calendar days after date of Final Assessment, if the completely assessed duties, taxes and other charges, including twenty percent (20%) legal interest, remained unpaid.
- 3.3. Date of Discharge of Last Package** – shall refer to the date when the last cargo intended for discharge in the port of entry has been unloaded from the carrier.²
- 3.4. Due Notice** – shall refer to the notification to the owner, importer, consignee or interested party to lodge or file, pay, claim, mark, submit clearances and other requirements, or Order of Release and Lifting the Alert, whichever is applicable, by the Collector of Customs through:
- a. Electronic notice sent to the registered electronic mail address of concerned accredited importers;
 - b. Registered mail or personal service; or
 - c. Public posting in bulletin boards or other conspicuous places within the customshouse in case of unknown consignees.
- 3.5. Filing** – shall refer to the submission of the hard copy of the Goods Declaration coupled with complete set of requisite supporting documents.
- 3.6. Forfeiture Fund** – shall refer to the account where all proceeds from public auction sales after deduction of the charges, as provided in Section 1143 of the CMTA, are deposited, and subject to claim of the owner, importer or consignee of impliedly abandoned goods.³
- 3.7. Goods Declaration** – shall refer to a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be


¹ cf. CMTA, Title I, Chapter 3, Section 104.

² cf. Customs Memorandum Order (CMO) Number 15-94, Section B.2. (B.2.1.).

³ cf. CMTA, Title XII, Chapter 10, Section 1151.



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observed in the application for the entry or admission of imported goods and the particulars of which the customs administration shall require. ⁴

3.8. Lodgement – shall refer to the registration of a Goods Declaration with the Bureau. ⁵

3.9. Mark – shall refer to the label which is legibly, indelibly and permanently printed or attached, as the nature of the foreign goods or container will permit, showing the ultimate purchaser thereof in the Philippines, and the name of the country of origin of such goods, in the official language of the Philippines. ⁶

3.10. Perishable Goods – shall refer to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense, which may be proceeded to, advertised and sold at auction upon notice if deemed reasonable. ⁷

Section 4. General Provisions. Imported goods are deemed abandoned in the following circumstances:

4.1. Express Abandonment.

At any time the imported goods are within the control of the Bureau or until the payment of duties and taxes due on imported goods entered under the customs bonded warehousing regime, the owner, importer, or consignee of the imported goods, may expressly abandon ownership thereof in favor of the government by submitting an Affidavit of Abandonment to the District Collector⁸, who shall verify the same within three (3) calendar days from its filing.

Within three (3) calendar days from verification of the Affidavit of Abandonment, the District Collector concerned shall issue the corresponding Decree of Abandonment. Expressly abandoned goods shall be deemed property of the government upon the filing with the District Collector of the Affidavit of Abandonment.

4.2. Implied Abandonment.

4.2.1. Failure to Lodge/File the Goods Declaration. Goods Declaration must be lodged/filed within the prescribed period in

⁴ cf. CMTA, Title I, Chapter 2, Section 102(y).


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

⁶ cf. CMTA, Title VII, Chapter II, Section 710.

⁷ CMTA, Title 1, Chapter 2, Section 102(gg).

⁸ cf. CMTA, Title XII, Chapter 6, Section 1129(a).

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Section 407 of the CMTA, otherwise, the same shall be deemed abandoned, subject to Section 1130 of the CMTA.

In case where lodgement of Goods Declaration is not possible, the owner, importer, consignee, or interested party must file with the Office of the District Collector concerned the hard copy of the Goods Declaration and its supporting documents within the same period as stated in the above paragraph, otherwise, subject shipment shall likewise be deemed abandoned.

The period to lodge the goods declaration may, upon written request, be extended on valid grounds for another fifteen (15) calendar days subject to the approval of the Collector of Customs, as may be authorized by the Commissioner. Provided, that the request is made before the expiration of the original period within which to lodge the goods declaration and is based on the following grounds:

- a.** Fraud committed against the owner, importer or consignee;
- b.** Accident;
- c.** Mistake
- d.** Excusable negligence;
- e.** Force Majeure;
- f.** Technical issues as certified by the Management Information System Technology Group (MISTG);
- g.** Other analogous circumstances.

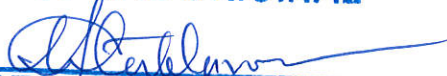
Provided, however, that the foregoing grounds are not attributable to the fault of the owner, importer, or consignee of the imported goods.

Request for extension shall be acted upon within seven (7) working days otherwise the request for extension shall be deemed approved. The 15-day extension period to lodge the goods declaration shall retroact to the day immediately after the expiration of the original period. No further extension shall be allowed.

A Notice to Lodge or File Goods Declaration shall be issued by the District Collector to the owner, importer or consignee within five (5) calendar days from the date of Discharge of Last Package. For this purpose, it is the duty of the District Collector to post a list of all packages discharged and their consignees, whether electronically or physically, in the District Office, or send a notice to the consignee.⁹

⁹ cf. CMTA, Title XII, Chapter 6, Section 1129(b).

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Imported goods with Goods Declaration already recorded and stored with the Value-Added Service Provider (VASP), but not successfully registered by reason of downtime, slowdown, no response, or any other technical issue on the last day of the prescribed period, shall not be deemed abandoned.

Nonetheless, the Commissioner may adjust the period for Lodgement or Filing of the Goods Declaration, pursuant to Section 407 of the CMTA.¹⁰

4.2.2. Failure to Pay the Assessed Duties and Taxes.

a. Final Assessment. Upon receipt of the Goods Declaration and its supporting documents, the customs personnel shall examine the Goods Declaration and issue an Assessment Notice.¹¹ Notices and communications sent pursuant to Section 4.4 of this CAO, shall be deemed received, unless the non-delivery thereof is attributable to the Bureau or due to system error.

The assessment shall be deemed final if undisputed after the lapse of fifteen (15) calendar days from receipt of Assessment Notice.

The shipment shall be deemed abandoned if the owner, importer, or consignee fails to pay in full the assessed duties, taxes, fees, interests and other charges within fifteen (15) calendar days from final assessment.¹²

b. Upon receipt of the Order of Release and Lifting the Alert or Order Lifting the Alert. Duties and taxes of assessed alerted goods must be paid in full within fifteen (15) calendar days upon receipt of the Order of Release and/or Lifting the Alert or Order Lifting the Alert¹³, otherwise, subject shipment shall be deemed abandoned.

The District Collector concerned shall issue an Assessment Notice or Order of Release and Lifting the Alert or Order Lifting the Alert to the owner, importer, consignee or interested party within five (5) calendar days: (a) upon assessment thereof; (b) affirmation by the Commissioner of the Order of Release and/or Lifting the Alert or Order Lifting the Alert; or (c) the lapse of the period to review by the Commissioner of the District Collector's Order of Release.¹⁴

¹⁰ cf. CMTA, Title IV, Chapter 1, Section 407.

¹¹ cf. CMTA, Title IV, Chapter 3, Section 429.


¹² cf. CMTA, Title XII, Chapter 6, Section 1129(c).

¹³ cf. CMTA, Title XII, Chapter 6, Section 1129(c).

¹⁴ cf. CMTA, Title XI, Chapter 4, Section 1117.



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4.2.3. Failure to Submit Required Permit. The importer, owner, or consignee of assessed regulated goods which are allowed by the regulating agency to submit clearances, licenses, and other requirements after arrival of the shipment¹⁵ shall submit the same within forty-five (45) calendar days from the date of lodgement¹⁶ or fifteen (15) calendar days from the date of final assessment,¹⁷ whichever comes first. Otherwise, subject shipment shall be deemed abandoned.

The District Collector concerned shall issue a Notice to submit clearances, licenses and other requirements to the owner, importer, consignee or interested party within five (5) calendar days upon assessment thereof.

4.2.4. Failure to Claim the Goods.

- a. The owner, importer, consignee or interested party shall claim the imported goods within thirty (30) calendar days from payment of the assessed duties, taxes, fees, interests and other charges. Otherwise, subject shipment shall be deemed abandoned, unless covered by a duly issued alert order.¹⁸

For this purpose, the arrastre, terminal or warehouse operator shall submit a weekly report of overstaying, and unclaimed imported goods to the District Collector.¹⁹ Unclaimed imported goods are those still inside the port premises or warehouse²⁰ thirty (30) calendar days after clearance by the BOC through its On-line Release System (OLRS) or similar system.

The District Collector concerned shall issue a Notice to Claim imported goods to the owner, importer, consignee or interested party within five (5) calendar days upon full payment.

- b. Passenger's baggage or mail matter shall be claimed by the passenger or postal consignee within thirty (30) calendar days from arrival thereof. Otherwise, subject shipment shall be deemed abandoned.

The District Collector concerned shall issue a Notice to Claim passenger's baggage or mail matter to the passenger or postal consignee within five (5) calendar days from arrival.

¹⁵ cf. CMTA, Title I, Chapter 3, Section 117.

¹⁶ cf. CMTA, Title IV, Chapter I, Section 403.

¹⁷ cf. CMTA, Title XII, Chapter 6, Section 1129(c).

¹⁸ cf. CMTA, Title XII, Chapter 6, Section 1129(d).

¹⁹ cf. CMTA, Title XII, Chapter 6, Section 1129(d).

²⁰ cf. CMTA, Title XII, Chapter 6, Section 1129(e).

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4.2.5. Failure to Mark the Goods. The owner, consignee or importer shall appropriately mark the imported goods as required under Section 710 of the CMTA within thirty (30) calendar days after the receipt of Notice to Mark from the District Collector concerned, otherwise, the said goods shall be deemed abandoned.²¹

The District Collector concerned shall issue a Notice to Mark imported goods to the owner, consignee or importer within five (5) calendar days from examination.

4.2.6. Abandonment of Imported goods in Customs Bonded Warehouse (CBW). Abandonment of bonded warehoused imported goods shall be governed by the Customs Administrative Order on Customs Bonded Warehouse.

4.3. In all cases of abandonment, whether implied or express, the District Collector concerned, as a matter of course, shall issue the corresponding Decree of Abandonment.

4.4. Due Notice Requirement. The due notice requirement is complied with as follows:

4.4.1. For Accredited Importers:

- a. The required notice shall be sent to the registered email submitted to the Account Management Office (AMO) or its equivalent office.

No electronic mail address shall be recognized other than those registered with the AMO or its equivalent office, unless duly changed, modified and updated by the accredited importer with the same office.

Accredited importers must acknowledge receipt of notices and communications duly sent to their respective registered electronic mail addresses.

Notwithstanding their failure to acknowledge duly sent notices and communications to the accredited importer's registered electronic mail address, the same shall be deemed received upon successful transmittal thereof.

In case the electronic mail address provided by the consignee to AMO or equivalent office is incorrect or non-existent, all notices and communications sent to said incorrect or non-existent electronic mail address, shall be deemed received by the consignee; or

²¹ cf. CMTA, Title VII, Chapter 2, Section 710 (e).

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- b. Personal Service, when notices sent through electronic means are not available.

4.4.2. For Non-Accredited Importers:

The Due Notice requirements shall be served either by registered mail or personal service.

4.4.3. For Unknown Consignee:

- a. The Due Notice requirement shall be deemed complied with upon posting of the required notice in a public place at the concerned Collection District or Port for a period of fifteen (15) calendar days; and
- b. Electronic or printed publication for a period of fifteen (15) calendar days.²²

4.5. Effects of Abandonment.

The following are the effects of abandonment:

- 4.5.1. Expressly abandoned imported goods shall be *ipso facto* deemed the property of the government²³ upon the filing with the District Collector of the Affidavit of Abandonment.
- 4.5.2. Imported goods shall be deemed impliedly abandoned upon expiration of the period to: (a) lodge and file Goods Declaration; (b) pay in full the duties, taxes, fees and charges; (c) claim; or (d) mark the same, when necessary, subject to Section 1130 of the CMTA.
- 4.5.3. All interests and property rights over expressly abandoned goods are deemed renounced by the owner, importer or consignee of the imported goods in favor of the government.
- 4.5.4. All abandoned goods shall be disposed of in accordance with all applicable laws, rules, and regulations.²⁴
- 4.5.5. The owner, importer or consignee of the imported goods may reclaim the impliedly abandoned imported goods by lodging or filing the corresponding Goods Declaration subject to the following conditions:
 - a. The subject goods have not been disposed by the Bureau;

²² cf. CMTA, Title XI, Chapter 4, Section 1119.

²³ cf. CMTA, Title XII, Chapter 6, Section 1130.

²⁴ cf. CMTA, Title XII, Chapter 6, Section 1130.

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- b. The goods declaration is filed within thirty (30) calendar days after the lapse of the fifteen (15) calendar days period to file;
- c. The duties, taxes and other charges have been paid in full;
- d. The charges and fees due to the port or terminal operator have been paid in full;
- e. The expenses incurred before the release of the imported goods from customs custody have been paid in full; and
- f. Compliance with all other pertinent legal requirements

4.5.6. For imported goods which have been impliedly abandoned and sold by the Bureau where no offense has been discovered against the imported goods or the owner, importer, or consignee of the imported goods, the proceeds of the sale, after deduction of any duty and tax and all other charges and expenses incurred as provided in Section 1143 of the CMTA, shall be turned over to the owner, importer, or consignee entitled to receive them or when this is not possible, the same shall be held by the Auction Cargo and Disposal Division (ACDD) or its equivalent office for the account of the owner or importer for a period of thirty (30) calendar days from payment of the auction price. After the lapse of said period, the balance between the auction price and duties and taxes and other charges shall be transferred to the Forfeiture Fund as provided in Section 1151 of the CMTA.²⁵

4.5.7. The foregoing shall be without prejudice to the possible criminal liability of the importer, or its officers and employees for prohibited or restricted importations subject of abandonment.

Section 5. Administrative Liability. Failure to comply with the provisions of this Order may be a ground for administrative and disciplinary sanctions against any erring public officer or employee as provided under existing laws and regulations.

Section 6. Penal Provision. Violations of this CAO committed by any person, officer or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provisions.

Section 7. Transitory Provision. Pending full implementation of comprehensive system that will admit and store electronic commercial documents, including methodologies for authentication thereof, and electronic posting or sending of notices, the Bureau shall, as far as practicable and as existing processes may reasonably allow, implement the provisions of this CAO. The MISTG shall devise an ICT-enabled system for reporting and monitoring of abandoned shipments.

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²⁵ cf. CMTA, Title XII, Chapter 6, Section 1130.



Section 8. Reporting and Monitoring System. 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 No. 10173, also known as The Data Privacy Act.

Section 9. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 10. Repealing Clause. All other rules and regulations issued by the Bureau which are inconsistent with this CAO are deemed repealed or modified accordingly.

Section 11. Separability Clause. If any part of this CAO is declared unconstitutional or contrary to existing laws, other parts not so declared shall remain in full force or effect.

Section 12. Effectivity. This CAO shall take effect thirty (30) calendar days after its publication at the Official Gazette or a newspaper of national circulation.

The Office of 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 *A*

OCT 29 2019



BOC-02-00975

Approved:



CARLOS G DOMINGUEZ

Secretary of Finance

NOV 18 2019



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