



MASTER COPY
hwb

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

A modernized and credible customs administration that upholds good governance and is among the world's best

09 October 2024

CUSTOMS MEMORANDUM CIRCULAR
NO. 173-2024

TO : ASSISTANT COMMISSIONER
ALL DEPUTY COMMISSIONERS
ALL DIRECTORS AND DIVISION CHIEFS
ALL DISTRICT AND SUB-PORT COLLECTORS
ALL OTHERS CONCERNED

SUBJECT : TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the attached Tariff Commission Circular Dispute Ruling No. 22-010 issued on 13 September 2024 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as Customs Modernization and Tariff Act, on the shipment of "Frame: Inverted Return Idler, Frame: Return Idler, Frame: Self Aligning Return Idler, and Frame: Self Aligning Carrying," from South Korea consigned to Pagbilao Energy Corporation (Import Entry/ Customs Reference No. C-137580-21, Manila International Container Port), the dispositive portion of which states that:

"WHEREFORE, premises considered, subject articles are hereby classified as follows:

PRODUCTS	AHTN 2017 CODE	2021 MFN RATE
Frame: Inverted Return idler; Frame: Return Idler; Frame: Self Aligning Return Idler; and Frame: Self Aligning Carrying	7308.90.99	10% ad valorem

For records purposes, please disseminate throughout your respective offices and submit the necessary confirmation within fifteen (15) days from receipt hereof.

For strict compliance.

BIENVENIDO Y. RUBIO
Commissioner



OCT 14 2024



hmb

TC (DR) No. 22-010

09-1188

Tariff Commission <tc.assist@mail.tariffcommission.gov.ph>

Fri 9/13/2024 11:17 AM

To:secfin@dof.gov.ph <secfin@dof.gov.ph>;BOC OFFICE OF THE COMMISSIONER <boc.ocom@customs.gov.ph>
Cc:Carmelita M. Talusan <Carmelita.Talusan@customs.gov.ph>;BOC_MICP <micp@customs.gov.ph>;Carlos Ferrer <carlos.ferrer@customs.gov.ph>;Lizabeth.Macabitas@teamenergy.ph <Lizabeth.Macabitas@teamenergy.ph>;Orpiada, Theresa Palceso (There) <Theresa.Orpiada@teamenergy.ph>

1 attachments (684 KB)

TCC (DR) No. 22-010 - signed.pdf;

Dear Sir/Madam:

Kindly acknowledge receipt of this email and its attachment/s.

To enable us to serve you better, please fill up our online feedback form:
<https://tariffcommission.gov.ph/SSFF-ARTAFORM1-CSM-2023>.

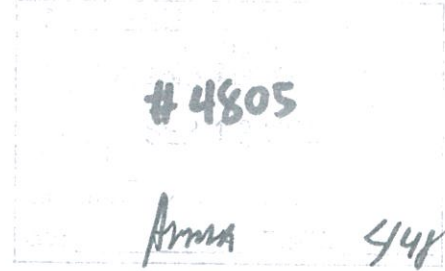
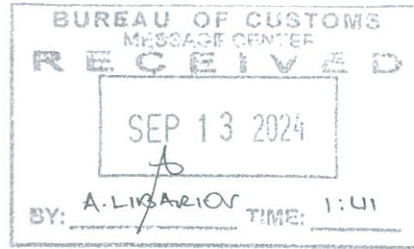
Thank you.

TARIFF COMMISSION

Records Unit

T/TF: (632) 8936-3320 / (632) 8921-7960

www.tariffcommission.gov.ph



The information contained in this communication is intended solely for the use of the individual or entity to whom it is addressed and other parties authorized to receive it. It may contain confidential or legally privileged communication. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action in reliance on the contents of this information is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by responding to this e-mail and then immediately delete it from your system. Opinions contained in this e-mail or any of its attachments do not necessarily reflect the opinions of the Tariff Commission.



13 SEP 2024



REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION DISPUTE RULING ON "FRAME: INVERTED RETURN IDLER, FRAME: RETURN IDLER, FRAME: SELF ALIGNING RETURN IDLER, AND FRAME: SELF ALIGNING CARRYING", CONSIGNED TO PAGBILAO ENERGY CORPORATION

TCC (DR) NO. 22-010

(Import Entry/Customs Reference No. C-137580-21, BOC, MICP)

Issued on: 13 September 2024

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for a Tariff Classification Dispute Ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), on the shipment of Frame: Inverted Return Idler; Frame: Return Idler, Frame: Self Aligning Return Idler, and Frame: Self Aligning Carrying, imported by Pagbilao Energy Corporation (*Importer/Consignee*) from South Korea. The request of the Bureau of Customs (BOC) for a TCDR was received by this Commission on 19 May 2022.

Based on the BOC's letter-request for a TCDR, dated 19 May 2022, signed by then Acting District Collector Romeo Allan R. Rosales, with attached Disposition Form from Mr. Carlos V. Ferrer, Customs Operations Officer (COO) V, and Mr. Alibasar M. Amerol, COO III, of Section 10 of Formal Entry Division (FED), the following relevant information were gathered:

- a. The shipment of the said article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2017 subheading 8308.9090, with a Most Favoured Nation (MFN) rate of duty of 5% *ad valorem*, was processed under Import Entry/Customs Reference No. C-137580-21 at the BOC, Manila International Container Port (MICP).
- b. The classification dispute arose from the recommendation of the Customs Examiner for tariff reclassification from the abovementioned declared subheading to AHTN 2017 subheading 7326.9099, with an MFN rate of duty of 15% *ad valorem*.
- c. The justifications for the BOC reclassification, as stated on the Disposition Form, are reproduced below:
 - i. *In a letter addressed to this Port dated 03 June 2021, Lizabeth Macabitas-Banao, Manager of Pagbilao requested for the tentative assessment subject to posting of bond equivalent to the difference of duties and taxes based on customs assessment and the declaration pursuant to Section 425 of the CMTA.*
 - ii. *Upon examination, the customs examiner recommended the reclassification of items #8, 9, 10 and 11 declared as Frame Inverter Return Idler, Frame Return Idler, Framed Self Aligning Return Idler and Frame Self Aligning, respectively, from*

Page 1 of 8

8308.90.90 @5% to 7326.9099 @15% which resulted to additional duties and taxes amounting to P259, 687.41.

- iii. Based on the result of the examination, declared AHTN 8308.9090 is not applicable to the subject commodity because tariff heading 8308 refers to **“clasps, frames with clasps, buckles, buckle clasps, hooks, eyes, eyelets and the like, of base metal, of a kind used for clothing or clothing accessories, footwear, jewellery, wrist watches, books, awnings, leather goods, travel goods or saddler or for other made up articles; tubular or bifurcated rivets, of base metal; beads and spangles, of base metal”**..
- iv. Based on the photographs taken during the examination, the said frames were found to be finished products. It is welded and painted too.
- v. On 25 May 2021, Pagbilao requested for a reconsideration of the reclassification to tariff heading 7228 in view of the presence of other chemicals in SS400. By the way, tariff heading 7228 refers to **“other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel”**.
- vi. On 03 June 2021, Pagbilao again contested the reclassification of the said commodity on the ground that the same are parts of a Roller Conveyor and shall not be used for other purposes. Pagbilao recommended that the said item be reclassified under AHTN 8431.4990 @1% rate of duty, in relation to Section 1610 of the General Rules for the Interpretation (GRI) 2A of which states: “Any reference in a heading to the goods shall be take to include a reference to the same in their incomplete or unfinished form or state. Provided, that the incomplete or unfinished goods have the same essential character, as presented of the complete or finished goods. It shall be taken to include a reference to the same in their complete or finished form or state, presented unassembled or disassembled”.
- vii. In using the GRI 2A, there are two (2) instances when to use GRI 2A and these are: (1) The item is incomplete or unfinished **BUT** the incomplete or unfinished goods have the essential character of the complete or finished product and (2.) Presented unassembled or disassembled. In those two instances, in order to qualify the frame as part of the roller conveyor, the main item which is the conveyor must be imported simultaneously with the Frame. In this case, the item roller conveyor is not present in the importation.

The BOC deemed that the classification issue involves “a difficult or highly technical questions”. Hence, the endorsement to the Commission for a TCDR.

To facilitate the evaluation of the disputed product, the Commission wrote the BOC on 06 June 2022, acknowledging receipt of the request for a TCDR, and requesting the contact information (i.e., contact person, position, email address, telephone and/or mobile number, and address) of the Importer/Consignee. In response, the BOC provided the contact information of Ms. Lizabeth Macabitas-Banao, Manager of Pagbilao Energy Corporation, via an electronic mail (email) from COO V Ferrer received by the Commission on 07 June 2022.

Pursuant to Section 6 of Commission Order No. 2018-01, this Commission sent an email to Ms. Macabitas-Banao on 15 June 2022 requesting for the submission of the following information in relation to BOC’s request for a TCDR on Frame: Inverted Return Idler, Frame: Return Idler; Frame: Self Aligning Return Idler; and Frame: Self Aligning Carrying:

- a. complete listing of each frame’s components;
- b. function and dimensions of each frame; and

c. how subject articles are assembled.

The Commission received the requested additional information from the Importer/Consignee on 28 June 2022 via an email from Ms. Theresa P. Orpiada, Logistics Coordinator of Pagbilao Energy Corporation. However, the information contained in the response was deemed insufficient to establish classification. In a series of correspondence through emails, Ms. Orpiada sent information and clarification regarding the product under dispute.

In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending disputes in tariff classification. In the present case, however, this Commission found that the submissions of the Importer/Consignee and the BOC were sufficient to make a correct determination on the tariff classification of the subject article. A hearing, therefore, is no longer necessary.

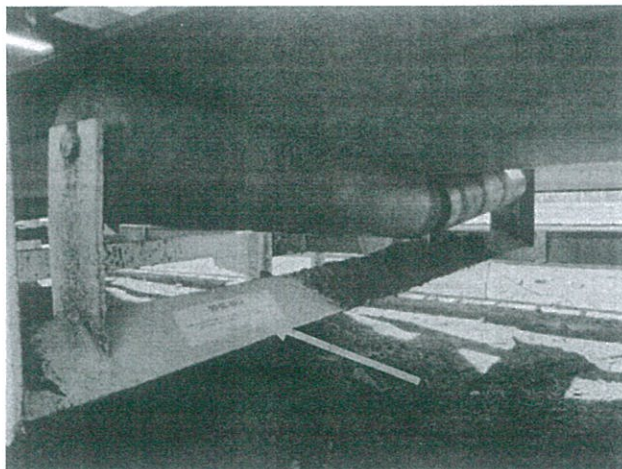
After due examination of the submitted technical specifications, purchase order, commercial invoice, packing list, photographs of the products as imported and as installed with the conveyor, BOC Single Administrative Document (SAD), and other pertinent information about the products, it is established that subject articles consist of pre-cut, structural steel elements. These are designed for further assembly and are intended for use as frames to hold in place/support the conveyor belt carrying rollers of a bulk material conveyor system/machine (*i.e.*, a conveyor designed to transport large quantities of loose materials) in order to avoid belt damage and belt misalignment.

The frames have dimensions of 1,990 mm x 180 mm x 380.04 mm. These are to be assembled by welding with brackets and with an angle bar base support. The brackets are used to hold the roller to the frame assembly. The frame assembly is then attached to the conveyor belt line structural frame support.

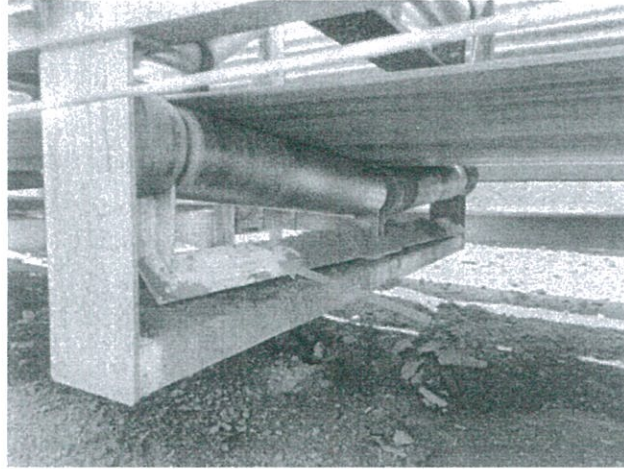
As imported, the subject articles consist of the following structural elements:

- a) Frame: Inverted Return Idler (Stock No. 90-01-1016);
- b) Frame: Return Idler (Stock No. 90-01-1017);
- c) Frame: Self Aligning Return Idler (Stock No. 90-01-1018); and
- d) Frame: Self Aligning Carrying (Stock No. 90-01-1019)

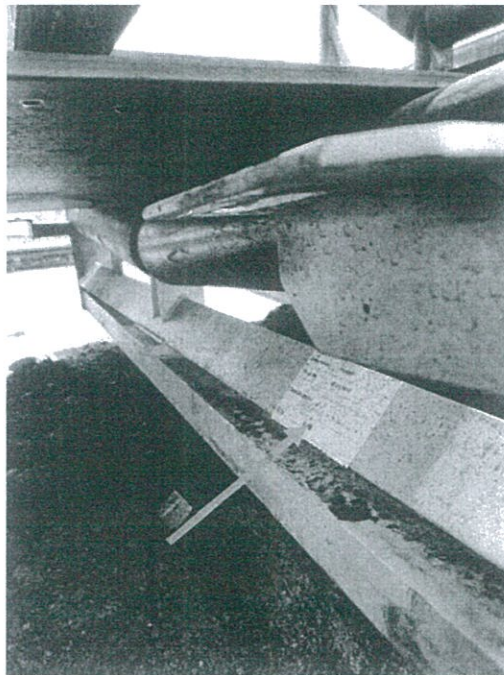
Below are the photographs of subject frames as assembled and installed with the conveyor, submitted by the Importer/Consignee to this Commission:



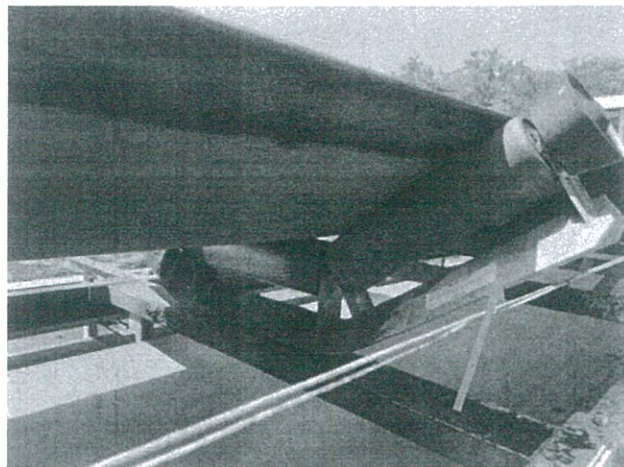
Frame: Inverted Return Idler (Stock No. 90-01-1016)



Frame: Return Idler (Stock No. 90-01-1017)



Frame: Self Aligning Return Idler (Stock No. 90-01-1018)



Frame: Self Aligning Carrying (Stock No. 90-01-1019)

The Importer/Consignee declared the classification of subject articles under Chapter 83 of the AHTN 2017 which covers *miscellaneous articles of base metal*, specifically under heading 83.08 which covers *clasps, frames with clasps, buckles, buckle-clasps, hooks, eyes, eyelets and the like, of base metal, of a kind used for clothing or clothing accessories, footwear, jewellery, wrist-watches, books, awnings, leather goods, travel goods or saddlery or for other made up articles; tubular or bifurcated rivets, of base metal; beads and spangles, of base metal*.

On the other hand, the BOC deemed subject frames to be appropriately classified under Chapter 73 of the AHTN 2017 which covers *articles of iron or steel*, specifically under the residual heading of the Chapter, heading 73.26, which covers *other articles of iron or steel*.

The Chapters and headings considered by the Importer/Consignee and the BOC are under Section XV of the AHTN 2017, one of the sections to be considered when classifying *base metals and articles of base metals*. Note 3 to said Section states that:

"3.- Throughout the Nomenclature, the expression "**base metals**" means : **iron and steel, copper, nickel, aluminium, lead, zinc, tin, tungsten (wolfram), molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.** (Emphasis supplied)."

Upon examining the headings considered by the Importer/Consignee and the BOC, this Commission agrees with the BOC that subject article, being pre-cut, structural steel elements which are designed for further assembly and intended for use as frames to hold in place/support the conveyor belt carrying rollers of a bulk material conveyor system/machine, are not covered by heading 83.08. The frames mentioned in the text of heading 83.08 is explained by the Harmonized System (HS) Explanatory Notes (EN) to heading 83.08, which state that:

"This heading includes :

(A) **Hooks, eyes and eyelets**, for clothing, footwear, awnings, tents or sails.

(B) **Tubular or bifurcated rivets** of all kinds. These are used in clothing, footwear, awnings, tents, travel goods, leather goods, belting, etc.; they also serve in engineering (e.g., in aircraft construction). The heading also covers **break mandrel blind rivets**, where during the setting operation the mandrel is pulled into or against the rivet body and breaks at or near the junction of the mandrel shank and its upset end.

(C) **Clasps, fasteners, and frames with clasps**, for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches; but the heading excludes locks (including locking clasps), and frames with clasps, incorporating locks (**heading 83.01**).

(D) **Buckles** (with or without tongues) and **buckle-clasps**, whether or not ornamental, for clothes, belts, braces, suspenders, gloves, footwear, gaiters, wrist-watches, haversacks, travel goods and leather goods.

(E) **Metal beads and spangles** used, *inter alia*, for making imitation jewellery, or for decorating textile material, embroidery, clothing, etc. They are generally made of copper, copper alloys or aluminium (often gilded or silvered), and are designed to be fixed in position by glueing, sewing, etc. Beads are generally spherical or tubular or sometimes faceted; spangles, generally of geometrical form (round, hexagonal, etc.), are cut from metal foil and usually pierced.

The articles referred to in (A), (C) and (D) above may contain parts of leather, textiles, plastics, wood, horn, bone, ebonite, mother of pearl, ivory, imitation precious stones, etc., **provided** they retain the essential character of articles of base metal. They may also be ornamented by working of the metal.

XXX"

Based on the HS EN cited above, it could be discerned that the nature of the products covered by heading 83.08 is very different from that of subject articles. The frames mentioned in the heading text of 83.08 are frames for handbags, purses, brief-cases, executive-cases or other travel goods, or for books or wrist-watches. Therefore, another Chapter or heading should be considered in classifying subject articles.

Furthermore, this Commission also agrees with the BOC that Chapter 73 of the AHTN 2017 merits consideration since subject frames are made of steel (i.e., articles of steel). However, the BOC chose a heading under the Chapter that could only be considered if the products to be classified are not included in headings 73.01 to 73.25 or more specifically covered elsewhere in the Nomenclature. The HS EN to heading 73.26 state that:

*"This heading covers all iron or steel articles obtained by forging or punching, by cutting or stamping or by other processes such as folding, assembling, welding, turning, milling or perforating **other than** articles included in the preceding headings of this Chapter or covered by Note 1 to Section XV or included in **Chapter 82 or 83** or more specifically covered elsewhere in the Nomenclature."*

Based on this Commission's evaluation, there is a more specific heading under Chapter 73 that covers subject articles, in particular heading 73.08 [structures (excluding prefabricated buildings of heading 94.06) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frame-works, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel].

The pertinent HS EN to heading 73.08 state that:

*"This heading covers **complete or incomplete metal structures, as well as parts of structures**. For the purpose of this heading, these structures are characterised by the fact that once they are put in position, they generally remain in that position. They are usually made up from bars, rods, tubes, angles, shapes, sections, sheets, plates, wide flats including so-called universal plates, hoop, strip, forgings or castings, by riveting, bolting, welding, etc. Such structures sometimes incorporate products of other headings such as panels of woven wire or expanded metal of heading 73.14. Parts of structures include clamps and other devices specially designed for assembling metal structural elements of round cross-section (tubular or other). These devices usually have protuberances with tapped holes in which screws are inserted, at the time of assembly, to fix the clamps to the tubing. (Emphasis supplied).*

Apart from the structures and parts of structures mentioned in the heading, the heading also includes products such as :

Pit head frames and superstructures; adjustable or telescopic props, tubular props, extensible coffering beams, tubular scaffolding and similar equipment; sluice-gates, piers, jetties and marine moles; lighthouse superstructures; masts, gangways, rails, bulkheads, etc., for ships; balconies and verandahs; shutters, gates, sliding doors; assembled railings and fencing; level-crossing gates and similar barriers; frameworks for greenhouses and forcing frames; large-scale shelving for assembly and permanent installation in shops, workshops, storehouses, etc.; stalls and racks; certain protective barriers for motorways, made from sheet metal or from angles, shapes or sections.

The heading also covers parts such as flat-rolled products, “wide flats” including so-called universal plates, strip, rods, angles, shapes, sections and tubes, which have been prepared (e.g., drilled, bent or notched) for use in structures. (Emphasis supplied).

The heading further covers products consisting of separate rolled bars twisted together, which are also used for reinforced or pre-stressed concrete work.”

Subject articles, being pre-cut, structural steel elements designed for further assembly and intended for use as frames to hold in place/support the conveyor belt carrying rollers of a bulk material conveyor system/machine (i.e., a conveyor designed to transport large quantities of loose materials) in order to avoid belt damage and belt misalignment, are more appropriately covered under heading 73.08 of the AHTN 2017.

Based on the information received from the Importer/Consignee and the BOC, and the clarifications provided by the foregoing Chapter Note and HS EN, subject articles are properly classified under AHTN 2017 subheading 7308.90.99 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA). As additional information, in view of the Philippines’ adoption of the 2022 version of the AHTN on 01 July 2022, subject articles are classifiable under the same subheading in AHTN 2022.

WHEREFORE, premises considered, subject articles are hereby classified as follows:

Products	AHTN 2017 Code	2021 MFN Rate
Frame: Inverted Return Idler, Frame: Return Idler, Frame: Self Aligning Return Idler, and Frame: Self Aligning Carrying	7308.90.99	10% <i>ad valorem</i>

This is for compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION

MariLou P. Mendoza
Digitally signed

MARILOU P. MENDOZA
Chairperson

Copy furnished:

The Secretary

Department of Finance (DOF)
DOF Building, BSP Complex
Roxas Boulevard, Metro Manila
Email: secfin@dof.gov.ph

The Commissioner

Bureau of Customs (BOC)
Office of the Commissioner
G/F OCOM Building, 16th Street
South Harbor, Port Area, Manila
Email: boc.ocom@customs.gov.ph
comm.boc@gmail.com

Ms. Carmelita S. Talusan

District Collector
Bureau of Customs (BOC)
Collection District II-B
Manila International Container Port (MICP), Manila
Email: Carmelita.Talusan@customs.gov.com
micp@customs.gov.ph

Mr. Carlos V. Ferrer

COO V
Section 10, Formal Entry Division
Bureau of Customs (BOC), MICP
Isla Puting Bato, Tondo, Manila
Email: carlos.ferrer@customs.gov.ph

Ms. Lizabeth M. Macabitas-Banao

Manager
Pagbilao Energy Corporation
25th Floor W Fifth Avenue Building
5th Avenue, Bonifacio Global City
Taguig City, Metro Manila
Email: Lizabeth.Macabitas@teamenergy.ph

Ms. Theresa P. Orpiada

Logistics Coordinator
Pagbilao Energy Corporation
25th Floor W Fifth Avenue Building
5th Avenue, Bonifacio Global City
Taguig City, Metro Manila
Email: Theresa.Orpiada@teamenergy.ph