REPUBLIC OF THE PHILIPPINES

 DEPARTMENT OF FINANCE

 BUREAU OF CUSTOMS

 MANILA 1099

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**CUSTOMS ADMINISTRATIVE ORDER (CAO)**

**NO. \_\_\_\_\_\_\_\_\_\_\_**

**SUBJECT: ESTABLISHMENT OF AN ADVANCE RULING SYSTEM FOR VALUATION, RULES OF ORIGIN AND OTHER MATTERS RELATED TO IMPORTATION OR EXPORTATION OF GOODS**

**INTRODUCTION.** This CAO establishes an Advance Ruling System for Valuation, Rules of Origin and other matters related to importation or exportation of goods in the Bureau of Customs, pursuant to Sections 113, 1100-1104, in relation to Sections 204 and 1105 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), taking into account the commitments of the Philippines to the World Trade Organization’s Agreement on Trade Facilitation (ATF), the Revised Kyoto Convention (RKC), the ASEAN Trade in Goods Agreement (ATIGA), and other relevant trade agreements entered into by the Philippines.

**Section 1. Scope.**

* 1. This covers the establishment of an advance ruling system regarding customs valuation methodology, preferential and non-preferential origin other matters related to importation or exportation of goods.
	2. Requests for advance rulings concerning the tariff classification of goods shall be filed with the Tariff Commission for determination.

**Section 2. Objectives**.

* 1. To provide rulings on the origin, valuation methodology and other matters related to importation or exportation of goods, prior to their importation or exportation, in order to add certainty and predictability to international trade and helping commercial importers or exporters to make informed business decisions based on legally binding rules.
	2. To help ensure uniformity and consistency in the application of customs policies, rules and regulations on customs valuation, rules of origin, and other customs matters covered by this CAO.
	3. To enable the establishment of an advance ruling system that is in line with the standards set out in the Revised Kyoto Convention, the World Trade Organization’s Agreement on Trade Facilitation, the ASEAN Trade in Goods Agreement, other relevant international trade facilitation agreements, relevant Philippine laws, and international best customs practices.
	4. To increase the level of stakeholders’ compliance through an informed customs compliance regime.

**Section 3. Definition of Terms.**

* 1. **Advance Ruling** – an official written and binding ruling issued by the Bureau of Customs (Bureau) which provides the Requesting Person with an assessment of: (1) origin, or (2) treatment to be applied on a certain element of customs value, or (3) other matters related to importation or exportation of goods under customs jurisdiction, prior to an import or export transaction for a specified period.
	2. **Requesting Person** – a natural or juridical person who is an importer, exporter, or his/her/its authorized agent, who/which is requesting for an advance ruling pursuant to this Order.
	3. **Fee**– amount assessed by the Bureau to be paid by a Requesting Person to cover the reasonable cost of the research and other services rendered for issuance of advance ruling.
	4. **Appeal Fee** – the fee assessed by the Bureau when the Requesting Person appealed an advance ruling of the Bureau.
	5. **Exporter** – a natural or juridical person intending to export any goods or commodities from a foreign country to the Philippines and vice-versa. For exports of goods originating in the Philippines, the procedure shall be governed by existing regulations.
	6. **Importer** – a natural or juridical person intending to import any goods into the Philippines.

**Section 4. Administrative Provisions.**

4.1 Who May Request for Advance Ruling

4.1.1 Exporter of foreign country or its authorized agent for rules of origin

4.1.2 Importer or Exporter or its authorized agent for valuation methodology and other matters related to importation or exportation of goods

* 1. Conditions and Requirements for Request for Advance Ruling
		1. Period to request for Advanced Ruling for the importation of goods

To ensure that an Advance Ruling application does not relate to any ongoing trade transaction, an application for an Advance Ruling should be submitted to the Bureau no later than ninety (90) calendar days before the date of the importation in question.

* + 1. Requirements
			1. A request for an advance ruling must be made in writing to be submitted to the Bureau, and must relate only to one good or product, as the case may be.
			2. The Bureau shall publish documentary requirements for the application, including the information to be provided, and the format to be used. The Bureau shall allow the electronic submission of applications, subject to the submission of certified copies or originals, as may be required.
			3. Any application that does not comply with all of the provisions of this CAO will be rejected and returned to the Requesting Person. A written order identifying the information missing from the request and with a clear statement why a ruling cannot be issued.
			4. The Requesting Person may withdraw its request at any time before an advance ruling is issued. Such withdrawal of request will not prevent the Bureau to share information to the concerned Customs officers of its views with regard to the issue involved in the request.
			5. The request for Advance Ruling shall be deemed automatically withdrawn, without further need of action by the Requesting Person or the Bureau, if the Requesting Person imports the subject matter of the request for Advance Ruling. The port where the imported good entered shall have the discretion to decide on any issues of valuation or rules of origin relating to the goods.
		2. Fee

The amount of Three Thousand Pesos (Php3,000.00) plus applicable Legal Research Fee shall be collected by the Bureau as fee for each request for advance ruling. No request for an Advance Ruling shall be accepted or considered without such proof of payment.

* + 1. Notification of Receipt; Additional Information
			1. Upon receipt of the request, the Bureau shall notify the Requesting Person in writing, through electronic means, that the request for an Advance Ruling has been received.
			2. At any time during the course of an evaluation of a request for advance ruling, the Bureau may require additional information from the Requesting Person. The Requesting Person shall be given a period of thirty (30) calendar days from the date of the notice (or such longer period as the notice may provide) to supply any additional information that is required or, otherwise, to comply with the requirements referred to in the notice. If no response to the notice is received within the period provided, the request for Advanced Ruling shall be closed administratively and considered withdrawn. A written notice of such action shall be sent by the Bureau, by electronic means.
	1. Period to Issue Advance Ruling
		1. After the filing of the application complete in form and in substance, or the completion of the submission of all additional documents required within the prescribed period as stated in Section 4.2.4.2, the Bureau shall issue its Advance Ruling no later than thirty (30) calendar days from the date of receipt of the request, or additional documents or information.
	2. Grounds for Declining or Postponement

4.4.1 The issuance of an Advance Ruling may be declined or postponed when the Requesting Person fails to provide any additional information required within the time period provided by the Bureau.

4.4.2 The issuance of an Advance Ruling may also be declined in the following cases:

a.the issue involves a matter that is before the courts or is the subject of an administrative review;

b.the Requesting Person applies for an advance ruling on goods for which an application is already filed;

c.an Advance Ruling on the goods has been issued;

d.it is not possible to determine all the material facts;

e.the request is hypothetical in nature and circumstances lead to the conclusion that there is no intended importation;

f.the request pertains to multiple goods that are not related to each other;

g.the request involves proposed or draft legislation that may materially affect the outcome of any ruling;

h.the request relates only to a good that has already been imported and it is confirmed or likely that the good will not be imported again;

i.the request is submitted less than ninety (90) days before the importation in question, unless the ruling is issued prior to the arrival of the goods;

j.the issuance of an Advance Ruling is not in the best interest of customs administration.

4.4.3 In all cases, if the issuance of an Advance Ruling is declined or postponed, the Bureau shall promptly notify the Requesting Person in writing, though electronic means, clearly stating the reasons for such.

* 1. Binding Effect and Period of Effectivity of an Advance Ruling
		1. An Advance Ruling benefits only the ruling recipient or persons importing the good in question from the ruling recipient, if the ruling recipient is an exporter or producer. Although an applicant may refer to a specific Advance Ruling issued to another importer, exporter, or producer, the Bureau is not bound to recognize and apply that ruling to the importation for which a ruling is being applied for.

4.5.2 An Advance Ruling shall take effect on the date it is issued, unless another date is specified in the ruling, provided that the facts or circumstances on which the ruling is based remain unchanged as of the time of importation. The advance ruling shall be valid for a period of three (3) calendar years from the date of its issuance, unless a shorter period is provided for in the ruling due to the nature of the application – which shall be clearly stated in the Advance Ruling.

* 1. Revocation or Modification of an Advance Ruling
		1. An Advance Ruling may be revoked or modified upon discovery of any false or misleading material information provided in the application, without prejudice to the filing of criminal, civil and/or administrative charges against the Requesting Person. The Advance Ruling may likewise be revoked or modified whenever there is an error, change in material facts or circumstances, change in the law or judicial decision, or change in policy, as the case may be.
		2. Where the Advance Ruling is revoked or modified on the ground of false or misleading material information, the Requesting Person shall be notified of the revocation or the modification in writing, setting forth the facts and reasons therefor. The revocation or modification shall be effective as of the date the original ruling was issued.

4.6.3 In cases where the Advance Ruling is revoked or modified due to clerical error, change in material facts/circumstances, change in the law or judicial decision, or change in customs administration policy, as the case may be, the Requesting Person shall be notified in writing of the revocation or modification, setting forth the facts and reasons for the action. The revocation or modification shall be effective from the date the revocation or modification was issued. Modifications and revocations shall be applied only with respect to goods imported or exported after the effective date of the modification or revocation.

4.7 Appellate Remedy

4.7.1 The Requesting Person aggrieved by the ruling of the Bureau may, within fifteen (15) calendar days, from receipt of the Advance Ruling, file a written notice of appeal, together with the required appeal fee paid to the Bureau in the amount of Three Thousand Pesos (Php3,000.00) plus applicable Legal Research Fee, furnishing a copy to the Secretary of Finance. The Bureau shall immediately transmit all the records of the proceedings to the Secretary of Finance, who shall review and decide on the appeal within thirty (30) calendar days from receipt of the records. *Provided,* that if after thirty (30) calendar days, no ruling is rendered on the appeal, the ruling of the Bureau under appeal shall be deemed affirmed. An appeal filed beyond the period prescribed shall be automatically dismissed.

4.7.2 Within thirty (30) calendar days from the receipt of a ruling or decision from the Secretary of Finance, the Requesting Person may appeal the same to the Court of Tax Appeals (CTA).

4.8 Publication of Advance Ruling and Confidentiality

4.8.1 The Bureau shall publish its rulings on the valuation methodology and origin of the subject goods on its website and deposit a copy of the records of the same in the Bureau’s Central Records Management Office.

4.8.2 All information that is by nature confidential or that is provided on a confidential basis for the purpose of the Advance Ruling application shall be treated as strictly confidential by the Bureau. The information shall not be disclosed unless with the written permission of the person or government providing such information or to the extent that it may be required to be disclosed in the context of judicial proceedings.

4.9 Optimum Use of Information and Communications Technology in Developing the Advance Ruling Systems

To the extent practicable, the Bureau shall use information and communications technology to receive advance ruling applications, issue decisions, communicate with the Requesting Person and maintain records.

**Section 5. Committee On Advance Ruling On Valuation And Rules Of Origin (CARVROO).**

5.1 To implement the advance ruling system, the Bureau creates, thorough this order aCommittee on Advance Ruling on Valuation and Rules of Origin (CARVROO), which shall have the authority to issue advance rulings over issues regarding customs valuation methodology, preferential and non-preferential origin of goods, and other potential customs issues involving imported and exported goods.

5.2 A Customs Special Order shall be issued to define the organization and composition of the CARVROO.

**Section 6. Authority Of The Commissioner To Promulgate Implementing Rules and Regulations in a Customs Memorandum Order**

6.1 The Commissioner of Customs may promulgate rules and regulations set out in a Customs Memorandum Order to effectively implement the provisions of this CAO.

6.2 The Commissioner of Customs may, subject to the approval of the Secretary of Finance, expand the coverage of customs matters that may be the subject of an Advance Ruling application.

**Section 7. Repealing Clause**

7.1 All previously issued Customs Administrative Orders, Customs Memorandum Orders, and other customs rules and regulations which are inconsistent with this Order are hereby repealed and/or modified accordingly

**Section 8. SepArability Clause**

8.1 If any part of this Order is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

**Section 9. Effectivity**

9.1 This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or a newspaper of general circulation.

**NICANOR E. FAELDON**

Commissioner

APPROVED:

**CARLOS G. DOMINGUEZ III**

Secretary of Finance

**Informational Section.** As the title denotes this only provide information and does not give rise to any substantive or formal rights or obligations.

1. **History.** Date the CAO was first enacted and last revised with the CAO No. which should be hyperlinked.
2. **Related Policies.** Related policies that may help the reader to better understand the CAO which should be hyperlinked.
3. **Webpage, Forms, Handbooks and other References.** Unit webpage or other information relating to the regulations, such as guidelines, forms, charts, and handbooks, should not be incorporated into the body of the CAO but should be listed and hyperlinked in the additional information section after the text of the CAO. Hyperlinks should refer to the title of the document not the https address.