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**CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. _____ - 2017**

**SUBJECT: REGISTRATION OF OTHER THIRD PARTIES DEALING WITH THE
BUREAU**

Introduction. This CAO implements Section 1226, Chapter 3, Title XV and other relevant sections of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. This CAO applies to all Private Carriers, Common Carrier for Transit Cargoes, Airline Representatives or Airline Ground Handling Agents, Shipping Agents, Pipeline Operators,¹ Freight Forwarders, Consolidators, Deconsolidators, Non-Vessel Operating Common Carriers (NVOCC), and Logistics Providers, dealing with the Bureau in relation to importation, exportation, movement, storage and clearance of goods for and in behalf of another person. Deconsolidators handling Balikbayan Boxes, Importers and Exporters, Customs Bonded Warehouse (CBW) and Customs Facility Warehouse (CFW), all acting as third parties shall be covered by their respective rules and regulations.

Section 2. Objectives.

- 2.1.** To identify and recognize Third Parties that may be authorized to transact with the Bureau in relation to importation, exportation, movement, storage and clearance of goods for and in behalf of another person; to define their corresponding duties and obligations.
- 2.2.** To gather sufficient information about the Third Parties for the establishment of database for risk management and enforcement purposes.
- 2.3.** To provide the rules and regulations governing the conduct of Private Carriers, Common Carrier for Transit Cargoes, Airline Representatives or Airline Ground Handling Agents, Shipping Agents, Pipeline Operators, Freight Forwarders, Consolidators, Deconsolidators, NVOCC and Logistics Providers, dealing with the Bureau in relation to importation, exportation, movement, storage and clearance of goods for and in behalf of another person.
- 2.4.** To provide for specific conditions when Private Carriers, Common Carrier for Transit Cargoes, Airline Representatives or Airline Ground Handling Agents, Shipping Agents, Pipeline Operators, Freight Forwarders, Consolidators, Deconsolidators, NVOCC and Logistics

¹ G.R. No. 125948. December 29, 1998; Article 86 of RA-387 otherwise known as Petroleum Act of 1949.

Providers may or may not directly transact with the Bureau and to provide notice in case such third parties are for valid reasons barred from transacting with the Bureau.

- 2.5.** To plug possible revenue leakage, prevent entry of prohibited goods and unprofessional handling of cargoes due to proliferation of fly-by-night Freight Forwarders, Consolidators, Deconsolidators, NVOCC and Logistics Providers.
- 2.6.** To make full use of the ICT enabled system in the registration of other third parties.

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

- 3.1. Aircraft** – shall refer to a conveyance that travels through the air.
- 3.2. Airlines** – shall refer to an airline corporation engaged in both domestic and international air transportation of goods, passengers, or both.
- 3.3. Bureau** – shall refer to the Bureau of Customs.²
- 3.4. Carrier** – shall refer to persons, corporations, firms or associations, actually transporting goods or in charge of or responsible for the operation of the means of transport such as airlines, shipping lines, freight forwarders, cargo consolidators, non-vessel operating common carriers and other international transport operators.³
- 3.5. Common Carrier for transit cargoes (Aircrafts, Vessels, Trucks, Train)** – shall refer to persons, corporations, firms or associations engaged in the business of carrying or transporting transit cargoes, by land, water, or air, for compensation, offering their services to the public.⁴
- 3.6. Consolidator for Export** – shall refer to a juridical entity which procures transport of goods by sea or air and issues house bill of lading or house airway bill to consignors of shipments under its solicitation, to whom it directly assumes the liabilities and responsibilities of a carrier for the transportation of such goods from the point of receipt to the point of destination of such goods, and ships the goods together in its name consigned to its Deconsolidation Agent abroad.⁵

² CMTA, Title I, Chapter 2, Section 102(i).

³ CMTA, Title 1, Chapter 2, Section 102(j).

⁴ cf. Article 1732, Civil Code of the Philippines.

⁵ cf CMO No. 04-2017; cf CAO No. 05-2016.

- 3.7. Deconsolidator** – shall refer to a local freight forwarder or consolidator’s agent that provides services to ungroup or deconsolidated shipments, orders, goods, etc. to facilitate distribution.⁶
- 3.8. Global Positioning System (GPS) or Tracking System** – shall refer to electronic system that uses these satellites to determine the position of a vehicle, cargo or person, etc.
- 3.9. Ground Handling Agents (Cargo Agents, Airline Agents)** – shall refer to entity authorized to act for or on behalf of the carrier, for accepting, handling, loading/unloading, transiting, or dealing with cargo, passengers and baggage.⁷
- 3.10. House Air Waybill (HAWB)** – shall refer to an airway bill covering a single, individual shipment or consignment issued by international air freight forwarder or a consolidator to the respective shippers.⁸
- 3.11. House Bill of Lading (HBL)** – shall refer to a bill of lading covering a single, individual shipment or consignment issued by the international sea freight forwarder, NVOCC or a consolidator to the respective shippers containing the names and addresses, respectively, of both the consignor or sender and the consignee or receiver and the detailed, specific description of the goods shipped through sea.⁹
- 3.12. Freight Forwarder** – shall refer to a local entity that acts as a cargo intermediary and facilitates transport of goods on behalf of its clients without assuming the role of a carrier, which also performs other forwarding services, such as booking cargo space, negotiating freight rates, preparing documents, advancing freight payment, providing packing or crating, trucking and warehousing, engaging as an agent or as a representative of a foreign NVOCC or as a cargo consolidator named in a master bill of lading as consignee of a consolidated shipment, and other related undertakings.¹⁰
- 3.13. Logistics provider** - a company that provides management over the flow of goods and materials between the points of origin to end-use destination. The provider will often handle shipping, inventory, warehousing, packaging and security functions of the shipments.¹¹ A company that provides at least two of the above services shall be considered a logistics provider.

⁶ cf. CAO No. 05-2016, Section 3.8.

⁷ IATA FF-Carrier-GHA Functional Specifications v0.8(clean).doc_ 06-Aug-2009

⁸ cf. CAO No. 05-2016; CAO No. 06-2016.

⁹ cf. CAO No. 05-2016; CAO No. 06-2016.

¹⁰ cf. CMTA, Title I, Chapter 2, Section 102 (aa).

¹¹ cf. BusinessDictionary, <http://www.businessdictionary.com/definition/logistics.provider.html>, Accessed: August 08, 2017.

- 3.14. Master Airway Bill (MAWB)** – refers to an airway bill issued by a common air carrier to a consolidator covering a consolidated shipment.¹²
- 3.15. Master Ocean Bill of Lading (MBL)** – refers to an ocean bill of lading issued by a common ocean carrier to a consolidator covering a consolidated shipment.¹³
- 3.16. Non-Vessel Operating Common Carrier (NVOCC)** — shall refer to an entity, which does not own or operate a vessel that provides a point-to-point service which may include several modes of transport of full container load and less container load (LCL) shipments and issues corresponding transport document.¹⁴
- 3.17. Pipeline Operators** – shall refer to the person who is to have or (once fluid is conveyed) has control over the conveyance of fluid in the pipeline;¹⁵
- 3.18. Private Carriers, (Aircraft, Vessels, Trucks)** – shall refer to persons who undertake for the transportation in a particular instance only, not making it their vocation, nor holding themselves out to the public as ready to act for all who desire their services.¹⁶
- 3.19. Shipping Agents** – shall refer to person or company whose business is to prepare shipping documents, arrange shipping space and insurance, and deal with customs requirements.¹⁷
- 3.20. Shipping Line** – shall refer to a juridical entity that transports cargoes aboard ships or vessels across oceans or seas.
- 3.21. Warships** – belongs to the armed forces of a State. In order to identify a warship, it should have military markings, commanded by commissioned officer and the crew is under armed forces discipline. Warship is immune from boarding, arrest and expected to comply with lawful coastal state requirements. ¹⁸

Section 4. General Provisions.

- 4.1. Who are Third Parties.** Third Parties refer to any person who deals directly with the Bureau, for and on behalf of another person, relating

¹²cf. CMO 79-90 Section 2.1.4.

¹³cf. CMO 79-90 Section 2.1.4.

¹⁴ cf. CMTA, Title I, Chapter 2, Section 102 (ee).

¹⁵ Reg. 2.1. of Pipelines safety regulations 1996

¹⁶ <http://thelawdictionary.org/common-and-private-carriers/>

¹⁷ <https://www.collinsdictionary.com/dictionary/english/shipping-agent>

¹⁸ Principles and Remedies in the CMTA by Atty. Joseph G. Romano

to the importation, exportation, movement or storage of goods. For purposes of this CAO, the following are considered as third parties:

- a. Carriers;
- b. Airline Representatives or Airline Ground Handling Agents;
- c. Shipping Agents;
- d. Pipeline Operators;
- e. Freight Forwarders;
- f. Consolidators;
- g. Deconsolidators;
- h. NVOCC; and
- i. Logistics Providers.

4.2. Supervision and Regulation of Third Parties. Third Parties as defined in this CAO shall be subject to supervision and regulation of the Bureau in relation to the importation, exportation, movement, storage and clearance of goods on or in behalf of another person.

Third Parties subject to regulations of other government regulatory agencies may also be allowed to transact with the Bureau provided they are registered and duly authorized to engage in such business by the primary government regulating in accordance with their respective charters and their own rules and regulations. Those which have been delisted from the said agencies shall be barred from transacting with the Bureau.

4.3. Treatment of Third Parties. Third parties transacting with the Bureau on behalf of importers and consignees shall be treated equally as true importers or consignees and as such shall be governed by the regulations on registration of importers.¹⁹

4.4. Liability of Third Parties. Third parties transacting with the Bureau shall be liable for acts committed in violation of the CMTA and related laws.²⁰

Section 5. Administrative Provision.

5.1. Registration with the Bureau. Third Parties shall apply for registration through the Bureau's accreditation office or its equivalent unit, individually or through their organization, subject to the following documentary requirements:

5.1.1. Third parties who are members of an organization duly accredited by concerned government agencies:

¹⁹ c.f. CMTA, Title XII, Chapter 2, Section 1226

²⁰ CMTA, Title XII, Chapter 2, Section 1226

- i. Proof of Membership in good standing;
- ii. Copy of the Certificate of Public Convenience, Registration, Accreditation or Permit to Operate or grant of legislative franchise, issued by the concerned government agency in accordance with their respective charters or their own existing rules and regulations;
- iii. Certificate of Business Registration issued by the Department of Trade and Industry (DTI) or Securities and Exchange Commission (SEC), Bureau of Internal Revenue (BIR) Certificate of Registration and Mayor's Permit; and
- iv. Other documentary requirements as specified in the corresponding Customs Memorandum Order (CMO).

5.1.2. Third parties who are not members of any organization:

- i. Copy of the Certificate of Public Convenience, Registration, Accreditation or Permit to Operate or grant of legislative franchise, issued by the concerned government agency in accordance with their respective charters or their own existing rules and regulations;
- ii. Certificate of Business Registration issued by the Department of Trade and Industry (DTI) or Securities and Exchange Commission (SEC), Bureau of Internal Revenue (BIR) Certificate of Registration and Mayor's Permit; and
- iii. Other documentary requirements as specified in the corresponding Customs Memorandum Order (CMO).

5.2. Annual Registration Fee. An annual registration fee in the amount of One Thousand Pesos (Php1,000.00) shall be imposed, subject, however, to periodic review in accordance with Section 1301, Title XIII of the CMTA and applicable rules and regulations.

5.3. Validity Period of Registration. Unless otherwise provided by law or other rules and regulation, the customs registration of third parties shall be valid for a period of one (1) year from the date of its approval, subject, however, to suspension, revocation or cancellation as herein provided.

Third parties must file their application for renewal with the Bureau within thirty (30) calendar days prior to the expiration of their registration.

5.4. Approval or Disapproval of Registration Applications. All registration applications shall be approved or disapproved by the Bureau within ten (10) working days from receipt of complete documentary requirements.

The absence or misrepresentation of material information shall be a ground for disapproval of the application and blacklisting of the Third Party.

5.5. Certificate of Registration. Approved application for registration shall be evidenced by a Certificate of Registration.

5.6. One-Time Accreditation Privilege. The Bureau, through a CMO, may allow one-time registration privilege to registered third parties with a high level of customs compliance record under the Authorized Economic Operators (AEOs) and other trade facilitation programs.

5.7. Mandatory Maintenance and Updating of Electronic Mail Addresses and Contact Numbers. It shall be mandatory for registered third parties to provide the Account Management Office (AMO) or equivalent office their existing, accurate and official e-mail addresses and contact numbers, and changes, modification or update thereto where the Bureau shall send notices and communications such as urgent notice to file entry and other such notices.

Notices and communications sent to the registered third parties' official e-mail addresses shall be deemed received, unless the non-receipt is through no fault of the third party.

Section 6. Duties and Obligations as Third Parties.

6.1. Cooperation in Customs Inquiry. Third Parties shall make available pertinent papers and documents as well as issue statements, affidavits, and attestations during any inquiry conducted by the Bureau.

6.2. Obligation to Report Fraud. A third party who has knowledge of the commission of fraud shall report all information relative thereto to the District Collector.

6.3. Access to Records. Third Parties shall maintain and make available to the Bureau the complete books and/or records of transaction performed on behalf of the other in relation to importation, exportation, movement, storage and clearance.

6.4. Faithful Compliance with Customs and other Laws, Rules and Regulations. In their dealings and transactions with the Bureau, Third Parties shall undertake to follow and comply with customs and other laws, rules, and regulations. In addition, the said firms shall be truthful and responsible for the accuracy in the declaration of the contents of their shipments and other details as required under existing laws, rules and regulations.

Section 7. Consultation with concerned regulatory agency. The Bureau shall conduct periodic consultation with concerned regulatory agency for the effective

implementation of this rules and regulations governing the conduct of third parties dealing directly with the Bureau in relation to importation, exportation, movement, storage and clearance of goods for and in behalf of another person.

The Bureau of Customs may enter into appropriate Memoranda of Agreement (MOA) with the concerned regulatory agency.

Section 8. Carrier's Security. Carriers that transport imported goods that shall be placed under customs transit from a port of entry to other ports, shall post a general transportation security amounting to at least fifty thousand pesos (P50,000.00). Such security shall ensure the complete and immediate delivery of goods to the customs officer at the port of destination and the payment of pertinent customs charges and expenses and other transfer costs. The amount of the security may be adjusted by the Commissioner, upon approval of the Secretary of Finance.²¹

Section 9. Sanctions. The Bureau shall impose the sanctions of suspension or revocation of their customs registration for violations of customs laws and other laws, rules and regulations, after due notice and hearing, without prejudice to the filing of any criminal charge and/or other administrative sanctions which may be imposed by the concerned primary regulating agency as case may be pursuant to their own rules and regulations.

Section 10. Transitory Provision. All previously issued rulings by the Bureau shall remain effective one (1) year from the effectivity of this CAO.

Section 11. 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 12. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 13. Repealing Clause. This CAO specifically amends or repeals previously issued CAOs and CMOs which are inconsistent with the provisions therein.

Section 14. 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 15. Effectivity. This CAO shall take effect after 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.

²¹ CMTA, Title VI, Chapter 1, Section 602

ISIDRO S. LAPENA, PhD, CSEE
Commissioner of Customs

Approved:

CARLOS G. DOMINGUEZ
Secretary of Finance

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

1. History. This is the first CAO dealing exclusively on Rules and Regulations Governing the Conduct of Third Parties Dealing with the Bureau.

2. Related Policies.

- CAO No. _____ on Export Cargo Clearance Formalities And Issuance Of Certificate Of Origin And Proof Of Origin.
- CAO No. _____ on Registration of Importers.
- CAO No. _____ on Vessel and Aircraft Supervision and Control System.
- CAO No. 01-2016 – Advance Cargo Declaration, Inward Foreign Manifest and Consolidated Cargo Manifest Rule.
- CMO No. 05-2016 – Submission of Performance Evaluation System (PES) Forms for CY-2015 Accomplishments & the Strategic Performance Mgt. System (SPMS) for CY-2016
- CMO No. 04-2017 – Guidelines on the Implementation of CAO No. 05-2016 on Consolidated Shipment of Duty and Tax-Free “Balikbayan Boxes” with Revised Information Sheet
- CMO No. 79-1990 – Revised Rules and Regulation Governing the Entry of Non-Commercial Inbound Consolidation Shipment from Filipino Abroad, Repealing for the Purpose CMMO No. 32-90

- First Philippine industrial Corporation vs. Court of Appeals, G.R. No. 125948, December 29, 1998

3. Webpage, Forms, Handbooks and other References.

- a. Civil Code of the Philippines
- b. Customs Modernization and Tariff Act (RA 10863)
- c. Philippine Shipper's Bureau (PSB) Department Administrative Order No. 06, s. 2005
- d. Pipelines Safety Regulation of 1996
- e. Revised Kyoto Convention