CUSTOMS ADMINISTRATIVE ORDER
NO. ____-_____

SUBJECT: ABANDONMENT: KINDS, EFFECTS, AND TREATMENT

Introduction. Pursuant to Sections 1129 and 1130 and other relevant provisions of Republic Act No. 10863 entitled "An Act Modernizing the Customs and Tariff Administration" otherwise known as Customs `Modernization and Tariff Act (CMTA), the following guidelines on abandonment are hereby consolidated and adopted.

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 update, 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 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. Admission - refers to the act of bringing into the Philippines imported goods directly or through transit in free zones.[1]

3.2. Alert Order – refers to a written Order issued by the Commissioner or other Customs officers authorized in writing by the Commissioner after the lodgment of goods declaration and before their release from customs custody, on the basis of derogatory information regarding possible non-compliance with the CMTA and other laws, rules, and regulations enforced by Customs. An Alert Order suspends the processing of the goods declaration and shall result in the conduct of physical or non-intrusive inspection of the subject goods.[2]

3.3. Arrastre or Warehouse Operator – refers to a person authorized to engage in the handling and temporary storage of imported goods.

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[1] *cf* Customs Modernization and Tariff Act (CMTA), Title I, Chapter 2, Section 102(c).
[2] *cf* CMTA, Title XII, Chapter 3, Section 1111.

3.4. Customs Bonded Warehouse (CBW) – refers to a manufacturing or non-manufacturing bonded warehouse.

A customs manufacturing bonded warehouse is a facility established for the manufacture of products utilizing raw materials or components that are imported duty and tax free conditioned on the exportation of the finished products within the period prescribed.

A customs non-manufacturing bonded warehouse is a facility where goods are stored duty and tax free conditioned on the eventual withdrawal of the goods for consumption, or for export, or for transit, or for any other clearance regime, within the period prescribed.[3]

3.5. Discharge of Last Package – refers to the completion of the unloading of the entire shipment from the international carrier in the case of direct discharge.[4]

3.6. Due Notice – refers to the notification to the importer to lodge or file, pay, claim, or mark by the District Collector through electronic notice sent to the registered email address of concerned accredited importers or exporters; registered mail or personal service; or posting in case of unknown consignees;

3.7. Final Assessment – Assessment shall be deemed final after fifteen (15) calendar days from receipt of the notice of assessment by the importer or consignee.[5]

3.8. Forfeiture Fund – refers to the account where all proceeds from public auction sales after deduction of the charges are deposited, as provided in Section 1143 of the CMTA, and subject to claim of the owner or importer of impliedly abandoned goods.[6]

3.9. Goods Declaration – refers to statements by the declarant made in the manner prescribed by law, rules, and regulations for consumption, warehousing or transit. [7]

3.10. Interested party – refers to the owner, importer, or consignee indicated in the covering Airway Bill or Bill of Lading, or holder of properly negotiated and delivered Negotiable Airway Bill or Bill of Lading pursuant to the New Civil Code, as amended.

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[3] *cf*CustomsAdministrative Order (CAO) on "*Customs Bonded Warehouses and Customs Facilities and Warehouses,"*4.3. *Pending approval by the Department of Finance.*

[4] *cf*Customs Memorandum Order (CMO) Number 15-94, on *"Revised Guidelines on Abandonment,"*B.2.(B.2.1.).

[5] *cf*CMTA, Title IV, Chapter 3, Section 429.

[6] *cf*CMTA, Title XII, Chapter 10, Section 1151.

[7] *cf*CMTA, Title XII, Chapter 6, Section 1129(b).

3.11. Lodgement – refers to the electronic registration of goods declaration with the Bureau, in a manner prescribed under Customs laws, rules and regulations.[8]

It shall include submission of the hard copy of the goods declaration and requisite supporting documents.

3.12. Mark – refers 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, the name of the country of origin of such goods in the official language of the Philippines.[9]

3.13. Perishable Goods - refers 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. [10]

3.14. Regulated Goods – refers to goods which are subject to regulation; which shall be imported or exported into or out of the country only after securing the necessary goods declaration or export declaration, clearances, licenses, and any other requirements. In case of importation, submission of requirements after arrival of the goods but prior to release from customs custody shall be allowed but only in cases provided for by governing laws or regulations. [11]

3.15. Tagging – refers to the automated change from active to abandon status of bills of lading/waybills by E2M system if no entry declaration is lodged electronically and/or no payment is made within the prescribed period.

Section 4. <u>General Provisions</u>.

4.1. Goods declaration must be lodged or filed in the manner as provided under CMTA and pertinent rules and regulations within fifteen (15) calendar days from the date of discharge of the last package from the carrying vessel or aircraft, subject to the requirement of due notice.[12] The said period may be extended by the District Collector for another fifteen (15) calendar days upon request.

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[8] *cf*CMTA, Title I, Chapter 2, Section 102(dd); *CAO No. 8-2008 on "Requiring Electronic Lodgement of Goods Declarations and Imposing Administrative Sanctions for Non-Compliance with the Requirement."*

[9] *cf*CMTA, Title VII, Chapter II, Section 710.

[10] CMTA,Title 1, Chapter 2, Section 102(gg).

[11] *cf*CMTA, Title I, Chapter 3,Section 117.

[12] CMTA, Title IV, Chapter 1, Section 407(par 3).

4.2. Assessed duties, taxes and other charges must be paid in the manner as provided in the CMTA and pertinent rules and regulations within fifteen (15) calendar days from receipt of the notice of final assessment. [13]

4.3. The imported goods must be claimed within thirty (30) calendar days from payment of the assessed duties, taxes and other charges due thereon. For this purpose, the arrastre or warehouse operator shall report the unclaimed goods to the District Collector for disposition pursuant to the provisions of the CMTA.[14]

4.4. Kinds of Abandonment

4.4.1. Express Abandonment - When the owner, importer, or consignee of the imported goods, expressly signifies in writing to the District Collector the intention to abandon the same[15].If the owner, importer, or consignee is a juridical entity, the intention to expressly abandon shall be covered by a board or partnership resolution, as the case may be.

4.4.2. Implied abandonment: Goods are deemed abandoned in the following instances:

a. After fifteen (15) calendar days from the date of discharge of the last package from the carrying vessel or aircraft, or expiration of period of extension, if any, the importer or consignee fails to lodge or file the goods declaration.[16]

b. After fifteen (15) calendar days from notice of final assessment, the importer or consignee, after due notice, fails to pay the assessed duties, taxes and other charges thereon.[17]

c. In case of goods subject of an alert order, the interested party fails to pay the assessed duties, taxes and other charges within fifteen (15) calendar days from notification by the Bureau of the resolution of the alert order and final assessment.[18]

d. After thirty (30) calendar days from payment of finally assessed duties, taxes and other charges, the interested party fails to claim the goods, unless covered by a duly issued alert order.

[13] CMTA,Title XII, Chapter 6, Section 1129(c).
[14] CMTA,Title XII, Chapter 6, Section 1129(d).
[15] CMTA, Title XII, Chapter 6, Section 1129(a).
[16] CMTA, Title XII, Chapter 6, Section 1129(b).
[17] CMTA, Title XII, Chapter 6, Section 1129(c).
[18] CMTA, Title XII, Chapter 6, Section 1129(c); CMTA, Title 1, Chapter 3, Section 117.

For this purpose, the arrastre or warehouse operator shall render a weekly report of unclaimed goods to the District Collector.[19]

e. After thirty (30) calendar days from due notice to claim by the concerned Collector, travelers or postal consignees fails to claim their imported baggage or postal items.

f. After the period of one (1) year, or three (3) months in case of perishable goods, from the time of its arrival at the CBW, the warehouse operator fails to withdraw the said goods.

The storage period for perishable goods may be extended for another three (3) months subject to approval of authorities concerned.

For this purpose, the warehouseman concerned shall render a periodic report of goods not withdrawn within the prescribed period to the District Collector.[20]

g. After thirty (30) calendar days after due notice, interested party fails or refuses to mark the goods as required under Section 710 of the CMTA.[21]

4.5. Due Notice Requirements

For purposes of this CAO, the due notice requirement is deemed complied with as follows:

4.5.1. For Accredited Importers or Exporters:

a. The required notice shall be sent electronically via the registered e-mail address of the accredited importers or exporters.

In this regard, accredited importers or exporters are bound to regularly monitor communications sent to their respective e-mail addresses registered with the Account Management Office (AMO) or its equivalent unit.

Properly sent notices or communications to the registered e-mail addresses of the accredited importers or exporters, are

[19] CMTA, Title XII, Chapter 6, Section 1129(d).
[20] CMTA, Title VIII, Chapter 2, Section 811.
[21] CMTA, Title VII, Chapter 2, Section 710 (e).

deemed to have been duly received by the concerned accredited importers or exporters; or

b. Personal Service;

4.5.2. For Non-Regular Importers or Exporters:

The due notice requirements shall be served either by registered mail or personal service.

For this purpose, all accredited importers and exporters are excluded herein.

4.5.3. For Unknown Consignee:

a. The due notice requirement are deemed complied with upon posting of the required notice in a public place at the concerned collection district for a period of fifteen 15 calendar days; and

b. Electronic or printed publication[22].

4.6. Extension of Period for Lodgement or Filing of Goods Declaration

Upon sworn written request filed before the expiration of the original fifteen (15) calendar day period, the District Collector may extend the period to lodge or file goods declaration for another fifteen (15) calendar days on valid grounds.

However, the Commissioner may adjust the period for lodgement of the goods declaration as provided under Section 407 of the CMTA. [23]

4.7. Effects of Abandonment. The following are the effects of abandonment:

4.7.1. Expressly abandoned goods shall be ipso facto deemed the property of the government.[24]All interests and property rights over expressly abandoned goods are deemed renounced by the interested party of the imported goods.[25]

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[22] *cf*CMTA, Title XI, Chapter 4, Section 1119.

[23] CMTA, Title IV, Chapter 1, Section 407.

[24] CMO 24-2015, Section 2b on *"Procedures in the Processing of Importer or Consignee's Request for Extension or Period to File Entry Declaration, Continues Processing of Entries, Untagging of Abandonment and other Similar Request."*

[25] CMO 24-2015, Section 2a on *"Procedures in the Processing of Importer or Consignee's Request for Extension or Period to File Entry Declaration, Continues Processing of Entries, Untagging of Abandonment and other Similar Request."*

4.7.2. All abandoned goods shall be disposed of in accordance with the CMTA, other Customs and allied laws, and pertinent rules and implementing regulations.[26]

4.7.3. The interested party of the imported goods is not relieved of any criminal liability, which may arise from any violation of the tariff and customs laws and other laws enforced by the Bureau of Customs in connection with the importation of the abandoned article.[27]

4.7.4. For goods which have been impliedly abandoned and sold by the Bureau, although no offense has been discovered against the goods or the interested party 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 interested party of the imported goods or when this is not possible, the same shall be held at the disposal of the Auction Division or equivalent office for a period of 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, Provided that, this shall not apply to alerted and seized imported goods which were ruled liable for forfeiture despite expressed or implied abandonment.[28]

Section 5. **Procedures.** A Customs Memorandum Order (CMO) shall be issued to outline the abandonment and extension for lodgement or filing of goods declaration procedures. The CMO shall provide appropriate measures to ensure that the abandoned articles are properly accounted for and monitored by the concerned offices.

Section 6. **Implementing Office.** The District Collector of Customs in a Principal Port or the Collector of Customs in a Sub-Port, Deputy Collectors for Assessment, Operations and Administration shall be collectively and individually responsible for the strict implementation of this order.

It is the duty of the District Collector or Sub-Port Collector to ensure the posting of required list of all packages, date of discharge, and their consignees, through the Deputy Collector for Operations or equivalent officer, whether electronically or physically in the bulletin boards of the Collection District concerned or send notice through the Deputy Collector for Administration or equivalent officer, to the interested

[26] CMTA, Title XII, Chapter 6, Section 1130.
[27] TCCP, Title IV, Part 7, Section 1802.
[28] CMTA, Title XII, Chapter 10, Sections 1143;CMTA, Title XII, Chapter 10, Sections 1151.

party of the imported goods, within five (5) calendar days from the date of discharge of the last package.[29]

It is the duty of the District Collector or Sub-Port Collector to ensure the posting of required notice of final assessment, through the Deputy Collector for Assessment or equivalent officer, whether electronically or physically in the bulletin boards of the Collection District concerned, or send notice through the Deputy Collector for Administration or equivalent officer, to the interested party of the imported goods, within five (5) calendar days from the date of final assessment.

It is the duty of the District Collector or Sub-Port Collector to ensure the posting of required notice to mark the goods as herein required in Section 710 of the CMTA, through the Deputy Collector for Assessment or equivalent officer, whether electronically or physically in the bulletin boards of the Collection District concerned, or send notice through the Deputy Collector for Administration or equivalent officer, to the interested party of the imported goods, within five (5) calendar days from the date of actual examination.[30]

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 Management Information and System Technology Group (MISTG) shall devise an Information Communication Technology (ICT) enabled system for reporting and monitoring of abandoned shipments.

Section 8. Periodic Review. Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

Section 9. 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 10. Repealing Clause. All Orders, Memoranda or Circulars which are inconsistent with the provisions of this CAO or any part hereof are hereby deemed revoked, suspended or amended 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 after fifteen (15) days after its publication at the Official Gazette or a newspaper of national circulation.

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[29] CMTA, Title XII, Chapter 6, Section 1129(b).

[30] *cf*CMTA, Title VII, Chapter 2, Section 710.

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

NICANOR E. FAELDON
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.

2. Related Policies.

- Customs Administrative Order Number 5-93 – Rules and Regulations on Abandonment
- Customs Memorandum Order Number 15-94 – Revised Guidelines on Abandonment
- Customs Memorandum Order Number 36- 2011 – Strict Implementation of CMO 15-94 (Subject: Revised Guidelines on Abandonment) Particularly on the Posting of the "Notice to File Entry" and "Notice to Claim"
- Customs Memorandum Order Number 18-2014 – Guidelines on Lifting an Alert Order of Abandonment
- Customs Memorandum Order Number 19-2014 – Repeal of CMO No. 18-2014, Guidelines on Lifting an Order of Abandonment
- Customs Memorandum Order Number 24-2015 – Procedures in the Processing of Importer or Consignee's Request for Extension of Period to File Entry Declaration, Continues Processing of Entries, Untagging of Abandonment and other Similar Requests

3. Webpage, Forms, Handbooks and other References.

a. Customs Modernization and Tariff Act (RA 10863)
b. Tariff and Customs Code of the Philippines, as amended, Volume II, Book II.