



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

[Date]

CUSTOMS ADMINISTRATIVE ORDER (CAO)

NO. _____

SUBJECT: TRANSSHIPMENT OF CARGOES

Introduction. This CAO implements Section 603, Chapter 2, Title VII and related provisions of Republic Act. No. 10863, otherwise known as the Customs Modernization Act (CMTA).

Section 1. Scope. Treatment and procedures for foreign goods which are under transshipment.

Section 2. Objectives.

- 2.1 To provide guidelines for the movement, transfer, and clearance of cargoes for transshipment.
- 2.2 To protect revenues and public welfare through the institution of safeguards and control measures over cargoes for transshipment.

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

- 3.1 **Authorized Agent Bank (AAB)** - refers to a commercial bank authorized by the Bureau to collect payment of duties, taxes and other charges.¹
- 3.2 **Carrier** — refers to the person, 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.²
- 3.3 **Customs Broker** — refers to any person who is a bona fide holder of a valid Certificate of Registration/Professional Identification Card issued by the Professional Regulatory Board and Professional Regulation Commission pursuant to Republic Act No. 9280, as amended, otherwise known as the "Customs Brokers Act of 2004",³ as further amended by RA 9853⁴.

¹ cf Manual on Cargo Clearance, Definition of Terms, page vii.

² CMTA, Title I, Chapter 2, Section 102 (j)

³ cf CMTA, Title I, Chapter 2, Section 102 (n)

⁴ An Act Amending Republic Act No. 9280, otherwise known as the "Customs Brokers Act Of 2004", and for other purposes

- 3.4 **Customs Facilities and Warehouses (CFW)** — this shall include Container Yard, Container Freight Station, Seaport Temporary Storage Warehouse and Airport Temporary Storage Warehouse as defined by regulation.
- 3.5 **Goods** — refer to articles, wares, merchandise and any other items which are subject of importation or exportation.⁵
- 3.6 **Goods declaration** — refers to a statement made in the manner prescribed by the Bureau of Customs and other appropriate agencies, by which the persons concerned indicate the procedure to be observed in the application for the entry or admission of imported goods and the particulars of which the customs administration shall require.⁶
- 3.7 **Inward Foreign Manifest (IFM)** — also known as inward cargo declaration, it contains the particulars of an import shipment such as the transport document numbers, name of carrier, voyage or flight number, name of consignor and consignees, marks and numbers, container information for sea-freight, kinds and number of packages, description and quantities, weights and measures of the goods, port of loading and intended destination.⁷
- 3.8 **Lodgement** — refers to the registration of a goods declaration with the Bureau.⁸
- 3.9 **Marshalling Yard** — refers to a place where containers are stacked and arranged according to the sequence of withdrawal to consignee or transferred to Container Yard-Container Freight Station or Container Yard (CY-CFS or CY) inside the port or customs zone. It is also where the containers are arranged prior to loading to a carrying vessel in accordance with the sequence of loading on the storage plan.⁹
- 3.10 **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.¹⁰
- 3.11 **Port of Entry** — refers to the first Philippine port of call of a foreign Carrier. These shall be the ports designated as such by applicable laws or by the President in the exercise of his authority to open or close any port. The ports of entry shall be Manila, Ninoy Aquino International

⁵ CMTA, Title I, Chapter 2, Section 102 (x)

⁶ CMTA, Title I, Chapter 2, Section 102 (y)

⁷ *cf* World Customs Organization Glossary of Customs International Term 2013

⁸ CMTA, Title I, Chapter 2, Section 102 (dd)

⁹ *cf* PPA Administrative Order 13-77, Section 2 (yy)

¹⁰ *cf* CMTA, Title I, Chapter 2, Section 102 (gg)

Airport (NAIA), Cebu, Iloilo, Davao, Tacloban, Zamboanga, Cagayan De Oro, Surigao, Legaspi, Batangas, San Fernando, Subic, Manila International Container Port, Clark International Airport, Limay, Aparri, including all their sub-ports and any other sea ports which may be designated by the President.¹¹

- 3.12 **Port of Final Destination** — refers to the last foreign port of call of a Carrier to unload foreign cargo.¹²
- 3.13 **Shifting of cargoes** — transferring of cargoes from vessel to vessel and vessel to dock, dock to vessel, hatch-to-hatch, and bay-to-bay.
- 3.14 **Terminal Facility Operator** — refers to a private entity authorized by government to offer services of receiving, handling and checking as well as the custody and delivery of conventional, breakbulk or stripped or stuffed containerized cargo over piers or wharves, in transit sheds or warehouses and open storage areas.¹³
- 3.15 **Transfer Note** — refers to a document that accompanies the transfer of transshipment cargoes to a Customs Facilities and Warehouse (CFW) and serves as proof of delivery or receipt of the articles at its intended destination duly acknowledged on its face by the Collector of Customs or his duly authorized representative. It is also commonly referred to as a “boat note”.
- 3.16 **Transshipment** — refers to the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office, which is the office of both importation and exportation.¹⁴
- 3.17 **Transshipment Cargo** — refers to goods that are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office, which is the office of both importation and exportation.¹⁵
- 3.18 **Twenty-Foot Equivalent Unit (TEU)** – refers to a unit of the capacity of a container ship. The dimension of one (1) TEU is equal to that of a standard twenty-footer shipping container (20 ft. long and 8 ft. high).¹⁶
- 3.19 **Weapons of Mass Destruction (WMD)** – refers to any destructive device or weapon that is designed or intended to cause death or serious

¹¹ *cf* CMC 77-2016 Re: DOF-DOJ-DOTC-DTI Joint Department Administrative Order 001-2016/ Implementing Rules and Regulations of Republic Act No. 10668, Section 3 (t)

¹² *cf* CMC 77-2016 Re: DOF-DOJ-DOTC-DTI Joint Department Administrative Order 001-2016/ Implementing Rules and Regulations of Republic Act No. 10668, Section 3 (u)

¹³ *cf* PPA, et al. vs The Honorable Court of Appeals, et al., G.R. Nos. 115786-87, February 5, 1996

¹⁴ CMTA, Title I, Chapter 2, Section 102 (ss)

¹⁵ *cf* CMTA, Title I, Chapter 2, Section 102 (ss)

¹⁶ *cf* Organisation for Economic Co-operation and Development, Glossary of Statistical Terms

bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, any weapon involving a biological agent, toxin, or vector, or any weapon that is designed to release radiation or radioactivity at a level dangerous to human life. This includes, but not limited to: (a) nuclear and radiological explosive devices and their major sub-systems; (b) chemicals covered by Schedule I, II and III of the Chemical Weapons Convention; and (c) biological agents and biologically derived substances specifically developed, configured, adapted, or modified for the purpose of increasing their capability to produce casualties in humans or livestock, degrade equipment, or damage crops.¹⁷

Section 4. General Provisions.

- 4.1 Goods intended for transshipment shall not be subject to the payment of duties and taxes: Provided, that the goods declaration for transshipment particularly indicates such nature of goods, duly supported by commercial or transport documents or evidence as required by the Bureau.¹⁸
- 4.2 Goods intended for transshipment must be loaded in the exporting means of transport within thirty (30) calendar days from the date of arrival. The Bureau shall allow an extension of such period for valid causes such as the following:¹⁹
 - 4.2.1. Flood, storm, earthquake, lightning, or other natural disaster or calamity;
 - 4.2.2. Act of public enemy in war, whether international or civil;
 - 4.2.3. Act or omission of the shipper or owner of the goods or if the container is damaged or leaked;
 - 4.2.4. Legal order or act of competent public authority; and
 - 4.2.5. Other causes beyond the control of shipper or agent.²⁰
- 4.3 Extension may also be granted for fifteen (15) calendar days for non-perishable goods or five (5) calendar days in case of Perishable Goods upon approval of the Bureau for causes other than those enumerated under Sec. 4.2.
- 4.4 In case of failure to load within the period allowed, the cargoes for transshipment shall be shipped back to its port of origin at the expense of the carrier.

¹⁷ Republic Act No. 10697, Sec. 5 (cc)

¹⁸ *cf* CMTA, Title VI, Chapter 2, Section 603

¹⁹ *ibid*

²⁰ *cf* Republic Act No. 386, The Civil Code of the Philippines, Book IV, Title VIII, Chapter 3, Section 4, Subsection 2, Article 1734

- 4.5 Transfers or shifting of transshipment cargo from the carrier to the designated CFW and vice versa shall be accompanied by a transfer note.
- 4.6 The handling and movement of transshipment cargoes from the carrier to and within the CFW shall be under continuous supervision and subject to the rules and regulations issued by the Bureau to include safeguard measures to ensure that cargoes for transshipment shall not be diverted to the domestic market.
- 4.7 For outbound sea cargoes, the carrier or its customs broker or authorized representative shall lodge the goods declaration in the Bureau's automated system prior to loading into the carrying vessel.

For outbound air cargoes, the Customs Inspector on board shall allow the loading of cargoes to the aircraft by the tagging of the Airway Bill in the Bureau's automated system.

- 4.8 Hazardous²¹ and nuclear wastes, weapons of mass destruction, nationally controlled goods²² without the requisite prior authorization from the appropriate regulatory agency, if applicable, and other goods subject of prohibitory laws or international conventions wherein the Philippines is a signatory, e.g. Basel Convention, CITES²³, etc., shall not be discharged from the carrier even if for transshipment purposes.
- 4.9 Goods of the above nature discharged at the port shall be seized by the Bureau and proceeded against in accordance with rules and regulations without prejudice to the provisions of Title XIV of CMTA, if applicable.
- 4.10 In case of hazardous waste, radioactive waste and other toxic substances provided under the Basel Convention and Republic Act No. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990", the transporting vessel shall likewise be seized by the Bureau and proceeded against in accordance with the CMTA.
- 4.11 Goods for transshipment with derogatory information shall be subjected to non-intrusive inspection or physical examination, for verification, in the presence of representative from the carrier and concerned regulatory agency, if applicable.

Section 5. Operational Provisions.

- 5.1 **Responsibilities of the Carrier.** The carrier shall submit an electronic copy of the IFM to the Bureau thru the Advance Manifest System (AMS) within the prescribed period.

²¹ *cf* Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

²² *cf* RA 10697, Chapter I, Sec. 5 (o) Nationally controlled goods refer to a strategic goods placed under unilateral controls for reasons of national security, foreign policy, anti-terrorism, crime control, and public safety.

²³ Convention on International Trade in Endangered Species of Wild Fauna and Flora

5.2 Responsibilities of the Terminal Facility Operator.

- 5.2.1. Provide a fenced marshalling yard where the containers for transshipment will be solely stored.
- 5.2.2. Match the advanced manifest to the discharging sequence list from the master of the vessel as received on arrival.
- 5.2.3. Submit inventory report of all transshipment cargoes not yet shipped out after 30 days from its arrival.
- 5.2.4. Provide adequate security in the marshalling yard to prevent unauthorized withdrawal of cargoes stored therein.

Section 6. Supervision Fees. The Bureau shall collect the following fees for all transshipment cargoes²⁴:

- 6.1 For sea cargoes:
 - 6.1.1. Each Inward Movement – At the rate of P 500.00/TEU
 - 6.1.2. Each Outward Movement- At the rate of P 1,000/TEU.
- 6.2 For air cargoes, an administrative fee amounting to Php 1,000.00 per flight shall be paid at the AAB.
- 6.3 A copy of the original receipt issued by the AAB shall be attached to the print-out copy of goods declaration submitted to the Bureau.

Section 7. Schedule of Penalties.

- 7.1 **Unloading of Cargo for Transshipment before Arrival at Port of Entry.**²⁵ If, upon the arrival within the limits of any Customs District of the Philippines of any vessel or aircraft engaged in foreign trade, the Master of the vessel or Pilot-in-Command thereof permits any part of the cargo to be unloaded before arrival at the port of entry, and without authority from proper customs officer, the owner, operator, or agent of such vessel or aircraft shall be liable for the following fines:

- 7.1.1. First Offense — Five Hundred Thousand Pesos (Php 500,000.00)
- 7.1.2. Second Offense — One Million Pesos (Php 1,000,000.00)
- 7.1.3. Third Offense — Two Million Pesos (Php 2,000,000.00)

Provided, That no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity, provided, however, that the fine

²⁴ cf CMTA, Title XIII, Sec. 1300

²⁵ cf CMTA, Title XIV, Chapter 1, Section 1408

imposed herein shall be without prejudice to the application of fines or penalties provided under Section 1401 of the CMTA.

7.2 Unloading of Cargo for Transshipment at Improper Time and Place after arrival.²⁶ The owner or operator of any vessel or aircraft from which cargo is discharged upon arrival in the Philippines at a time or place other than that designated by the District Collector, shall be liable for the following fines:

7.2.1. First Offense — One Hundred Thousand Pesos (Php 100,000.00)

7.2.2. Second Offense — Two Hundred Thousand Pesos (Php 200,000.00)

7.2.3. Third Offense — Three Hundred Thousand Pesos (Php 300,000.00)

Provided, That no fine shall accrue upon satisfactory proof to the proper District Collector that the unloading was rendered necessary by stress of weather, accident or other necessity.

7.3 Failure to Supply Advance and Requisite Manifest.²⁷ Failure to transmit the electronic and hard copy of the inward or outward foreign manifest within the required time prior to the arrival of the carrying vessel or aircraft at the Port of Entry shall make the owner, operator, or agent of the vessel or aircraft liable for the following fines:

7.3.1. First Offense — One Hundred Thousand Pesos (Php 100,000.00)

7.3.2. Second Offense — Two Hundred Thousand Pesos (Php 200,000.00)

7.3.3. Third Offense — Three Hundred Thousand Pesos (Php 300,000.00)

7.4 Disappearance of Manifested Cargoes for Transshipment.²⁸ When any package or goods mentioned in the manifest meant to be unloaded upon the arrival of the vessel or aircraft, its agent shall be liable for the following fines unless the disappearance of the package or the goods in question was not due to the negligence of the Master of the vessel or pilot-in-command of an aircraft and is explained to the satisfaction of the District Collector:

²⁶ *cf* CMTA, Title XIV, Chapter 1, Section 1409

²⁷ *cf* CMTA, Title XIV, Chapter 1, Section 1412

²⁸ *cf* CMTA, Title XIV, Chapter 1, Section 1413

- 7.4.1. First Offense — One Hundred Thousand Pesos (Php 100,000.00)
- 7.4.2. Second Offense — Two Hundred Thousand Pesos (Php 200,000.00)
- 7.4.3. Third Offense — Three Hundred Thousand Pesos (Php 300,000.00)

The owner, operator, or agent of a vessel or aircraft shall be liable for the payment of the same fine when a package or goods listed in the manifest does not tally materially in character or otherwise with the description thereof in the manifest.

- 7.5 **False statement of port of final destination of cargoes for transshipment.**²⁹ When the master of a vessel or pilot-in-command of an aircraft loaded with goods shall make a false statement as to the next destination of transshipment cargoes loaded on-board such vessel or aircraft, the owner or operator of such vessel or aircraft shall be liable for the following fines:

- 7.5.1. First Offense — One Hundred Thousand Pesos (Php 100,000.00)
- 7.5.2. Second Offense — Two Hundred Thousand Pesos (Php 200,000.00)
- 7.5.3. Third Offense — Three Hundred Thousand Pesos (Php 300,000.00)

The arrival of a vessel or aircraft at a different port other than the one it had been originally authorized and cleared for without having been impelled to do so by necessity, shall be prima facie proof that the original statement of the actual destination of the vessel or aircraft was false.

- 7.6 In case of failure to load within the period allowed, the carrier shall be liable for the following fines:
 - 7.6.1. For sea cargoes, Five hundred Pesos (Php 500.00) per TEU per day.
 - 7.6.2. For air cargoes, One hundred Pesos (Php 100.00) per kilogram per day.
- 7.7 Any person who violates any provision of this Order or Customs Memorandum Order issued pursuant thereto, shall be penalized with

²⁹ cf CMTA, Title XIV, Chapter 1, Section 1417

imprisonment of not less than thirty (30) days and one day but not more than one (1) year, or be liable for the following fines³⁰:

7.7.1. First Offense — One Hundred Thousand Pesos (Php 100,000.00)

7.7.2. Second Offense — Two Hundred Thousand Pesos (Php 200,000.00)

7.7.3. Third Offense — Three Hundred Thousand Pesos (Php 300,000.00)

Section 8. Authority of the Commissioner to issue Supplementary Rules and Regulations. The Commissioner may issue supplementary rules and regulations to effectively implement the provisions of this CAO.

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. Transitory Provision. Pending an electronic system governing the processing of goods declaration for transshipment, and data monitoring, the current BOC procedure shall be utilized to implement this CAO. The MISTG shall be responsible for the creation of the system within one year or earlier from the effectivity of this CAO.

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

Section 12. Repealing Clause. Customs Administrative Order _____ and all other rules and regulations or parts thereof inconsistent with the provisions of this CAO are hereby expressly repealed, amended and/or modified accordingly.

Section 13. Effectivity. This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or a newspaper of general circulation.

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

NICANOR E. FAELDON
Commissioner

APPROVED:

³⁰ cf CMTA, Title XIV, Chapter 1, Section 1430

CARLOS G. DOMINGUEZ III

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 CAO is amendatory to all the previous issuances of the Bureau of Customs relating to Transshipment.

2. Related Policies.

- RA 10863 – An Act Modernizing the Customs and Tariff Administration
- Revised Kyoto Convention
- Republic Act No. 386 – The Civil Code of the Philippines
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- Convention on International Trade in Endangered Species of Wild Fauna and Flora
- Republic Act No. 10697 – An act Preventing the Proliferation of Weapons of Mass Destruction by Managing the Trade in Strategic Goods, the Provision of Related Services, and for Other Purposes
- Republic Act 9497 – An Act Creating the Civil Aviation Authority of the Philippines, Authorizing the Appropriation of Funds Therefor, and for Other Purposes
- Republic Act No. 10668 – An Act Allowing Foreign Vessel to Transport and Co-Load Foreign Cargoes for Domestic Transshipment and for Other Purposes
- Republic Act 1371 – An Act to Define, Classify, Fix and Regulate the Amount of All Charges and Fees in Philippine Ports, other than Customs Duties, Internal Revenue Taxes and Tonnage Dues.
- Republic Act 9853 – An Act Amending Republic Act No. 9280, otherwise known as the "Customs Brokers Act Of 2004", and for other purposes
- CMC 77-2016 – DOF-DOJ-DOTC-DTI Joint Department Administrative Order 001-2016/ Implementing Rules and Regulations of Republic Act No. 10668
- PPA Administrative Order 13-77 – Operation and Sustainment of Program-Provided Equipment (PPE) for Detection of Weapons of Mass Destruction (WMD) under The National Coast Watch System (NCWS) Project, pursuant to Executive Order (EO) No. 57, series of 2011.

3. Webpage, Forms, Handbooks and other References.

- Romano, Joseph (2016) Principles and Remedies in the CMTA Handbook

- <https://www.unece.org/cefact/edifact/welcome.html> - United Nations Directories for Electronic Data Interchange for Administration, Commerce and Transport (UN/EDIFACT)
- <http://www.wcoomd.org/en/topics/facilitation/resources/> - World Customs Organization Glossary of Customs International Term 2013
- Manual on Cargo Clearance (e2m Customs Import Assessment System), February 2010, Version 1.0
- <http://stats.oecd.org/glossary/> - Glossary of Statistical Terms. Organisation for Economic Co-operation and Development
- People vs. Valdez, G.R. No. 127801. March 3, 1999
- PPA, et al. vs The Honorable Court of Appeals, et al., G.R. Nos. 115786-87, February 5, 1996