



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

CUSTOMS ADMINISTRATIVE ORDER (CAO)

NO. _____

**SUBJECT: SECURITY TO GUARANTEE PAYMENT OF DUTIES AND TAXES
AND OTHER OBLIGATIONS**

INTRODUCTION. This Customs Administrative Order (CAO) implements Sections 1506 and 1507, Chapter 2 of Title XV; other related provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), and all other pertinent laws, rules and regulations.

Section 1. Scope. This CAO applies to all forms of security required to guarantee payment of duties and taxes and other obligations provided for under the CMTA and other existing rules and regulations.

Section 2. Objectives.

- 2.1.** To provide the guidelines in the posting and utilization of security to guarantee the payment of duties and taxes and other obligations provided for under the CMTA and other existing rules and regulations.
- 2.2.** To ensure that the interest of the government are amply protected with the securities posted.
- 2.3.** To provide a mechanism for the monitoring, accounting, enforcement and prompt settlement of bonded obligations.
- 2.4.** To establish and implement a security management and control system making full use of information and communications technology (ICT).

Section 3. Definition of Terms. For purposes of this CAO, the following terms shall be defined as follows:

- 3.1. Co-loading** – shall refer to agreement between two (2) or more international or domestic sea carriers whereby a sea carrier bound for a

specified destination agrees to load, transport, and unload the container van or cargo of another carrier bound for the same destination.¹

- 3.2. Express Consignment** – shall refer to consolidated air shipments of articles/goods which are time-sensitive in character, usually under a door-to-door service arrangement with on-time delivery commitment, which are shipped under a master air waybill (MAWB) consigned to Express Cargo Operator (ECO).²
- 3.3. Free Zones** – shall refer to special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 7916, as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone; Poro Point Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No. 9490, as amended; the Cagayan Special Economic Zone and Freeport under Republic Act No. 7922; the Zamboanga City Special Economic Zone under Republic Act No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law.³
- 3.4. Free Zone Locator** – shall refer to a sole proprietorship, partnership corporation or entity duly registered with the Free Zone Authorities and issued a Certificate of Registration and/or Tax Exemption that is not expired or has not been revoked, suspended or cancelled.⁴
- 3.5. Irrevocable Letter of Credit** – shall refer to a Letter of credit in which the specified payment is guaranteed by the bank if all terms and conditions are met by the drawee and which cannot be revoked without joint agreement of both the buyer and the seller.⁵
- 3.6. Provisional Goods Declaration** – shall refer to the lodgment of goods by a declarant who does not have all the information or supporting documents required to complete the goods declaration. Provided, that it substantially contains the necessary information required by the Bureau and the declarant undertakes to complete the information or submit the supporting documents within forty-five (45) days from the filing of the

¹ RA No. 10668 “An Act Allowing Foreign Vessels To Transport And Co-Load Foreign Cargoes For Domestic Transshipment And For Other Purposes”, Section 2 (a)

² Customs Memorandum Order 46-1998, Section 3.1.1

³ CMTA, Title I, Chapter 2, Section 102 (w)

⁴ Draft CAO on Rules and Regulations on the Admission, Movement and Withdrawal of Goods in Free Zones

⁵ cf. Glossary of Customs and Trade Terms

provisional goods declaration, which period may be extended by the Bureau for another forty five (45) days for valid reasons.⁶

- 3.7. Security** – shall refer to any form of guaranty such as surety bond, cash bond and standby letter of credit or irrevocable letter of credit which ensures the satisfaction of an obligation to the Bureau.⁷
- 3.8. Standby Letter of Credit** – shall refer to any arrangement, however named or described whereby a bank (the Issuing Bank) acting at the request and on the instructions of a customer (the Applicant) or on its own behalf to make a payment to or to the order of a third party (the Beneficiary), or is to accept and pay bills of exchange (Draft) drawn by the Beneficiary or authorizes another bank to effect such payment, or to accept and pay such bills of exchange or authorizes another bank to negotiate against stipulated document(s), provided that the terms and conditions of the Credit are complied with.⁸
- 3.9. Tentative Assessment** – shall refer to the assessment of a provisional goods declaration pending final readjustment and submission by the declarant of the additional information or documentation required to complete the declaration within the period provided in Section 403 of the CMTA.⁹
- 3.10. Transit** – shall refer to the customs procedure under which goods, in its original form, are transported under customs control from one customs office to another, or to a free zone.¹⁰

Section 4. General Provisions.

- 4.1. Form of Security.** Unless specifically prescribed under this CAO or other existing rules and regulations, any party required to provide security to guaranty the payment of duties and taxes and other obligations shall have the option to choose from any of the following forms of security:¹¹
- 4.1.1.** Surety bond
 - 4.1.2.** Cash bond
 - 4.1.3.** Standby letter of credit or irrevocable letter of credit
 - 4.1.4.** Any other acceptable forms of security.

⁶ cf. CMTA, Title IV, Chapter 1, Section 403

⁷ CMTA, Title I, Chapter 2, Section 102 (mm)

⁸ cf. The Uniform Customs and Practice, Article 2, UCP 500

⁹ cf. CMTA, Title IV, Chapter 3, Section 426.

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

¹¹ cf. CMTA, Title XV, Section 1507

4.2. Amount of Security to be Posted. Unless otherwise provided under this CAO or other existing rules and regulations, the required amount of security shall be the lowest possible and shall not exceed the impossible duties, taxes and other charges.¹² For purposes of posting of security required under this CAO charges as used herein shall be limited to the administrative charges being collected e.g. IPF, CDS, CSF, etc.

4.3. General Security. In cases where securities are required to be given under the provisions of this Order and related customs laws, the District Collector, instead of requiring separate special security where transactions of a particular party are numerous, may accept general security extending over such periods of time and covering such transactions of the party in question as may be satisfactory to the District Collector.¹³

The District Collector may accept only a general security from declarants who regularly declare goods at different offices in customs territory if satisfied that an obligation to the Bureau will be fulfilled and under such terms and conditions as may be prescribed by regulation.¹⁴

4.4. Cancellation of Security. When the obligations under which the security was required has been satisfied, the security shall be cancelled immediately.¹⁵

Section 5. When Security is Required. To guarantee the payment of duties and taxes and other obligations to the Bureau, the District Collector shall require the posting of security under the following:

5.1. Release of Shipment under Provisional Declaration. Goods under provisional goods declaration may be released upon posting of the required security equivalent to the amount ascertained to the applicable duties and taxes.¹⁶

5.2. Release of Goods subject to Dispute Settlement. The District Collector may allow the release of the shipment under tentative assessment upon posting of security equivalent to the duties and taxes due on goods.¹⁷

5.3. Release of Shipment pending Laboratory Analysis. When the Bureau requires laboratory analysis of samples, detailed technical documents or expert advice, it may release the goods before the results

¹² cf. CMTA, Title XV, Section 1507

¹³ CMTA, Title XV, Chapter 2, Section 1506

¹⁴ cf. CMTA, Title XV, Chapter 2, Section 1507, 2nd paragraph

¹⁵ cf. CMTA, Title XV, Chapter 2, Section 1507, 3rd paragraph

¹⁶ cf. CMTA, Title IV, Chapter 1, Section 403 and Chapter 3, Section 426

¹⁷ CMTA, Title IV, Chapter 3, Section 425 in relation to Section 102 (qq)

of such examination are known after posting of sufficient security by the importer. Provided, that the goods are not prohibited or restricted.¹⁸

- 5.4. Express Consignment.** Express shipments of accredited air express cargo operators may be released prior to the payment of the duty, tax and other charges upon posting of a sufficient security.¹⁹
- 5.5. Shipment under Warehousing Entries.** For goods declared in the entry for warehousing in CBWs, the District Collector shall require the importer to post a sufficient security equivalent to the computed duties and taxes and other charges conditioned upon the withdrawal of the goods within the period prescribed under Section 811 of the CMTA or the payment of the duties and taxes and other charges and compliance with all the importation requirements.²⁰
- 5.6. Transit of Goods to Free Zone Locators.** For goods intended for transit to Free Zones, the District Collector of the port of discharge shall require Free Zone Locators to post a General Transportation Surety Bond (GTSB) for the immediate and faithful delivery of the goods covered by the Goods Declaration for transit to its destination.²¹
- 5.7. 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 (₱50,000.00). 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.²²
- 5.8. Transit of Goods under Co-loading Act.** Goods intended for transit covered by Republic Act No. 10668, otherwise known as "An Act Allowing Foreign Vessels to Transport and Co-Load Foreign Cargoes for Domestic Transshipment and for Other Purposes", shall not be subject to the payment of duties and taxes at the port of entry. Provided, that any conditions and security required by the Bureau are complied with.²³
- 5.9. Release of Goods pending Ascertainment of the Accuracy of the Declared Value.** If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon posting of a sufficient security

¹⁸ cf. CMTA, Title IV, Chapter 3, Section 431

¹⁹ cf. CMTA, Title IV, Chapter 4, Section 439

²⁰ CMTA, Title VIII, Chapter 2, Section 808

²¹ cf. BOC-PEZA JMO No. 1-2015, 7 subsection (a)

²² cf. CMTA, Title VI, Chapter 1, Section 602

²³ cf. CMTA, Title VI, Chapter 1, Section 601

in an amount equivalent to the duties and taxes in dispute conditioned on the payment of additional duties and taxes, if any, as may be determined: Provided, That prohibited goods shall not be released under any circumstance.²⁴

5.10. Release of Goods pending Ascertainment of the Accuracy of the Declared Value. If in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer shall nevertheless be able to secure the release of the imported goods upon posting of a sufficient security in an amount equivalent to the duties and taxes in dispute conditioned on the payment of additional duties and taxes, if any, as may be determined: Provided, That prohibited goods shall not be released under any circumstance.²⁵

5.11. Release of Conditionally Tax and/or Duty Free Importations. Upon favorable recommendation of the DOF, conditionally free importations under Section 800 paragraphs (b), (d), (h), (j), (k), (n), (r), and (z) may be released upon posting of security in an amount equal to one hundred percent (100%) of the ascertained duties and taxes and other charges thereon conditioned upon the re-exportation thereof within period stated therein or payment of duties and taxes and other charges and compliance with other conditions required therein.²⁶ However, in case of importations under Section 800 paragraph (h), the Bureau may allow the importer to submit a written commitment to re-export the goods within three (3) months from the date of acceptance of the goods declaration.

5.12. Conditional Release of Shipments Arriving in Advance. Shipments of "Returning Resident" or returning OFW arriving in advance of their actual date of arrival and without a request for pre-verification shall be tentatively assessed and conditionally released upon the posting of a cash bond equivalent to one hundred percent (100%) of the assessed duties and taxes due, unless the shipment is entered under Section 800 (g) Chapter I, Title VIII, of the CMTA.

The "Returning Resident" or OFW must, within forty-five (45) days from his arrival but not to exceed sixty (60) days from the release of the shipment, submit to the Bureau the TEC issued by the DOF to support his entitlement to the privilege. Failure to do so shall cause the Bureau

²⁴ cf. CMTA, Title VII, Chapter 1, Section 707

²⁵ cf. CMTA, Title VII, Chapter 1, Section 707

²⁶ cf. CMTA, Title VIII, Chapter 1, Section 800

to forfeit the bond to answer for the payment of the duties and taxes due thereon.

The same procedure may be availed of for accompanied baggage or those arriving after the date of return if the clearance is not yet secured from the Commissioner.²⁷

5.13. Posting of Performance Bond with the Bureau. To protect the interest of the government the District Collector may require any party to post security for the faithful compliance of their obligations with the Bureau under existing laws rules and regulations.²⁸

Section 6. Cash bond as a Form of Security.

6.1. Treatment of Cash Bond. Deposited Cash Bond shall be proceeded against as follows:

6.1.1. If upon completion of the assessment or final decision results in adjustments of the duties and taxes and other charges in favor of the government, or when the importer fails to comply with the conditions of the security, the following shall be observed: ²⁹

- a.** If the amount of the cash bond is equal to the amount of duties and taxes due, the same shall be receipted and remitted to the General Fund.
- b.** If the amount of the cash bond is more than the amount of duties and taxes due, the same shall be receipted and remitted to the General Fund while the excess shall be refunded to the importer in the form of a check issued by the Bureau.
- c.** If the amount of the cash bond is less than the amount of duties and taxes due, the same shall be receipted and remitted to the General Fund and a demand letter shall be issued for the balance thereof.

6.1.2. If the completed assessment or the final decision is in favor of the importer, or when the conditions under which the cash bond was required has been satisfied, the amount shall be refunded to the importer in the form of a check issued by the Bureau.³⁰

²⁷ cf. CAO 6-2016, Section 9

²⁸ cf. CMTA, Title VIII, Chapter 2, Section 801

²⁹ cf. CMO 4-99, Section 3.2.1

³⁰ cf. CMO 4-99, Section 3.2.4

6.2. Accounting and Monitoring.

6.2.1. The Administrative Division or equivalent office in the port shall establish and maintain a system for the proper accounting and monitoring of all cash bonds posted as guaranty.

6.2.2. The District Collector shall institute and implement internal control mechanisms for the maintenance and disposition of cash bonds and submit periodic reports to the office of the Commissioner on the status thereof.

6.3. Special Trust Fund Account. Cash bonds shall be deposited in a Special Trust Fund Account to be managed by the Bureau of Treasury.³¹

6.4. General Fund. All final payments of additional duties and taxes and other charges shall be receipted and remitted to the General Fund of the Bureau of the Treasury through authorized government banks following the accounting and auditing rules and regulations on revenue collections.³²

Section 7. Standby Letter of Credit or Irrevocable Letter of Credit as a Form of Security.

7.1. Authorized Banking Institutions. Only Authorized Agent Banks Banking Institutions duly accredited by the Bureau are authorized to issue letter of credit or Irrevocable Letter of Credit.

7.2. Treatment of Standby letter of Credit or Irrevocable Letter of Credit.

7.2.1. If upon completion of the assessment or final decision results in adjustments of the duties and taxes and other charges in favor of the government, or when the importer fails to comply with the conditions of the security, the amount shall be immediately settled by the bank upon notice without the need of a demand letter from the District Collector.

7.2.2. If the completed assessment or the final decision in favor of the importer, or when the conditions under which the Standby Letter of Credit or Irrevocable Letter of Credit was required has been satisfied, the same shall be cancelled.

7.3. Accounting and Monitoring.

³¹ CMO 4-99, Section 3.1

³² CMO 4-99, Section 3.4

7.3.1. The Bonds Division or equivalent office in the port shall establish and maintain a system for the proper accounting and monitoring of all Standby Letter of Credit or Irrevocable Letter of Credit posted as guaranty.³³

7.3.2. The District Collector shall institute and implement internal control mechanisms for the maintenance and disposition of Standby Letter of Credit or Irrevocable Letter of Credit and submit periodic reports to the office of the Commissioner on the status thereof.³⁴

Section 8. Surety Bonds as a Form of Security.

8.1. Authority to Transact Business as Surety Company (ATBAS) - Only surety companies granted ATBAS shall be allowed to issue surety bonds with the Bureau.

8.1.1. Requirements/Qualifications. Only surety companies in good standing with the Bureau of Customs (BOC) shall qualify for ATBAS in accordance with this Order.³⁵ To be in good standing, a surety company:³⁶

- a.** Must have an authority from the Office of the President to engage in surety business;³⁷
- b.** Must be a holder of a Certificate of Authority duly issued by the Insurance Commission, which must be valid and effective at the time of application/renewal and for the duration of the period applied for;³⁸
- c.** Must not have, as an entity by itself, any due and demandable liabilities with BOC at the time of the application/renewal;³⁹
- d.** Must have settled at least 70% of its outstanding obligations as a surety company of persons/entities having transactions with BOC, if any, as of the first day of the immediately preceding quarter (e.g., as of July 1 for application for accreditation for the 4th Quarter).⁴⁰

³³ cf. CAO 1-1999, Section 2.4

³⁴ CAO 1-1999, Section 2.5

³⁵ CMO 22-2003, Section 3.1

³⁶ CMO 22-2003, Section 3.2

³⁷ CMO 22-2003, Section 3.2.1

³⁸ CMO 22-2003, Section 3.2.2

³⁹ CMO 22-2003, Section 3.2.3

⁴⁰ CMO 22-2003, Section 3.2.4

In the computation of the 30% threshold of unsettled obligations, all accounts on bonds of a surety firm shall be considered up to the extent of the amount unpaid or unsettled, including but not limited to accounts on bonds:

- i. That are subject of existing compromise or staggered payment arrangements;
- ii. That are subject of pending court litigation;
- iii. That have been sequestered from bond principals, importers or consignees;
- iv. That have been issued involving valuation and classification issues/cases.⁴¹

8.1.2. Applications for ATBAS. Applications of surety companies shall be filed with and processed by the Bonds Division of the Port where the surety companies wish to be accredited, reviewed by the Collection Service, and upon the latter's recommendation shall be approved by the District Collector concerned.⁴²

No bonds shall be honored or accepted by any port unless issued by a surety company accredited in accordance with this Order, covering transactions falling within the jurisdiction of the collection district of the port where it is accredited, and within the period covered by its accreditation.⁴³

8.1.3. Period of Validity of ATBAS; Renewal. The accreditation of the surety company shall be good and effective for a period of one quarter, renewable every quarter thereafter in accordance with this Order. For this purpose, a calendar year is divided as follows: 1st Quarter, January-March; 2nd Quarter, April-June; 3rd Quarter, July-September; 4th Quarter, October-December.⁴⁴

8.2. Treatment of Surety Bond.

8.2.1. If upon completion of the assessment or final decision results in adjustments of the duties and taxes and other charges in favor of the government, or when the importer fails to comply with the conditions of the security, the Chief Bonds Division or equivalent office shall cause the issuance of the Demand Letter

⁴¹ CMO 22-2003, Section 4.1.3

⁴² CMO 22-2003, Section 3.4

⁴³ CMO 22-2003, Section 3.5

⁴⁴ CMO 22-2003, Section 3.3

addressed to the importer and surety company to be signed by the District Collector.

- 8.2.2.** If the completed assessment or the final decision in favor of the importer, or when the conditions under which the Surety Bond was required has been satisfied, the Surety Bond shall be cancelled.

8.3. Penalties for Breach of Bonds.⁴⁵

8.3.1. Late Re-exportation:

8.3.1.1. P 20,000.00 or 2% per month of the collectible duties, taxes and other charges whichever is higher counted from the date of expiration of the bond to the date of re-exportation.

8.3.1.2. After the lapse, of six (6) months from expiry date, the penal amount of the bond shall be collected if no re-exportation is made, and in addition thereto 2% per month of the collectible duties and taxes shall be collected.

8.3.2. Late payment of duties and taxes. P 20,000.00 or 2% per month whichever is higher of the collectible duties, taxes and other charges, counted from date of expiration of the chargeable bond or bonds, up to the date of actual payment of duties and taxes. Nothing herein specified shall preclude the Collector of Customs concerned to proceed against the bond after expiration of the period stipulated if he deemed it necessary to protect the interest of the government.

8.3.3. Late extension of re-export bonds under Section 800 CMTA and other existing laws, rules and regulations. Surcharge for late filing of request for extension to re-export after the first six (6) months period has lapsed shall be imposed:

8.3.3.1. P 20,000.00 or 2% per month of the collectible duties and taxes whichever is higher, counted from the date of expiration of bond up to the date of filing and acceptance of the request for extension;

8.3.3.2. The penal amount of the bond shall be imposed if there is no payment of duties and taxes or re-exportation after six (6) months from the expiration

⁴⁵ cf. CAO 5-1991 with modification, amount of penalty adjusted in accordance with GAAP (Generally Accepted Accounting Principle :12% per annum compounded annually)

date of the bond, and in addition thereto 2% per month of the collectible duties and taxes shall be collected.

8.4. Accounting and Monitoring.

8.4.1. The Bonds Division or equivalent office in the port shall establish and maintain a system for the proper accounting and monitoring of all surety bonds posted as guaranty.

8.4.2. The District Collector shall institute and implement internal control mechanisms for the maintenance and disposition of surety bonds and submit periodic reports to the office of the Commissioner on the status thereof.

8.5. Forfeiture of Bonds. Upon failure to settle the bonded obligations despite issuance of demand letters the Chief, Bonds Division or its equivalent unit thru the District Collector concerned shall recommend the immediate issuance of the order of forfeiture of the bonds to the Commissioner of Customs.⁴⁶

8.6. Other Actions/Sanctions. The District Collector shall recommend to the Commissioner of Customs through the Legal Service a course of action to ensure payment of the obligation of the importer and may take such other action for this purpose, including the filing of the collection case and/or forfeiture of the bonds, suspension/cancellation of accreditation, or non-renewal of the accreditation of the surety company.⁴⁷

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

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

⁴⁶ cf. CMO 8-2007, (I) 1st paragraph

⁴⁷ CAO 12-2003, Section 8

NICANOR E. FAELDON

Commissioner

Approved:

CARLOS G. DOMINGUEZ III

Secretary

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 to all forms of security required to guarantee payment of duties and taxes and other charges.

2. Related Policies.

- Customs Administrative Order No. 5-91 "Amended Rate Schedule on the Imposition of Surcharges for Breach of Bond."
- Customs Administrative Order 1-1999 "Utilizing Domestic Letters of Credit issued by Reputable Financial Institutions as Guarantee for imports subject to Re-Exportation amending CAO No. 5-98".
- Customs Administrative Order No. 4-1999 "Treatment of Cash/Check Guarantee for Tentatively Released Shipment or Submission of Required Documents to secure Payment of Duties and Taxes and Other Charges"
- Customs Administrative Order 12-2003 "Performance of Obligation under Warehousing Bond and Liquidation of the Warehousing Entry, providing Penalties therefore".
- Customs Memorandum Order 22-2003 "Quarterly Accreditation of Surety Companies and Renewal of Accreditation."
- Customs Memorandum Order 7-2007 "Supplemental Provisions to CMO 22-2003, Quarterly Accreditation of Surety Companies and Renewal of Accreditation."
- Customs Memorandum Order 8-2007 "Addendum to CMO No. 28-90, Procedure in Forfeiture of Bonds".

3. Webpage, Forms, Handbooks and other References.

- Republic Act No. 10863 "Customs Modernization and Tariff Act"
- www.customs.gov.ph
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