

CAO



REPUBLIC OF THE PHILIPPINES
Department of Finance
BUREAU OF CUSTOMS
MANILA 1099

May 12, 2010

CUSTOMS MEMORANDUM ORDER

NO. 18-2010

PROCEDURE FOR THE BULK AND BREAK BULK CARGO CLEARANCE ENHANCEMENT PROGRAM MANDATED UNDER ADMINISTRATIVE ORDER (AO) NO. 243 AS AMENDED BY AO 243-A.

Pursuant to Customs Administrative Order (CAO) No. 3-2010, the following procedures are hereby prescribed to ensure the effective implementation of Administrative Order No. 243 dated 13 October 2008, as amended by AO 243-A dated 16 September 2009, entitled "Creating a System for the Bulk and Break Bulk Cargo Clearance Enhancement Program (BBCCCEP) of the Bureau of Customs (BOC)".

1. Objectives:

- 1.1 To generate more revenues for the government
- 1.2 To curb technical smuggling committed through misdeclaration, misclassification and undervaluation
- 1.3 To facilitate the movement/release of imported articles covered by Load Port Survey Reports.
- 1.4 To provide procedures for imported articles covered by Destination Port Survey Reports.

2. Definition of Terms.

- 2.1 **Accredited Cargo Surveying Company (ACSC)** - a surveying company possessing a duly approved accreditation issued by the Committee for Accreditation of Cargo Surveying Companies (CACSC).
- 2.2 **Committee for Accreditation of Cargo Surveying Companies (CACSC)** - the accreditation committee created under AO 243, as amended, directly under the supervision and control of the Office of the President tasked and authorized to grant and approve accreditation of cargo surveying companies and periodically review the performance thereof. The CACSC may also investigate violations of the provisions of this Order and thereafter suspend and/or revoke the accreditation given to a cargo surveying company.
- 2.3 **Bulk Cargo**- Refers to cargoes in a mass of one commodity not packaged, bundled, bottled or otherwise packed.
- 2.4 **Break-Bulk Cargo**- Refers to non-containerized general cargo stored in boxes, bales, pallet or other individual units to be loaded

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onto or discharged from vessels, not shipped in containers or in bulk.

- 2.5 **Load Port Survey (LPS) Report** - A report issued by an ACSC for Bulk/Break-Bulk Cargo to be imported into the Philippines. The report shall be submitted to the BOC directly from the ACSC in a secure electronic format.
- 2.6 **Discharge Port Survey (DPS) Report** - A report issued by an ACSC for Bulk/Break-Bulk Cargo after the conduct of a survey at the port of discharge.
- 2.7 **One-Stop Shop (OSS)** - as used in this Order shall mean the composite unit headed by the Deputy Commissioner for Assessment and Operations Group (AOCCG) and composed of representatives from the Office of the Commissioner (OCOM), Management Information System and Technology Group (MISTG), Enforcement Group (EG), Post-Entry Audit Group (PEAG), Risk Management Office (RMO), representatives of the Department of Trade and Industry (DTI) and Private Sector who are also members of the CACSC, and representative of the Office of the Presidential Adviser on Revenue Enhancement (OPARE). The OSS shall be responsible for confirming/approving requests for DPS made by importers of shipments not covered by the required LPS Reports.
- 2.8 **Motor Vehicles for Special Purpose** - as used in this Order, those motor vehicles equipped to function for a special purpose, e.g. cranes, backhoes, bulldozers, ambulances, buses, funeral hearses, and the like.

3 Coverage

This Order shall cover all Philippine bound bulk and break-bulk cargoes/shipments loaded unto carrying vessels. The categories of goods covered include but are not limited to the following:

- 3.1.1 Liquids
- 3.2.2 Chemicals
- 3.3.3 Petroleum Products
- 3.4.5 All other cargo shipped in Bulk/Break-Bulk the duties and taxes of which are normally determined by weight (e.g. wood, steel, coal, grains, etc.)

4 Administrative Provisions

4.1 LPS Report and Summary Report (SR):

4.1.1 The LPS Report to be issued by the ACSC after a full survey of quantity and quality of the Bulk/Break-Bulk Cargo should detail, but not be limited to, the following:

- a. Description of goods :
- b. Shipper (as declared) :
- c. Receiver (as declared) :
- d. Other intervening parties (name and capacity, as declared) :
- e. Date of inspection : dd/mm/yy or mm/dd/yy

- f. Quantity of the consignment;
- g. Quality of the consignment
- h. Grade of the Cargo (where applicable)
- i. Price or value of the cargo (as declared)
- j. Classification of the cargo (as declared by the importer or exporter)
- k. Port of Loading
- l. Name of the vessel
- m. Hatch or hold number
- n. Date and time or estimated date and time of departure of the vessel from port of loading
- o. Bills of Lading details No. x dd xx.xx.xxxx
- p. Surveyor's seals details (where applicable)
- q. Ports of call of vessel (as declared by vessel)
- r. Additional information such as additional testing results as may be required by the Bureau of Customs necessary in determining the value, tariff classification and/or assessment of shipments covered by this Order.

The LPS shall be accompanied by a Summary Report (SR) which shall contain such information as the BOC and CACSC shall require in such format as shown in Annex "A" hereof which is likewise made an integral part of this Order.

4.1.2 The LPS Report and SR must be received by the BOC at least twelve (12) hours before the arrival of the cargo in the Philippines and shall be transmitted to the MISTG of the BOC and the CACSC and in accordance with the dissemination list under 4.4 hereof. The LPS and the SR must be submitted in a secure electronic format with security features in the form of a hologram, micro-print, encrypted grid or equivalent.

4.1.3 The importer may use the LPS Report and its SR to avail of the advance clearance procedure. The LPS Report and its SR containing the findings of ACSC shall be used by the BOC Examiners/Appraisers in the determination of dutiable weight, volume, description, value and tariff classification of imported articles, without prejudice to actual verification as the need arises.

- 4.2 Pending the development of the appropriate module under the Bureau's e2m system for the advance submission in electronic format of the survey reports and summaries, submission of the same shall be submitted by the ACSC to the MISTG's secured and authorized website.
- 4.3 MISTG shall be the official repository of all survey data under this program. To facilitate the processing of survey data, ACSCs are required to provide hardware/software as part of the Capacity Building Program for the exclusive use of BBCCCEP.
- 4.4 The following offices shall be simultaneously given both electronic copies of all Port Surveys by MISTG, whether LPS or DPS:
 - Office of the Commissioner
 - Deputy Commissioner for Assessment and Operations Group
 - Deputy Commissioner for Intelligence and Investigation
 - Deputy Commissioner for Enforcement
 - Post Entry Audit Group
 - Port/District Collector where the shipments Import Entries are to

- be made
- CACSC (hard copy)

- 4.5 Capacity Building programs for BOC personnel in the form of technical training and continuing education in cargo surveying techniques shall be provided by the ACSC either in a Philippine or International forum. To declare the commitment of ACSCs to the Capacity Building Program for cargo surveying, a Capacity Building Undertaking Form is hereby required from all ACSCs.
- 4.6 In addition, upon prior consultation with the concerned private sector/s CACSC shall recommend to the Commissioner of Customs other benefits under this program that may be granted to compliant importers within the framework of the Tariff and Customs Code of the Philippines as amended (TCCP).
- 4.7 Shipments inspected by the ACSC at the loading port shall *prima facie* be deemed to have been examined for customs purposes pursuant to Section 1401 of the TCCP, as amended, and shall no longer be re-examined upon arrival in the country but shall instead be immediately released/transferred to the importer/consignee's warehouse or facility following the procedures described in this Order except in the following situation:
 - a. The surveyors report has been tampered or shows signs that the same has been altered.
 - b. The shipment is covered by an alert or hold order issued pursuant to existing orders.
 - c. Upon request of the importer if he disagrees with the findings of the surveyor.
 - d. If the Commissioner or the Collector has derogatory information that there is a substantial variance between the declared and true quantity, measurement, weight and tariff classification of the shipment.
- 4.8 Request for the conduct of DPS shall be filed with the OSS, which is headed by the Deputy Commissioner, AOCG. The OSS shall confirm the ACSC chosen by the importer or authorized representative to conduct the DPS unless there are justifiable reasons which would mandate the OSS to choose otherwise, such as, but not limited to: constraints in the ACSC's available manpower, expertise, facilities, and the like.

5 Operational Provisions:

- 5.1 The importer must inform his exporter of the requirements of this Order and shall ensure that the cargoes are surveyed by an ACSC. It is the responsibility of the importer of bulk and break bulk cargo to obtain from the BOC the names and overseas addresses of ACSCs and to communicate this information to the seller/exporter of the goods.
- 5.2 The exporter must contact the nearest office of the ACSC selected by him to register his cargo falling under the coverage of AO 243-A

and this Order and provide a full description, technical specification and quantity of the cargo.

- 5.3 The exporter must advise the selected ACSC of the whereabouts and availability of the cargo at least three (3) working days prior to the required date of survey. The exporter must present the goods in a manner to allow a full survey to be conducted. They must arrange and allow full access to the representative (surveyor) of the ACSC to allow a full survey to be conducted and submit complete copies of the final invoices to the ACSCs. The foregoing applies even to partial/split shipments.
- 5.4 The ACSC must make available to all interested parties the requirements of AO 243-A and this Order and the addresses of their offices/representatives in each country of supply. They must arrange to survey the cargo within three (3) working days of receipt of the request to survey from the exporter. They must complete the survey and seal the holds where necessary prior to the vessel sailing and issue the LPS prior to the arrival of the shipment in the Philippines within the prescribed period.
- 5.5 Any importer obtaining the services of an ACSC pursuant to the preceding Section shall be allowed to file entries for the imported articles and pay the proper duties, taxes, and other fees therefor, prior to its arrival in the Philippine port of destination, *Provided that:*
- 5.5.1 The entry contains a full and true statement of all the articles which are the subject of the importation;
- 5.5.2 Declaration executed by the importer/consignee under oath on the following:
- a. The invoice and entry contain a just and faithful account of the actual cost of said articles, including and specifying the cost of insurance and freight and other necessary charges, and that nothing has been omitted there from or concealed to the detriment of the proper collection of revenue by the Government;
 - b. The invoice and all, bills of lading relating to the articles are the only ones in existence relating to the importation in question;
 - c. The entry, invoice and bill of lading, and the declaration thereon are in all respects genuine and true, and were made by the person by whom the same purportedly has been made.
- 5.6. As soon as the cargo arrives at the Philippine port of destination, the importer may immediately cause the discharge and withdrawal of the same from customs premises and/or custody provided that the declarations in the import entries are confirmed by the LPS Report and upon presentation of the proof of payment of duties, taxes and other fees as well as compliance with other pre-requisite for a valid importation

- 5.7 In the event that the shipment is covered by an alert order or that the shipment is different from the details in the entry, the Customs Inspector or the Customs Guard assigned on board the vessel shall return the delivery permit to the Formal Entry Divisions (attn: the concerned examiner/appraiser) indicating therein the exact location of the shipment for the usual customs examination and processing of the entry.
- 5.8 The Port Collector shall cause the utilization of the LPS Report and the SR issued by an ACSC as integral parts of the documentation required for the clearance of Bulk/Break-Bulk Cargo in the determination of dutiable weight, volume, description, value and tariff classification of imported articles, without prejudice to an actual verification as it may be deemed proper.
- 5.9 Shipments requiring the LPS without undergoing the same shall be subjected to the DPS by an ACSC selected by the importer and confirmed/approved by the OSS.
- 5.10. In the event the importer/consignee wishes to contest/re-confirm the LPS conducted, he may request, at his own costs, for the conduct of a DPS in accordance with the procedures herein which shall be performed by an ACSC other than the one which conducted the LPS. In this eventuality, the BOC shall determine which results (under the LPS or DPS) to apply for its purposes.
- 5.11. In requesting for the DPS, the importer shall inform the OSS of the need therefor at least three (3) days prior to the estimated date of arrival of the shipment.
- 5.12. In addition to the formal request for DPS, the importer, consignee or his authorized representative shall accomplish and execute under oath the importer's referral or information sheets shown in annex "B" hereof, the requirements therein being deemed as forming an integral part of this Order and submit the same directly to the OSS. The importer shall likewise indicate in the referral its preference of the ACSC to conduct the DPS.
- 5.13. The OSS upon receipt of the accomplished importer's referral or information sheet shall immediately assign the chosen ACSC to conduct the surveying activities. The ACSC preferred by the importer shall be given priority in the assignment unless there are valid reasons for the assignment by the OSS of a different ACSC to conduct the DPS. In the event that no preference is indicated by the importer or that the preferred ACSC cannot conduct the DPS, and that the OSS will have to make the assignment, an impartial system which ensures non-favoritism or non-bias for choosing the ACSC shall be employed.
- 5.14. The choice of ACSC to perform the surveying activities at the discharge port shall depend on the commodity and the availability/capability of the ACSC's services to conduct the survey for the subject commodity. For this purpose, all ACSCs are required to provide the CACSC and the BOC an updated list of all commodities that could be subject of their services, their accredited laboratories (local) and their authorized survey personnel.

5.15. Within twenty fours (24) upon notification by the OSS, the chosen ACSC for the DPS shall endeavor to conduct the activity except when the surveying could not be conducted for reasons beyond the control of the ACSC. Additional expenses incurred by the importer in the form of storage and demurrage fees occasioned by the failure of the ACSC to conduct surveying activity within the prescribed period without any valid reason shall be borne by the ACSC.

5.16. In the event the chosen ACSC cannot perform the services for whatever reason, it shall immediately inform the OSS, or the authorized customs official as the case may be, who shall immediately assign an alternate ACSC to conduct the activity. The failure of the designated surveyor to perform his obligation shall be immediately reported to the CACSC for its appropriate action.

5.16 Copies of the DPS shall be submitted in both electronic and hard copies within twelve (12) hours upon termination of the surveying activities containing the details specified in 4.1.1 hereof.

6 Appeals

In the event that the importer/consignee disagrees with the findings made under the DPS, the importer/consignee may resort to payment of the duties and taxes due under protest, including the applicable fine/penalty, or cause the tentative release of the shipment under such conditions as the Collector may impose. The same appeal procedure for protest or for cases covered by the rules for Valuation and Classification Review Cases, as the case may be, shall be observed.

7 High Risk Shipment

7.1 Bulk and break-bulk shipments not covered by the required LPS from any of the ACSC which are shipped on or fifteen (15) days from the date of publication of this Order shall be considered as shipments in deliberate circumvention of AO 243-A and this Order and as high risk. As such, they shall be subjected to extensive actual physical examination, continuous underguarding until accomplishment and submission of the DPS and other applicable control, the payment of the duties and taxes due the shipment including any administrative fine as may be imposed by the Bureau.

7.2 Circumvention must be considered deliberate whenever any of the following obtains:

- a. There is misdeclaration, undervaluation or misclassification evidencing prima facie fraud.
- b. The importer cannot prove that the failure to subject the shipment to LPS was unintentional; and
- c. The firm is a recidivist (three or more offenses).

7.3 For customs control purposes, high risk shipments shall not be granted permits to discharge and shall remain under continuous customs under-guarding until the DPS has been conducted by the ACSC assigned for the purpose and the report thereon submitted and full payment of the correct duties and taxes, including any fine imposed by the BOC, have been made.

8 Schedule of Charges and Fees.

The services of the ACSCs pursuant to this Order shall entail no cost or charge for the government of the Republic of the Philippines.

For additional services to the BOC, the ACSC shall be allowed to charge a fee in accordance with international standards and practices but in no case to exceed one-half of one percent (0.5%) of the FOB value of the cargo. This fee shall be payable by the exporter, unless otherwise agreed upon by and between the importer and exporter.

9 Suppletory Clause.

The e-Commerce law and its implementing regulations, other Customs Laws, Rules and Regulations shall have suppletory effect on this Order.

10 Separability Clause.

In the event that any legislation, governmental regulation or court decision causes invalidation of any part, article or section of this issuance, all other parts, articles and sections not so invalidated shall remain in full force and effect.

11 Effectivity. -This Order shall take effect immediately.

NAPOLEON L. MORALES
Commissioner

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**PHILIPPINE BUREAU OF CUSTOMS – BULK AND BREAK BULK CARGO
CLEARANCE ENHANCEMENT PROGRAM**

LOAD PORT SURVEY REPORT – SUMMARY REPORT

Report No:	Page 1/1
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01. Buyer :

02. Seller :

03. Final Invoice No. :

04. Date :

05. Seal No/s. :

06. Packing :

07. Vessel Name & ETA first Philippine Port :

08. B/L No. :

09. Detailed Report of goods inspected					
Item	Description of Goods	Quality & Grade	Total Quantity (Kg, piece, etc)	H.S. Code	Invoice Value and Incoterm
Value				Total Invoice	

10. Port of Loading

11. Date :

12. Port of Discharge

13. Remarks :

Authorised Signature

CACSC Accredited Surveyor

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IMPORTER'S INFORMATION SHEET

Pursuant to CMO _____, this information sheet is respectfully submitted relative to our request for Discharge Port Survey with the following particulars:

1. Consignee/Importer : _____
 Complete Office Address: _____
 _____ Tel. No./Contact No. _____
 BOC Accreditation No. _____ TIN No. _____
2. Broker's Name: _____
 Complete Office Address: _____
 _____ Tel No./Contact No. _____
 BOC Accreditation No. _____ TIN No. _____
3. Description of Shipment: _____

 Country of Origin/Exportation: _____
 Supplier: _____
 Vessel /Aircraft : _____
 Reg. No _____ Voy. No./Flt. No. : _____
 Bill of Lading No/ Airway Bill of Lading No. _____
 Import Authority/Permit No.(if applicable) : _____
4. Required Documents attached: (Pls.check)
 _____ Bill of Lading/Airway Bill
 _____ Packing List
 _____ Pro Forma Invoice/Invoice
 _____ Import Permit/Authority to Import
 _____ Phytosanitary Certificate
 _____ Others (Board Resolution/Letter of Authority, etc.)
- 6 Explanation/Reasons under oath why shipment was not subjected to Port Load Survey
- 7 Who was responsible for making the shipment? _____
 (If shipper, attach certification from shipper in its letterhead or by authorized official of the shipping company why they are responsible)
- 8 How any times the infraction has been committed: _____
- 9 Other explanation/s: _____
10. Preferred Accredited Surveyor to conduct Discharge Port Survey:

11. Undertaking

I, _____ for and in behalf of our company and on my own do hereby certify that the foregoing information and the documents hereto attached are true,

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authentic and genuine to the best of my knowledge. I/We understand that any false statement, misrepresentation and/or non-disclosure of any material fact in connection herewith and subject shipment may be used against me/us in any criminal and administrative action that may be instituted against myself and/or our herein-named company occasioned by such false statement, misrepresentation and/or non-disclosure.

(COMPANY NAME)

By: AFFIANT
Position

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____ WITH AFFIANT EXHIBITING TO ME HIS COMMUNITY TAX CERTIFICATE NO _____ ISSUED ON _____ AT _____.

Officer Authorized to Administer Oath