



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Nineteenth Congress
First Regular Session

House Bill No. **3789**



Introduced by Representative PAUL R. DAZA

EXPLANATORY NOTE

ARTICLE XII, Section 1 of the Constitution mandates that, “The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; ... The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.”

Particularly in a world that is getting smaller due to digital technologies and online commerce, the commitment toward equality, equity, efficiency, transparency, and fairness must always be promoted and protected. If the Philippine economy must become robust and competitive, then it must be ready to modernize and improve its trade practices. Such an expectation includes significant reforms in customs-related policies, practices, systems, and transactions.

According to estimates by the World Bank, customs reforms implemented by other countries increased duty and tax collections by anywhere from 11% to 300%.¹ Meanwhile, the Bureau of Customs (BoC) is always perennially seen as among the most corrupt agencies in the Philippines. A study revealed that BoC is consistently ranked the “least sincere in fighting corruption since 2005” and the following are the reasons for this erosion of public trust (K. Abante, 2019)²:

1. Customs inspects one in every four transactions, but only one percent yields derogatory findings. There is too much discretion with very little yield. Importers complain that this process is too unpredictable.
2. Importers would rather pay bribes than incur the massive costs of being held at port by customs officials. This environment encourages collusion, tax evasion, and smuggling.

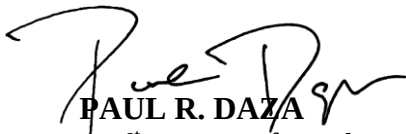
¹ World Bank as cited in Laforga, B. (2021, 26 Mar). *World Bank sees Customs modernization as tax-free way to boost gov't revenue*. Available at <https://www.bworldonline.com/economy/2021/03/26/353091/world-bank-sees-customs-modernization-as-tax-free-way-to-boost-govt-revenue/>

² Abante, K.I.I. (2019). *Minimizing Smuggling and Restoring Public Trust in the Philippine Bureau of Customs*. Available at https://www.hks.harvard.edu/sites/default/files/degree%20programs/MPAID/files/Abante%2C%20Ken_Policy%20Brief.pdf

3. Dishonest officials live impossibly lavish lifestyles and are seldom prosecuted, while honest officials are seldom rewarded for good behavior. A rank-and-file customs clerk can flaunt a Porsche. The culture of bribery is so ingrained that there are a dictionary of words and a classic action film about it.
4. Around P12 billion in illegal drugs and contraband has slipped past porous customs border control in the past two years. This has endangered public safety.
5. Top leadership changes too fast to build long-term systemic reforms. Since World War II, the median tenure of customs commissioners has been just one year.

Clearly, reforms must be urgently done. The urgency becomes more critical as we rebuild the economy from the impact of the Covid-19 pandemic.

In view of the foregoing, the passage of this bill is earnestly sought.


PAUL R. DAZA
Representative, 1st District of Northern Samar



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AN ACT

AMENDING SECTIONS 102, 104, 119(b), 201, 209, 307, 402, 407, 423, 427, 431, 800(g), 802, 806, 900, 1100, 1111, 1117, 1118, 1129, 1131, 1135, 1138, 1141, 1147(a), 1204, 1226, 1400, 1505 AND 1512; REPEALING SEC. 709; AND ADDING SECTION 440-A ALL UNDER REPUBLIC ACT NO. 10863, OTHERWISE KNOWN AS THE CUSTOMS MODERNIZATION AND TARIFF ACT

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 102 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 102.** *Definition of Terms.* - As used in this Act:

X X X

[(qq)] *Tentative Release* refers to a case where the assessment is disputed and pending review, an importer may put up a cash bond equivalent to the duties and taxes due on goods before the importer can obtain the release of said goods;]

[(rr)] **(QQ)** *Transit* refers to the customs procedure under which goods, in [its] **THEIR** original form, are transported under customs control from one customs office to another, or to a free zone;

[(ss)] **(RR)** *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;

[(tt)] **(SS)** *Traveler* refers to any person who temporarily enters the territory of a country in which he or she does not normally reside (non-resident), or who leaves that territory, and any person who leaves the territory of a country in which he or she normally resides (departing resident) or who returns to that territory (returning resident); and

[(uu)] **(TT)** *Third Party* refers to any person who deals directly with the Bureau, for and on behalf of another person, **WHICH MAY ALSO INCLUDE IMPORTERS, EXPORTERS, LOGISTICS PROVIDERS, CARRIERS, AIRLINES, SHIPPING LINES, SHIPPING AGENTS, FORWARDERS, CONSOLIDATORS, AND WAREHOUSE OPERATORS, IF SUCH PERSONS OR ENTITIES TRANSACT WITH THE BUREAU ON MATTERS** relating to the importation, exportation, movement or storage of goods.

SEC. 2. Section 104 of RA No. 10863 is hereby amended to read as follows:

“SEC. 104. *When Duty and Tax are Due on Imported Goods.* – Except as otherwise provided for in this Act or in other laws, all goods, when imported into the Philippines, shall be subject to duty upon importation, including goods previously exported from the Philippines.

Unpaid duties, taxes and other charges shall incur legal interest of twenty percent (20%) per annum computed from the date of final assessment under Section 429 of this Act **OR UPON RECEIPT OF THE DEMAND TO PAY DEFICIENCIES IN DUTIES AND TAXES ISSUED BY THE COMMISSIONER IN CASE OF POST CLEARANCE AUDIT**, when payment becomes due and demandable. The legal interest shall likewise accrue on any fine or penalty imposed.

Upon payment of the duties, taxes and other charges, the Bureau shall issue the necessary receipt or document as proof of such payment.

SEC. 3. Section 119 (b) of RA No. 10863 is hereby amended to read as follows:

“SEC. 119. *Restricted Importation, and Exportation.*— Except when authorized by law or regulation, the importation and exportation of the following restricted goods are prohibited:

- (a) x x x
- (b) Roulette wheels[.]; gambling outfits[.]; [loaded dice, marked cards,] machines, apparatus or mechanical devices used in gambling; or the distribution of money, cigars, cigarettes or other goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof;

x x x.”

SEC. 4. Section 201 of RA No. 10863 is hereby amended to read as follows:

“SEC. 201. *Powers and Functions of the Commissioner.*— The Commissioner shall have the following powers and functions:

- (a) x x x;
- (b) x x x;
- (c) x x x;
- (d) Review and decide disputed assessments and other matters related thereto, subject to [review by the Secretary of Finance and] the exclusive appellate jurisdiction of the Court of Tax Appeals (CTA);
- (e) x x x
- (f) Assignment or reassignment of any customs officer subject to the approval of the Secretary of Finance: [Provided, That District Collectors and other customs officers that perform assessment functions shall not remain in the same area of assignment for more than three (3) years;] **PROVIDED, THAT THE MOVEMENT OF A CUSTOMS OFFICER WITH SALARY GRADE 24 AND ABOVE OR THOSE DESIGNATED AS DIVISION CHIEF SHALL BE BASED ON REVENUE TARGET COLLECTION PERFORMANCE;**
- (g) x x x.”

SEC. 5. Section 209 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 209.** *Assignment of Customs Officers and Employees to other Duties.* – The Commissioner[, with the approval of the Secretary of Finance,] may assign any employee of the bureau to any port, service, division or office of the Bureau within the Bureau's staffing pattern or organizational structure, or may assign any employee other duties, **SUBJECT TO SECTION 201 (F) OF THIS ACT:** *Provided,* That such assignment shall not affect the employee's tenure of office nor result in a change of status, demotion in rank [and/] or [salary deduction] **REDUCTION IN SALARY:**”

PROVIDED FURTHER, THAT DISTRICT COLLECTORS AND OTHER CUSTOMS OFFICERS PERFORMING ASSESSMENT FUNCTIONS SHALL REMAIN IN THE SAME AREA OF ASSIGNMENT FOR A MINIMUM PERIOD OF SIX (6) MONTHS FROM THE DATE OF ASSUMPTION, CONSISTENT WITH SECTION 3 OF REPUBLIC ACT NO. 9335, OTHERWISE KNOWN AS THE ATTRITION ACT OF 2005, AND A MAXIMUM PERIOD OF THREE (3) YEARS, EXCEPT FOR DUE CAUSE, SUCH AS VIOLATION OF ANTI-GRAFT AND CORRUPT PRACTICES AND OTHER RELEVANT LAWS.”

SEC. 6. Section 307 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 307.** *Temporary Storage of Goods.*— Subject to the rules and regulations to be issued by the Secretary of Finance, the Commissioner shall establish a system for temporary storage of imports prior to **THE LODGMENT OF** goods declaration [in cases of abandoned or overstaying goods].”

SEC. 7. Section 402 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 402.** *Goods Declaration for Consumption.*— All goods declaration for consumption shall be cleared through a formal entry process except for the following goods which shall be cleared through an informal entry process:

- (a) x x x; and
- (b) Personal and household effects or goods, not in commercial quantity [imported in a passenger's baggage or mail].

x x x
x x x.”

SEC. 8. Section 407 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 407.** *Goods Declaration and Period of Filing.*—

x x x
x x x

Goods declaration [must] **SHALL** be lodged within fifteen (15) days from the date of discharge of the last package from the vessel or aircraft **AND THE CORRESPONDING DUTIES, TAXES, AND OTHER CHARGES SHALL BE PAID UPON LODGEMENT.** [The period to file the goods declaration may, upon request, be extended on valid grounds for another fifteen (15) days: *Provided,* That the request is made before the expiration of the original period within which to file the goods declaration: *Provided, However,* That the] **THE** period of the lodgement of the goods declaration may be adjusted by the Commissioner.”

SEC. 9. Section 423 (2) of RA No. 10863 is hereby amended to read as follows:

“**SEC. 423. Determination of the De Minimis Value.**— No duties and taxes shall be collected on goods with an FOB or FCA value of ten thousand pesos (₱10,000.00) or below. The Secretary of Finance [shall adjust] **MAY INCREASE OR DECREASE** the *de minimis* value as provided herein, every three (3) years after the effectivity of this Act. [The value herein stated shall be adjusted to its present value using the CPI, as published by the PSA].”

SEC. 10. Section 427 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 427. Readjustment of Appraisal, Classification or Return.** - Such appraisal, classification or return, as finally passed upon and approved or modified by the District Collector, shall not be altered or modified in any manner, except:

(1) x x x

(2) Within fifteen (15) days after such payment, upon request for reappraisal or reclassification addressed to the Commissioner by the District Collector, if the appraisal or classification is [deemed to be low] **INCORRECT**;

(3) x x x;

(4) x x x.”

SEC. 11. Section 431 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 431. Release of Goods after Payment of Duties and Taxes.**— Goods declared shall be released when duties and taxes and other [lawful] charges **AS FINALLY ASSESSED BY THE BUREAU** have been paid or secured and all the pertinent laws, rules and regulations have been complied with.

x x x.”

SEC. 12. A new Section 440-A in RA No. 10863 is hereby inserted to read as follows:

SEC. 440-A. PRE-SHIPMENT INSPECTION. – THE BUREAU SHALL ESTABLISH AND IMPLEMENT A PRE-SHIPMENT INSPECTION OF CONTAINERIZED CARGOES: PROVIDED, THAT THE PRE-SHIPMENT INSPECTION SHALL DEPEND ON RISK PARAMETERS AS DETERMINED BY THE BUREAU AND OTHER COMPETENT AUTHORITIES: PROVIDED FURTHER, THAT PRE-SHIPMENT INSPECTION SHALL NOT BE USED FOR CLASSIFICATION AND VALUATION PURPOSES PURSUANT TO SECTION 5 OF THE WORLD TRADE ORGANIZATION (WTO) AGREEMENT ON TRADE FACILITATION.

THE RULES AND REGULATIONS SHALL BE ISSUED BY THE BUREAU UPON CONSULTATION WITH THE CONCERNED SECTORS AND APPROVED BY THE SECRETARY OF FINANCE.

SEC. 13. Section 709 of RA No. 10863 is hereby repealed.

SEC. 14. Section 800 (g) of RA No. 10863 is hereby amended to read as follows:

“**SEC. 800. Conditionally Tax and/or Duty-Exempt Importation.** – x x x

(a) x x x

(b) x x x

(c) x x x

(d) x x x

(e) x x x

(f) x x x

(g) [Residents of the Philippines,] OFWs or other Filipinos while residing abroad or upon their return to the Philippines shall be allowed to bring in or send to their families or relatives in the Philippines balikbayan boxes which shall be exempt from applicable duties and taxes imposed under the NIRC of 1997, as amended: *Provided*, That balikbayan boxes shall contain personal and household effects only and shall neither be in commercial quantities nor intended for barter, sale or for hire and that the FCA value of which shall not exceed one hundred fifty thousand pesos (₱150,000.00); *Provided, Further*, That every three (3) years after the effectivity of this Act, the Secretary of Finance shall adjust the amount herein stated to its present value using the CPI as published by the PSA; *Provided, Finally*, That [residents of the Philippines,] OFWs or other Filipinos **WHILE RESIDING ABROAD** can only avail of this privilege up to [three times] **A MAXIMUM FCA VALUE OF THREE HUNDRED THOUSAND PESOS (PHP300,000.00)** in a calendar year. Any amount in excess of the allowable non-dutiable value shall be subject to the applicable duties and taxes;

1) x x x.”

SEC. 15. Section 802 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 802.** *Types of Customs Bonded Warehouses (CBWs).*— x x x.

Manufacturing customs bonded warehouse may be of the following types; (a) miscellaneous customs bonded warehouse; (b) customs common bonded warehouse; [or] (c) industry-specific bonded warehouse; **OR (D) GARMENTS AND TEXTILES BONDED WAREHOUSE.**

x x x.”

SEC. 16. Section 806 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 806.** *Customs Control Over CBWs and CFWs.*— The Bureau shall, for customs purposes, exercise control over, direct and manage CBWs and CFWs pursuant to Section 303 of this Act and [likewise] over the goods thereat pursuant to Section 301 of this Act.[:] **THE BUREAU SHALL MAINTAIN THE NUMBER OF OFF-DOCK CONTAINER YARD OR CONTAINER FREIGHT STATION (CY/CFS) AND CBWS OPERATING IN A PORT TO A NUMBER CONSISTENT WITH THE BUSINESS REQUIREMENT OF THE PORT. THE UTILIZATION RATE, SERVICES PROVIDED, AND FACILITIES OF THE EXISTING OFF-DOCK CY/CFS SHALL BE CONSIDERED IN THE APPLICATION AND RENEWAL FOR AUTHORITY TO OPERATE AN OFF-DOCK CY/CFS:** *Provided*, That the Bureau shall not be liable for any loss or damage of the goods stored for safekeeping in any CBW, CFW, yard or premises.”

SEC. 17. Section 900 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 900.** *Basis of Duty Drawback.* (A) x x x

(B) x x x

(C) x x x

(1) x x x

(2) x x x

(3) x x x

(4) The exportation shall be made within one (1) year after the importation of materials used, and **THE** claim of refund or tax credit shall be filed within [six (6) months] **ONE (1) YEAR** from the date of exportation; and

(5) x x x”

SEC. 18. Section 1100 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1100. *Classification Ruling.***— An importer or exporter may file a written application for an advance ruling on the tariff classification of goods with the Commission. The Commission shall render a ruling within thirty (30) days from receipt of a properly documented application.

When a declared tariff classification of goods, **WHICH IS** not **THE** subject of a pending application for advance ruling, is in dispute **AND THE DISTRICT COLLECTOR DETERMINES THAT IT INVOLVES A HIGHLY TECHNICAL QUESTION OF TARIFF CLASSIFICATION**, [the importer, exporter, or] the Bureau shall submit the matter to the Commission for a ruling, without prejudice to the application of Section 1106 of this Act on “protest”: *Provided*, That such rulings of the Commission on commodity classification shall be binding upon the Bureau, unless the Secretary of Finance [shall] rules otherwise.

FOR THIS PURPOSE, TARIFF CLASSIFICATION SHALL BE CONSIDERED AS A HIGHLY TECHNICAL QUESTION WHEN THE GOODS ARE CLASSIFIABLE UNDER MORE THAN ONE ASEAN HARMONIZED TARIFF NOMENCLATURE (AHTN) CHAPTER, HEADING, OR SUBHEADING; OR THE PRODUCT DESCRIPTION IS NOT PROVIDED UNDER ANY AHTN HEADING OR SUBHEADING.”

SEC. 19. Section 1111 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1111. *Alert Orders.*** – Alert orders are written orders issued by customs officers as authorized by the Commissioner on the basis of derogatory information regarding possible noncompliance with this Act. An alert order will result in the suspension of the processing of the goods declaration and the conduct of [physical or nonintrusive] inspection of the goods within forty-eight (48) hours from issuance of the order: **PROVIDED, THAT THE TERMINAL OPERATORS SHALL ENSURE THAT THE INSPECTION IS SCHEDULED AND CONDUCTED WITHIN THE SAID PERIOD.** Within forty-eight (48) hours or, in the case of perishable goods, within twenty-four (24) hours from inspection, the alerting officer shall recommend the continuance of processing of goods in case of a negative finding, or issuance of a warrant of seizure and detention if a discrepancy between the declaration and actual goods is found. The Bureau's information system shall immediately reflect the imposition or lifting of an alert order.

x x x

- (a) x x x
- (b) x x x
- (c) x x x
- (d) x x x

x x x

An alert order may be issued [only after lodgement of the goods declaration and] prior to the release of goods from customs custody. Under no circumstances shall the suspension of the processing of goods declaration be allowed except through an alert order issued by an authorized customs officer.

x x x.”

SEC. 20. Section 1117 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1117. Warrant of Seizure or Order of Release.** – The District Collector shall have the authority to issue a warrant of seizure of the goods upon determination of the existence of probable cause and in case of nonexistence thereof, [the issuance of the order of release] **RECOMMEND THE LIFTING OF THE ALERT ORDER.** In case the District Collector [issued an order of release,] **RECOMMENDS THE LIFTING OF THE ALERT ORDER,** the District Collector shall immediately transmit all the records to the Commissioner, who shall automatically review **THE LIFTING OF THE ALERT ORDER** within forty-eight (48) hours, or **IN CASE OF PERISHABLE GOODS,** within twenty-four (24) hours. [, in case of perishable goods.] When no decision is made by the Commissioner within the prescribed period, the imported goods shall be deemed lifted.

The **ORDER TO RELEASE** [lifting of the alert order] shall be issued by the District Collector only upon the affirmation of [the] **THIS** decision [of the District Collector] by the Commissioner, or after the lapse of the period of review by the Commissioner, whichever is earlier.”

SEC. 21. Section 1118 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1118. Sale of Perishable Goods During Forfeiture Proceedings.** – [Upon motion of the importer of the perishable goods, the] **PERISHABLE** goods may be sold at a public auction during the pendency of the forfeiture proceedings. The proceeds of the auction shall be held in escrow until the final resolution of the proceedings.”

SEC. 22. Section 1129 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1129. Abandonment, Kinds and Effects of.** - Imported goods are deemed abandoned under any of the following circumstances:

(a) x x x; or

(b) When the owner, importer, consignee, or interested party after due notice, fails to [file] **LODGE** the goods declaration **AND PAY THE DUTIES AND TAXES BASED ON SELF-ASSESSMENT** within the prescribed period in Section 407 of this Act: *Provided,* That the term goods declaration shall include provisional or incomplete goods declaration deemed valid by the Bureau as provided in Section 403 of this Act. For this purpose, it is the duty of the District Collector to post a list of all packages discharged and their consignees, whether electronically or physically in the District Office, or send a notice to the consignee within five (5) days from the date of discharge; or

(c) Having [filed] **LODGED** such goods declaration **AND PAID THE DUTIES AND TAXES BASED ON SELF-ASSESSMENT,** the owner, importer, consignee or interested party after due notice, fails to pay the [assessed] **READJUSTED** duties, taxes and other charges thereon, or, if the **OWNER, IMPORTER, CONSIGNEE, OR INTERESTED PARTY OF THE** regulated goods [failed] **FAILS** to comply with Section 117 of this Act[,] within fifteen (15) days from the date of final assessment: *Provided,* That if such regulated goods are the subject of an alert order and the assessed duties, taxes and other charges thereof are not paid within fifteen (15) days from notification by the Bureau of the resolution of the alert order, the same shall also be deemed abandoned; or

[(d) Having paid the assessed duties, taxes and other charges, the owner, importer or consignee or interested party after due notice, fails to claim the goods within thirty (30) days

from payment. For this purpose, the arrastre or warehouse operator shall report the unclaimed goods to the District Collector for disposition pursuant to the provisions of this Act; or]

[(e)] **(D)** When the owner or importer fails to claim goods in customs bonded warehouses within the prescribed period.

x x x.”

SEC. 23. Section 1131 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1131. Authority of the Commissioner to [Make] Compromise.** – [Subject to the approval of the Secretary of Finance,] The Commissioner may compromise any **CIVIL OR** administrative case arising under this Act involving the imposition of fines and surcharges, including those arising from the conduct of a post clearance audit, unless otherwise specified by law.

Cases involving forfeiture proceedings shall, however, not be subject to any compromise **UNLESS APPROVED BY THE COURT, ON APPEAL. PROVIDED, THAT ANY COMPROMISE INVOLVING THE IMPOSITION OF FINES AND SURCHARGES AMOUNTING TO TEN MILLION PESOS (PHP10,000,000.00) AND ABOVE SHALL BE SUBJECT TO THE APPROVAL OF THE SECRETARY OF FINANCE.**”

SEC. 24. Section 1135 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1135. Supervision and Control over Criminal and Civil Proceedings.**— Civil and criminal actions and proceedings instituted on behalf of the Government under the authority of this Act or other laws enforced by the Bureau shall be brought in the name of the [g]Government of the Philippines and shall be prosecuted and handled by the Bureau with the assistance of the Department of Justice (**DOJ**) **OR OFFICE OF THE SOLICITOR GENERAL (OSG)**: Provided, That the determination of the existence of probable cause and the subsequent filing of any criminal [or civil] case with the proper court against violators of this Act shall exclusively belong to the DOJ: *Provided, however,* That no civil or criminal action for the recovery of duties or the enforcement of any fine, penalty, forfeiture [under] **OR ANY VIOLATION OF** this Act shall be filed in court without the approval of the Commissioner.”

SEC. 25. Section 1138 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1138. Fraud Investigation and Prosecution.** – No criminal case for violation of this [title] **ACT** shall be instituted without the approval of the Commissioner. [pursuant to the provisions of this Act.]

x x x.”

SEC. 26. Section 1141 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1141. Mode of Disposition.** – x x x.

x x x.

THE BUREAU MAY ENGAGE PRIVATE SERVICE PROVIDERS TO CONDUCT PUBLIC AUCTIONS PURSUANT TO SECTION 1513 OF THIS ACT: PROVIDED, THAT THE SERVICE PROVIDER ENGAGED SHALL BE RESPONSIBLE FOR UNDERTAKING ALL THE PUBLIC AUCTIONS OF THE

BUREAU: PROVIDED FURTHER, THAT ACTIVITIES OF THE SERVICE PROVIDER SHALL BE LIMITED TO NON-SOVEREIGN AND ANCILLARY FUNCTIONS OF THE BUREAU: PROVIDED FINALLY, THAT THE BUREAU SHALL RETAIN JURISDICTIONAL CONTROL AND SUPERVISION OVER THESE GOODS AS WELL AS THE OPERATIONS OF THE SERVICE PROVIDER SO CONTRACTED.”

SEC. 27. Section 1147 (a) of RA No. 10863 is hereby amended to read as follows:

“SEC. 1147. *Disposition of Restricted Goods.*— Restricted goods as described in Section 119 of this Act shall be disposed as follows:

- (a) Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, and parts thereof shall be turned over to the [AFP] **PHILIPPINE NATIONAL POLICE (PNP)**;
- (b) x x x;
- (c) x x x;
- (d) x x x;
- (e) x x x;
- (f) x x x.”

SEC. 28. Section 1204 of RA No. 10863 is hereby amended to read as follows:

“SEC. 1204. Manifest Required of Vessel from Foreign Port. — Every vessel from a foreign port must have on board a complete manifest of all its cargoes.

All cargoes intended to be landed at a port in the Philippines must be described in separate manifests for each port of call. Each manifest shall include the port of departure and the port of delivery with the marks, numbers, quantity, and description of the packages and the **ULTIMATE** consignees **COVERED BY THE BILL OF LADING OR AIRWAY BILL**. Every vessel from a foreign port must have on board complete manifests of passengers and baggage, in the prescribed form, setting forth the destination and all particulars required by immigration laws. Every vessel shall present to the proper customs officers upon arrival in ports of the Philippines a complete list of all sea stores then on board. If the vessel does not carry [cargo] **CARGOES** or passengers, the manifest must show that no cargo or passenger is carried from the port of departure to the port of destination in the Philippines.

IN ADDITION, A VESSEL OR AIRCRAFT FROM A FOREIGN PORT MUST DECLARE IN THE INWARD CARGO MANIFEST, BILL OF LADING OR AIRWAY BILL THE VALUE OF THE ARTICLES OR GOODS AS THEY APPEAR IN THE COMMERCIAL INVOICE OR LETTER OF CREDIT, OR BOTH. THE VALUE STATED THEREIN MAY BE THE BASIS FOR RISK ASSESSMENT.

A true and complete copy of the cargo manifest shall be electronically sent in advance by the shipping company, NVOCC, freight forwarder, cargo consolidator, or their agents within the cut-off period as may be determined by the Bureau before the arrival of the carrying vessel at the port of entry.

Upon arrival of the carrying vessel, the shipping company, NVOCC, freight forwarder, cargo consolidator, or their agents shall provide two (2) hard copies of the cargo manifest to the Bureau in case the port of entry is either the Port of Manila (PoM) or the Manila International Container Port (MICP), and one (1) copy in the case of the other ports of entry.

A cargo manifest shall in no case be changed or altered after entry of vessel, except by means of an amendment, under oath, by the master, consignee or agent thereof, which shall be attached to the original manifest: *Provided*, That after the invoice and/or goods declaration covering an importation have been received and recorded in the office of the appraiser, no amendment of the manifest shall be allowed, except when it is obvious that a clerical error or any other discrepancy has been committed in the preparation of the manifest, without any fraudulent intent, the discovery of which would not have been made until after examination of the importation has been completed.”

SEC. 29. Section 1226 of RA No. 10863 is hereby amended to read as follows:

“**SEC 1226. Supervision and Regulation of Third Parties.** – Third parties transacting with the Bureau on behalf of importers and consignees shall be treated equally as true importers or consignees[.Third parties transacting with the Bureau] **AND** shall **LIKEWISE** be liable for acts committed in violation of this Act and related laws.

- A. [Upon the recommendation of the] **THE** Commissioner, **WITH THE APPROVAL OF** the Secretary of Finance, shall issue rules and regulations to govern and regulate the conduct of all third parties dealing directly with the Bureau in relation to the importation, exportation, movement, storage and clearance of goods for and on behalf of another person. The rules and regulations shall provide for specific conditions when third parties may or may not directly transact with the Bureau **WHICH SHALL INCLUDE A RISK MANAGEMENT SYSTEM FOR THIRD PARTIES, TAKING INTO ACCOUNT THEIR CAPITALIZATION, VOLUME OF TRANSACTIONS, TRACK RECORD, AND ANY OTHER FACTOR AFFECTING THEIR CAPABILITY TO IMPORT, EXPORT, MOVE, STORE OR CLEAR GOODS.** [shall provide a written notice in case such third parties are, for valid reasons, barred from transacting with the Bureau]
- B. **THE BUREAU SHALL CREATE A COMMITTEE COMPOSED OF REPRESENTATIVES FROM THE BUREAU OF CUSTOMS AND THE DEPARTMENTS OF FINANCE, TRADE AND INDUSTRY, TRANSPORTATION, AND THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY, AND OTHER GOVERNMENT AGENCIES REGULATING THIRD PARTIES THAT TRANSACT WITH THE BUREAU. THE COMMITTEE, WHICH SHALL BE CHAIRED BY THE SECRETARY OF FINANCE, SHALL PRESCRIBE AND REGULATE RATES AND OTHER CHARGES FOR THE SERVICES RENDERED BY THESE THIRD PARTIES IN ACCORDANCE WITH THE TRADE FACILITATION PLANS AND PROGRAMS OF THE COUNTRY.**

Third party is defined under Section 102 [(uu)] (TT) of this Act. [For purposes of this section, third parties may also refer to logistics providers, importers, exporters, carriers, airlines, shipping lines, shipping agents, forwarders, consolidators, port and terminal operators, and warehouse operators, if such persons or entities transacted with the Bureau.]”

SEC. 30. Section 1400 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1400. Misdeclaration, Misclassification, Undervaluation in Goods Declaration.**— Misdeclaration as to quantity, quality, description, weight, or measurement of the goods, or misclassification through insufficient or wrong description of the goods or use of wrong tariff heading resulting to a discrepancy in duty and tax to be paid between what is legally determined upon assessment and what is declared, shall be subject to a surcharge equivalent to two hundred fifty percent (250%) of the duty and tax due. No surcharge shall be imposed when the discrepancy in duty **AND TAX** is less than ten percent (10%), or when the

declared tariff heading is rejected in a formal customs dispute settlement process involving [difficult or] A highly technical question of tariff classification, or when the tariff classification declaration relied on an official government ruling.”

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SEC. 31. Section 1505 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1505.** *Authority of Official to Administer Oaths and Take Testimony.* – The Commissioner, District Collectors and their deputies, and other customs officers especially deputized by the **COMMISSIONER OR THE** District Collector shall have authority to administer oaths and take testimony in connection with any matter within the jurisdiction of the Bureau and, in connection therewith, **ISSUE SUBPOENA DUCES TECUM REQUIRING THE PRODUCTION** [may require the production] of relevant papers, documents, books and records in accordance with law.”

SEC. 32. Section 1512 of RA No. 10863 is hereby amended to read as follows:

“**SEC. 1512.** *Reward to Persons Instrumental in the Actual Collection of Additional Revenues Arising from the Discovery of Violations of this Act.* – A cash reward equivalent to twenty percent (20%) **OR TEN MILLION PESOS (PHP 10,000,000.00), WHICHEVER IS LOWER,** of the actual proceeds from the sale of smuggled goods and confiscated goods or actual collection of additional revenues shall be given to the [customs and] non-customs informers or whistleblowers who are instrumental in the collection of additional revenues arising from the discovery of violations of this Act in accordance with the rules and regulations to be issued by the Secretary of Finance: **PROVIDED, THAT THE NON-CUSTOMS INFORMERS OR WHISTLEBLOWERS ARE NOT RELATED TO ANY CUSTOMS OFFICER OR EMPLOYEE WITHIN THE FOURTH CIVIL DEGREE OF CONSAGUINITY OR AFFINITY.**”

SEC. 33. *Implementing Rules and Regulations.* - The Secretary of Finance shall, upon the recommendation of the Commissioner of Customs, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 34. *Separability Clause.* - If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 35. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 36. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication either in the Official Gazette or in a newspaper of general circulation.

Approved,