



March 20, 2019

PPA ADMINISTRATIVE ORDER
No 02 - 2019



TO : The Port Manager, PMO-NCR South
Terminal Operators, Manila International Container
Terminal (MICT) and South Harbor (SH)
Consignees/Cargo Owners/Shippers
Brokers/Forwarders
Others Concerned

SUBJECT : **GUIDELINES ON THE IMMEDIATE TRANSFER OF
OVERSTAYING IMPORT CARGOES FROM THE
TERMINALS TO DESIGNATED PORTS**

The Authority shall take all action necessary to expeditiously address high import dwell time, promote optimal terminal efficiency in managing increased trade and demand for cargo clearance facilitation at MICT and SH, and cause the immediate and accelerated transfer of all import cargoes already cleared for delivery/withdrawal from the terminals' container yards to their proper Designated Ports in accordance with the following guidelines

1. LEGAL BASES

- 1 1 PPA Board Resolutions No 2789 and 2793 issued on February 26, 2019 and March 18, 2019, respectively
- 1 2 Section 2(e), Article II, Presidential Decree No 857, as amended
- 1 3 Section 6(a)(x), b(ix)(xv), Presidential Decree No 857, as amended
- 1 4 Executive Order No 172 dated September 13, 2014

2. OBJECTIVES

- 2 1 To ensure the smooth flow of waterborne commerce passing through the country's ports, whether public or private, in the conduct of international and domestic trade
- 2 2 To supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in ports vested in, or belonging to the PPA
- 2 3 To direct and authorize the Terminal Operators of MICT and SH to maximize the terminal's operating efficiency by undertaking operational and strategic

measures that will preserve and protect the competitiveness of the country's premier international gateways

- 2.4 To reduce ships' waiting time to berth and prevent the unwarranted, wasteful utilization of the terminal yard space as permanent dumping ground for abandoned and seized cargo imports stored for indefinitely long period of time by traders and importers

3. SCOPE

This Order shall apply to all imported goods whether containerized or not and which remain within the premises of the MICT, SH and their designated ports beyond the prescribed Free Storage Period (FSP) or approved Extended FSP, and are already cleared by the Authority and other government agencies, such as the Bureau of Customs (BOC), for delivery and/or withdrawal by importers or their authorized representatives

This Order shall apply to all cleared import cargoes which remained inside the port for more than thirty days (30) days from discharge

4. DEFINITION OF TERMS

Abandoned Cargo – refers to cargo which has remained in the designated port for more than 30 days from the date of transfer

Already Cleared for Delivery/Withdrawal Cargo - refers to an import cargo already released through the Online Release System (OLRS)

Authority – refers to the Philippine Ports Authority or PPA

Container Dwell Time - refers to the gross time expressed in days an import cargo remains in the port/terminal, from the day the last item of cargo is discharged from the carrying vessel, up to the time it is withdrawn by the importer/consignee and released from the port's custody

Designated Port – refers to any dry port, inland container terminal, depot and seaport of entry which is designated by the terminal operator as alternative port other than the port of discharge and where import cargo may be transferred for long-term storage

Dry Port - refers to an inland location as a logistics centre connected to one or more modes of transport for the handling, storage and regulatory inspection of goods moving in international trade and the execution of applicable customs control and formalities

Free Storage Period – refers to the specified period during which a container, chassis or cargo may occupy space assigned to it at the terminal, free of terminal

demurrage or terminal storage charges immediately prior to the loading on or subsequent to the discharge off the vessel

Overstaying import container – refers to an import container that remains in the port beyond the maximum dwell time of 30 days and is eligible for transfer to a Designated Port

Terminal Operator – refers to either the International Container Terminal Services, Inc (ICTSI) operating MICT or the Asian Terminals, Inc (ATI) operating SH

5. CONDITIONS FOR THE TRANSFER OF IMPORT CARGOES

The following conditions must be present before an import cargo is transferred to a Designated Port

- a Import cargo which is discharged at MICT and SH with a corresponding RELEASE VIA ONLINE RELEASE SYSTEM (OLRS), and,
- b Import Cargo which incurred a dwell time up to 30 days

6. REQUIREMENTS PRIOR TO TRANSFER OF IMPORT CARGOES

- 6 1 A list of cargoes for Transfer to the Designated Port shall be prepared by the Terminal Operator and submitted to the Authority prior to the transfer from port of discharge
- 6 2 The Terminal Operator shall adopt a priority system for identification of import cargoes to be transferred, in relation to keeping the terminal yard utilization at optimum level and shall inform the Authority of such data on a regular basis
- 6 3 A List of Designated Ports shall be submitted by the Terminal Operator for the information of PPA and all importers on a regular basis

7. TRANSFER OF IMPORT CARGOES

7 1 Before Transfer of Import Cargoes

7 1 1 The Terminal Operator shall prepare a list of import cargoes identified for transfer and submit the same to PMO NCR-South, copy furnished BOC

7 1 2 A schedule of the transfer shall be prepared by the Terminal Operator and submitted to PMO NCR-South, copy furnished BOC

7 2 During Transfer of Import Cargoes

The Terminal Operator shall be primarily responsible for the following during/before transfer of subject import cargoes to the Designated Port

7 2 1 Assume all costs, risks and damages incurred during said transfer

7 2 2 Ensure that import cargoes in transit shall be properly insured and equipped with an appropriate tracking and monitoring system

7 3 Upon Arrival of the Transferred Import Cargoes in the Designated Port

The PMO NCR-South shall be furnished by the Terminal Operator a daily transfer report not later than 10 00 A M daily

8. RELEASE OF TRANSFERRED IMPORT CARGOES

The release of the transferred subject import cargoes from the Designated Port shall be covered by a corresponding Gate Pass issued by the Terminal Operators and all applicable handling, forwarding and storage charges shall be paid or settled at the Designated Port

9. TRANSFER CHARGES

9 1 All expenses that will be incurred in relation to the transfer, including, but not limited to, transportation, examination and re-scaling thereof before, during and after the transfer shall be borne by the Terminal Operator, without prejudice to the right of the Terminal Operator to collect from the cargo owner, importer or consignee, or from their respective agents or brokers, the applicable transfer costs, port and terminal fees and other charges

9 2 Prior to the release of the import cargoes at the designated port and subject to the provisions of the Terminal Operator's existing contracts with PPA, all charges and fees of the subject containers which accrued while in the premises of MICT and SH, such as storage charges, penalty charges under PPA Memorandum Order Nos 12-2014 and 13-2014 and accruing to PPA, shall be paid by the owner, importer or consignee or their agents or brokers

10. FACILITIES & EQUIPMENT

The Terminal Operator shall ensure that computer systems which are installed and/or available at MICT, SH, and the Designated Port will be used for the documentation, inventory, records keeping and audit trail of all containerized/import cargoes transferred to the Designated Port including their subsequent disposition and/or releases

11. LIABILITY

11 1 Damage, loss or pilferage of the containerized/import cargoes identified for transfer after the sealing thereof and until their final disposition shall be the full responsibility of the Terminal Operators, unless such damage, loss or

pilferage was caused by an act, omission or circumstance beyond Terminal Operator's reasonable control

- 11 2 In case of loss, damage or pilferage, the amount of the liability shall be determined by the Bill of Lading or other transport document, evidencing a contract of carriage

The Terminal Operator (or any other party for whom Terminal Operator is responsible) shall be entitled to avail itself of the defenses, limitations and exclusions of liability which are available under the bill of lading or other transport documents, evidencing a contract of carriage, which has been issued in respect of the cargo subject of transfer

Where no bill of lading or other transport document has been issued in respect of the cargo, the Terminal Operator shall only be liable for loss of or damage to any cargo to the extent the same is caused by the gross negligence or willful misconduct of the Terminal Operator, or any other party for whom the Terminal Operator is responsible, and such liability shall be limited to the lesser of (a) the reasonable repair cost or replacement cost (with an item of the same age and in the same condition) of the cargo, and (b) 2SDRs per kilo of gross weight of the cargo lost or damaged

- 11 3 This transfer arrangement is secured by a bond to cover the Terminal Operator's liability

12. ABANDONED CARGO

- 12 1 The Authority reserves the right to sell for accrued charges any cargo or equipment which is abandoned by shippers, consignees, owners or agents after notice has been delivered or mailed to interested parties. The Authority shall comply with the notice requirements prescribed by law. If notice is sent by Registered or Certified mail to the last address provided to the Authority, notice shall be deemed delivered on the date of receipt or three days after the postmark thereon, whichever is earlier

- 12 2 If no response is received by the Authority within ten days after notice is sent to the interested party, or if the party given notice declares the cargo or equipment abandoned, the Authority has the right to sell the cargo or equipment for accrued charges, or to otherwise dispose of the property, in its discretion. Interested parties shall remain liable to the Authority for all accrued charges, and all costs and expenses of selling or appropriately disposing of the property, less any sales proceeds received by the Authority should it exercise its discretion to sell the property. Abandonment of cargo deemed hazardous under existing laws, rules or regulations is forbidden

- 12 3 Any party abandoning, failing or refusing to remove cargo or equipment after notice shall indemnify and hold the Authority harmless from any and all

claims, suits, damages, injuries to persons or property, civil or criminal fines, or legal, regulatory or administrative proceedings, resulting from the presence of the cargo or property on the Authority premises or the Authority's sale or disposal of the same. If any legal, regulatory or administrative proceedings are necessary because of the failure to remove property after notice, the interested party or parties shall be liable to the Authority for all of the Authority's legal costs and expenses arising therefrom, including all attorneys' fees incurred.

13. REPORTING

Upon the transfer of the subject import cargoes to the Designated Port, the Manager of the Designated Port shall separately submit to the Office of the Port Manager, PPA PMO NCR South, Monthly Reports covering the transfer and releases of import cargoes at the Designated Port containing the following matters:

- a Releases,
- b Volume of Containers specifying the Container Numbers and Manner of Release, and
- c Incident Reports, if any

14. SEPARABILITY CLAUSE

If, for any reason, any section or part of this Order is declared unconstitutional or invalid by competent judicial authority, the declared or invalid section or part thereof shall not affect the other sections or part.

15. REPEALING CLAUSE

All PPA orders, rules and regulations, policies, guidelines or circulars which are inconsistent herewith are hereby repealed or amended accordingly.

16. EFFECTIVITY

This Order shall take effect fifteen (15) days after publication in newspaper of general circulation and a copy filed with the University of the Philippines Law Center.


JAY DANIEL R. SANTIAGO
General Manager

Published in the Philippine Star - March 21, 2019

Effectivity Date - April 5, 2019