



Post Clearance Audit

- Sections 1000-1006, Title X of R.A. 10863 (CMTA)
- Customs Administrative Order No. 01-2019

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What is Post Clearance Audit (PCA)?

- It is a **post release (of goods) evaluation**.
- It verifies the **truthfulness or accuracy of the declared customs value, volume, tariff classification**, etc. of imports by consulting source documents and records kept by importers.
- It assesses the **importer's compliance with the obligation to keep records, pay correct taxes**, and other customs laws.

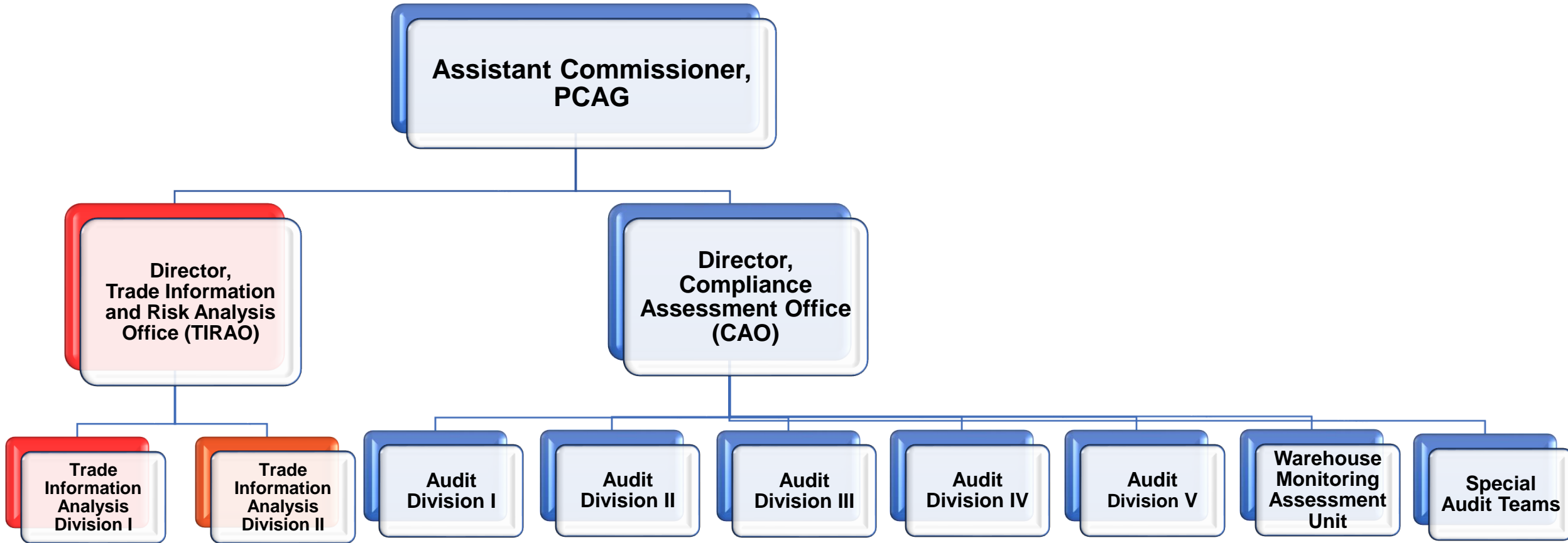
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MANDATE OF THE POST CLEARANCE AUDIT GROUP

Within **three (3) years from the date of final payment of duties and taxes or customs clearance**, as the case may be, the Bureau may conduct an audit examination, inspection, verification, and investigation of records pertaining to any goods declaration, which shall include statements, declarations, documents, and electronically generated or machine readable data, for the purpose of ascertaining the correctness of the goods declaration and determining the liability of the importer for duties, taxes and other charges, including any fine or penalty.

Structure of PCAG



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Structure of PCAAG

TIRAO

- Review available trade data to determine compliance markers of industry and set benchmarks
- Recommend for approval of the Commissioner of Customs the potential priority audit candidates
- Develop a **computer-aided risk-based management system**

CAO

- Conduct the audit examination, inspection, verification or investigation of records
- Prepare the audit work plan, scope and approach for the approved priority audit candidates
- Establish and maintain a customs compliance program through the **Prior Disclosure Program (PDP)**

Post Clearance Audit Procedure

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PCA PROCEDURE

Step 1: Profiling

Step 2: Audit Notification

Step 3: Audit Planning

Step 4: Conduct of Audit Proper

Step 5: Completion of Audit

Step 6: Remedies of Importer

- The covert operation of systematically gathering data and information to unmask the identity, study the importation behavior and identify possible customs non-compliance issues committed by an importer.
- The primary objective is to quantify possible revenue leak and recommend importers for post clearance audit.

PCA PROCEDURE

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IMPORTANT ASPECTS OF PROFILING

- Profiling is a discreet operation (Adheres to No-Contact Policy);
- It shall unmask the identity of any subject importer;
- Evidence based;
- Be able to establish importation behavior;
- Quantify Revenue Leak; and
- Shall give lead or tip for efficient conduct of compliance audit.

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SELECTION CRITERIA

Importers are selected for audit based on the following criteria:

1. Relative magnitude of customs revenue to be generated from the firm;
2. The rates of duties of the firm's imports;
3. The compliance track records of the firm;
4. An assessment of the risk to revenue of the firm's import activities;
5. The compliance level of a trade sector; and
6. Non-renewal of an Importer's customs accreditation.

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The following risk indicators may be used for the assessment of risk and the targeting of traders for PCA:

PROFILE OF IMPORTER

- ✓ Capital
- ✓ Company structure
- ✓ Business partners (suppliers, agents, customers etc.)
- ✓ Type of transaction
- ✓ Method of payment

TRADE DATA

- ✓ Volume of importations
- ✓ Amounts of duties paid
- ✓ Tariff classification and duty rates
- ✓ Valuation declarations
- ✓ Country of Origin of imported goods
- ✓ Ports of loading
- ✓ Transportation type

PAST RECORDS OF THE AUDITEE

- ✓ Audit records
- ✓ Customs entry errors
- ✓ Offense records
- ✓ Tax, VAT compliance information, if available

RELATED INFORMATION/INTELLIGENCE

- ✓ Common irregularities in the same business sectors
- ✓ High-risk countries of origin
- ✓ High-risk good

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Customs Brokers and Importer's duly authorized agents may also be selected for audit to validate information provided by their Importer clients to fill information gaps revealed in the audit.

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Based on the Profiling Report, issuance of an **Audit Notification Letter (ANL)** by the **Commissioner of Customs**. The ANL shall be valid for thirty (30) calendar days from the date of issuance, subject to revalidation, and served on the Importer through:

- Personal Service; or
- Registered Mail; or
- Electronic Mail.

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DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
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ANL CONTROL NO. :
DATE : DEC 22 2023

AUDIT NOTIFICATION LETTER

The President
Francis Duque Sr.
President of the Philippines
Malacañan Palace, Manila, Philippines


SIR / MADAM / GENTLEMEN:


You are hereby informed that the Post Clearance Audit Group (PCAG) of the Bureau of Customs will be conducting a compliance audit on your Company's import transactions and records for a three-year (3) period counted backward from the date above-stated, pursuant to Sections 1000-1006 of Republic Act No. 10863, otherwise known as the "Customs Modernization and Tariff Act (CMTA)".

The following Customs Officer(s): JAY N. QUINTO (Team Leader), RAYMOND B. REMIGIO, MICHELLIN M. LOBOS and is/are authorized to examine your records and conduct audit verification, inspection, and investigation within your premises.

Your Company is directed to provide the above Customs Officer(s) with all the required documents enumerated in the attached *List of Records and Documents (Annex "A")* and properly accomplish and submit within five (5) days a *General Customs Questionnaire (Annex "B")* to avoid unnecessary delays and imposition of penalties.


Please acknowledge receipt hereof by signing on the space provided hereunder.

Very truly yours,

BIENVENIDO Y. RUBIO
Commissioner


DEC 22 2023

Received by: _____ Date _____
Importer / Authorized Representative
(Signature / Printed Name)

IMPORTANT: This ANL shall be served within 30 days from date of issuance. Please address any communication on this matter to the authorized officer(s) with address at Office of the Assistant Commissioner, Post Clearance Audit Group, CRIC Building, Gate 3 South Harbor, Port Area, Manila City.

 Gate 3, South Harbor, Port Area, Manila 1018
+63 (02) 8705-6000, +63 (02) 8527-1968 | www.customs.gov.ph | boc.cares@customs.gov.ph

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PCA PROCEDURE

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- The audit team shall prepare an audit plan to fit the specific circumstances of the audited company and meet the specific audit objectives in the most expeditious and transparent manner..
- Matters considered in the audit plan:
 - **Nature of the audit** (Industry audits vs specific audits; Transaction-based vs account-based audits)
 - **Number of field audits to be conducted**
 - **Issues to be focused on**
 - **Manner of Audit sampling**

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- Actual conduct of examination and inspection of goods declarations and accounting/financial records
- Can be field audits at importer's premises or table audits
- Commenced not later than sixty (60) days from receipt of ANL
- Completed within one hundred twenty (120) days per year of audit from receipt of ANL

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- Issuance of **Final Audit Report (FAR)** with **Demand letter (DL)** or **Clean Report of Findings (CRF)**
- **Demand Letter** shall contain a demand to pay not later than fifteen (15) calendar days from receipt to the Importer
- **CRF** shall be proof that the importer has no deficiency in taxes and is compliant with obligation to keep records

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15 May 2024

XXXXXXXXXXXXXXXXXXXX
President
Lina Alarcon
Level 10, Parkside Tower, 3rd Ave. Subic Bay,
Subic Bay City, Zambales

Dear Mr. **XXXXXXXXXX**:

This has reference to the compliance audit on **XXXXXXXXXX** (the "Company") under Audit Notification Letter (ANL) No. **XXXXXXXXXX** dated 19 January 2021, for the period from 28 March 2019 to 31 December 2020, pursuant to Customs Administrative Order (CAO) No. 01-2019.


Please be informed that after the examination and review of the import declarations and related financial records available in the Bureau, material misstatements, errors, or negative findings were found warranting the issuance of a deficiency assessment against the Company.¹

In view thereof, demand is hereby given to **XXXXXXXXXX** to pay the aforementioned deficiency duties, special safeguard duties, value added taxes and surcharges, including the penalties and legal interests thereon, in the total amount of **SEVENTEEN MILLION THREE HUNDRED FOUR THOUSAND THREE HUNDRED NINETY-ONE PESOS AND 38/100 (P17,304,391.38)**, within fifteen (15) days from receipt of this demand.

Payment shall be made at the Office of the Assistant Commissioner, Post Clearance Audit Group, 3rd Floor, CH Building, Gate 3 South Harbor, Port Area, Manila City.

Very truly yours,
BIENVENIDO Y. RUBIO
Commissioner

¹ The Assessment Notice and the Details of Discrepancies established during the compliance audit are shown in Annexes A-1 and A-2 accompanying this demand.

 Gate 3, South Harbor, Port Area, Manila 1018
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SAMPLE DEMAND LETTER

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BUREAU OF CUSTOMS

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- **Reconsideration of Audit Findings** - a plea for the re-evaluation of the audit findings on the basis of existing records.
- **Reinvestigation of Audit Findings** - plea for the re-evaluation of the audit findings on the basis of newly discovered or additional evidence. All new evidence must be submitted within thirty (30) days from filing, or else Request will be denied.
- Must be filed within fifteen (15) days from receipt of the Demand Letter.

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- When the request for reconsideration or reinvestigation is denied by the Commissioner, the Importer may appeal such denial to the **Court of Tax Appeals (CTA)** within thirty **(30) days** from receipt of the adverse ruling or decision of the Commissioner.

EFFECTS OF NON-COMPLIANCE

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EFFECTS OF NON-COMPLIANCE

Failure to Keep Records

- **Suspension or cancellation of accreditation as Importer or Broker with the Bureau;**
- **Surcharge of twenty percent (20%) on the dutiable value of the goods;**
- **Hold delivery or release of subsequent imported articles;**
- **Criminal prosecution punishable with imprisonment; and**
- **Waiver of the right to contest the results of the audit**

EFFECTS OF NON-COMPLIANCE

Failure or Refusal to Give Full or Free Access

- Punishment for contempt, for contumacy or for refusal to provide access;
- Re-assessment of the importations subject of audit;
- Surcharge of twenty percent (20%) on the dutiable value of the goods;
- Hold delivery or release of subsequent imported articles; and
- Criminal prosecution punishable with imprisonment

EFFECTS OF NON-COMPLIANCE

Failure to Pay Correct Duties and Taxes on Imported Goods

- **Negligence** - a penalty of one hundred twenty-five percent (125%) of the revenue loss.
Subject to Section 108, Chapter 2, Title I of the CMTA, a penalty of twenty-five percent (25%) of the revenue loss shall be imposed on an **Inadvertent Error** amounting to simple negligence.
- **Fraud** - a fine equivalent to six hundred percent (600%) of the revenue loss and/or imprisonment of not less than 2 years, but not more than 8 years.

EFFECTS OF NON-COMPLIANCE

Interest on Deficiency Duties, Taxes and Other Charges Plus Fine or Penalty

An interest of twenty percent **(20%)** per annum, counted from the date of final assessment as provided under Section 429 of the CMTA shall be imposed on:

- **Prior Disclosure Program availment;**
- **Deficiency duties, taxes and other charges;**
- **Fine or penalty, if any.**

EFFECTS OF NON-COMPLIANCE

Remedies of the Bureau to Collect

- **Distraint** of goods, chattels or effects and other personal property of whatever character
- **Levy** upon real property and interest in rights to real property
- **Civil or criminal action**

PRIOR DISCLOSURE PROGRAM (PDP)

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PRIOR DISCLOSURE PROGRAM (PDP)

- Formerly called the **Voluntary Disclosure Program (VDP)** under the old Post Entry Audit rules.
- A program authorizing the Commissioner of Customs to accept, as a **potential mitigating factor, prior disclosure by Importers of errors and omissions in goods declaration** resulting in deficiency in duties and taxes on past importations.
- Also includes disclosures on **royalties** and other **proceeds of any subsequent resale, disposal**, or use of the imported goods accruing directly or indirectly to the seller, or on any **subsequent adjustment to the price paid or payable**.

PRIOR DISCLOSURE PROGRAM (PDP)

Who may avail of the PDP?

1. Any importer without waiting for the issuance of an ANL
2. Any importer who has received an ANL

The following shall not be qualified for the PDP:

- Goods declaration which are the subject of pending cases
- Goods declaration which are covered by cases already filed and pending in courts
- Goods declaration involving Fraud

PRIOR DISCLOSURE PROGRAM (PDP)

When to file PDP?

- Before the receipt of any ANL
- Within ninety (90) days from receipt of the ANL
- In both cases, a filed PDP may be amended within thirty (30) days from date of filing

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PRIOR DISCLOSURE PROGRAM (PDP)

Effects of the PDP

- A. If **before ANL**, payment of the deficiency in duties and taxes due, plus 20% legal interest (per annum)
- B. If **after ANL**, payment of the deficiency in duties and taxes due, plus a penalty of ten percent (10%) of the basic deficiency, and 20% legal interest
- C. For royalties and other proceeds of any subsequent resale or disposal which have accrued to the seller, or if adjustments are made to the price paid or payable:
 - If disclosure is made within thirty (30) calendar days from date of payment, accrual, or adjustment, **payment of the deficiency in duties and taxes due without penalty and interest**
 - If disclosure is made beyond the thirty days period, it shall be subject to **A or B** in the preceding slide

PRIOR DISCLOSURE PROGRAM (PDP)

Waiver of Penalties and Interest

- Upon filing the PDP, the importer may request for a waiver of the imposable Penalty and Interest.
- The waiver shall be subject to the approval of the Commissioner, and final approval of the Secretary of Finance.
- If waiver is denied, a Demand Letter shall be sent to the Importer for payment of the imposable Penalty and Interest

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CONTACT DETAILS



Office of the Assistant Commissioner Post Clearance Audit Group (“PCAG”)

3rd Floor, CRIC Building, Gate 3, South Harbor, Port Area, Manila City
Tel: (+02) 87056091 | Email: pcag@customs.gov.ph

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Thank you!

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