

11 February 2020

**REPRESENTATIVE JOEY SALCEDA**

Chairperson  
Committee on Ways and Means  
House of Representatives  
Batasang Pambansa Complex  
Constitution Hills, Quezon City

Dear **Representative Salceda:**

We are pleased to submit the Department's position House Resolution No. 556, entitled:

**“A Resolution Directing the Committee on Ways and Means to Conduct an Inquiry, in Aid of Legislation, on Unabated Smuggling of Goods into the Country by Unscrupulous Operators of Customs Bonded Warehouses to the Detriment of Local Manufacturers and Producers and the Philippine Economy, with the end in view of Recommending Measures to Stop Smuggling Using the Warehousing System by Revisiting the Provisions of the Customs Modernization Tariff Act on Bonded Warehouses and Limiting the Type, Nature and Number of Bonded Warehouses”**

This is without prejudice to the Department's submission of additional inputs.

With my best regards.

Very truly yours,



**SECRETARY RAMON M. LOPEZ**

*CSA MR*

OFFICE OF THE SECRETARY

**DTI Position on  
House Resolution No. 556**

**“A Resolution Directing the Committee on Ways and Means to Conduct an Inquiry, in Aid of Legislation, on Unabated Smuggling of Goods into the Country by Unscrupulous Operators of Customs Bonded Warehouses to the Detriment of Local Manufacturers and Producers and the Philippine Economy, with the end in view of Recommending Measures to Stop Smuggling Using the Warehousing System by Revisiting the Provisions of the Customs Modernization Tariff Act on Bonded Warehouses and Limiting the Type, Nature and Number of Bonded Warehouses”**

The Department welcomes the intention to conduct an inquiry on the unscrupulous operations of custom bonded warehouses (CBWs) which lead to continuous smuggling of goods in the country, thus posing detrimental effects to local manufacturers and producers, and depriving the government of revenues. However, any legislation or reform arising from this inquiry should be enforced with consistent firmness and the greatest caution to address the problem of smuggling without impairing trade facilitation efforts.

Custom bonded warehouses are facilities accredited by the Bureau of Custom (BOC) that allow authorized exporters to import and store goods, raw materials, and other articles intended for further processing and exportation without payment of duties and taxes. In cases of diversion or withdrawal of goods for local consumption, the client-exporters are required to pay applicable taxes, duties and other charges for the imported materials. Smuggling occurs when a large part of the manufactured goods processed using such materials is declared as wastage that would eventually be sold for local consumption practically untaxed.

Smuggling is one of the factors seen to account for the occurrence of discrepancies in cross country trade data. For instance, data from ITC Trademap show a notable disparity in the 2018 trade data between the Philippines and China. The Philippines reported importing US\$22.58 billion worth of goods from China, while China reported exporting goods values at US\$35.11 billion to the Philippines, a huge gap of US\$12.53 billion.

In October 2019, the BOC released new guidelines on the establishment, operation, supervision, and control of CBWs under the Custom Administrative Order (CAO) No. 13-2019. This CAO applies to all types of CBWs listed in the Republic Act 10863 or the Customs Modernization Tariff Act (CMTA) as well as those that may be created by the Secretary of Finance, upon the recommendation of the Commissioner pursuant to Section 803 of the CMTA.

The DTI notes that exploitation of CBWs is unlawful and violators must be penalized. Penalties and fines on diversion and unauthorized withdrawal of imported goods are laid out in the CAO in reference to the provision on the CMTA:

*“Any person who causes the unauthorized withdrawal of imported goods stored from a CBW shall be liable for payment of a surcharge of fifty percent*

*(50%) of duties, taxes, customs fees, and charges, found to be due and unpaid. The amount of surcharge shall be added to the duties, taxes and charges due on the goods withdrawn.”<sup>1</sup>*

A study conducted by the Center for Research and Communication Foundation, Inc. (CRCFI) of the University of Asia and the Pacific (UA&P) revealed that PhP905 billion worth of goods were smuggled into the country in 2011 to 2015. Further, the study found that smuggling has been rampant in many industries such as petroleum, steel, wood, cigarette, resins, sugar, palm oil and automotive battery.

In addition, the CRCFI study estimated the impact and multiplier effects of the smuggled goods from the eight industries which is equivalent to PhP495.5 billion losses in the country's gross domestic product, PhP1.1 trillion losses in gross output, PhP77.2 billion losses in household income. It has also displaced 291,070 workers. These findings show how smuggling can have devastating effects on government revenues and industries, harm consumers, and undermine legitimate businesses.<sup>2</sup>

Despite the implementation of the CMTA and Anti-Agricultural Smuggling Act (RA No. 10845), the Philippines still suffers from detrimental effects of illicit trade and smuggling. The country does not lack policies to address such issues, instead problem lies on enforcement of existing laws and policies.<sup>3</sup>

The Department, however, expresses reservations on the intent to limit the type, nature and number of CBWs in order to end smuggling in bonded warehouses. Instead, we suggest continued strengthening of the audit process of the BOC and improving tax collection efficiency on CBWs.

Finally, the DTI notes that CBWs are incentives for legitimate exporters that unscrupulous traders abuse to the detriment of productive sectors of society and government. It is high time that concerted efforts by all concerned agencies be undertaken to address this problem that has plagued the manufacturing industry for years. While we support the firm enforcement of laws, the DTI advises the exercise of caution so as to ensure that any subsequent regulation will be made not to hamper but to facilitate export, assist exporters and manufacturers with products that require imported components, to develop and promote Philippine exports.

*Ricardito S. Javellana*

**Bureau of Trade and Industrial Policy Research**

**11 February 2020**

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<sup>1</sup> CMTA, Title XIV Chapter 1 Section 1422

<sup>2</sup> <https://www.pna.gov.ph/articles/1006726>

<sup>3</sup> <https://www.manilatimes.net/2017/08/22/opinion/editorial/many-industries-get-away-rampant-smuggling/346026/346026/>