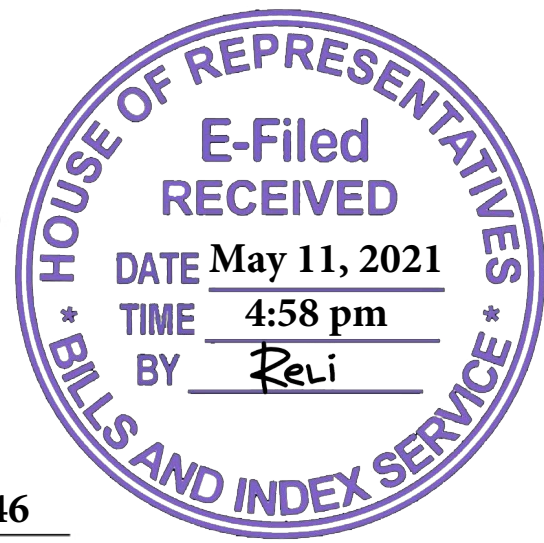


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
SECOND REGULAR SESSION



COMMITTEE REPORT NO. 946

Submitted by the Committees on Ways and Means and Appropriations on
May 11, 2021

Re : House Bill No. 9322

Recommending its approval in substitution of House Bills Numbered 783, 784,
800, 2591, 5278, and 5548

Sponsors: Representatives Joey Sarte Salceda, Sharon S. Garin, Rozzano Ruffino
B. Biazon, and Eric Go Yap

Mr. Speaker:

The Committees on Ways and Means and Appropriations to which were
referred

House Bill No. 783 introduced by Representative Rozzano Rufino B. Biazon,
entitled:

“AN ACT PROVIDING FOR A CLASSIFICATION SYSTEM FOR
THIRD PARTIES UNDER THE CUSTOMS MODERNIZATION
AND TARIFF ACT;”

House Bill No. 784 introduced by Representative Rozzano Rufino B. Biazon,
entitled:

“AN ACT PROVIDING FOR THE ACQUISITION OF THE
SERVICES OF A PRIVATE AUCTION HOUSE THAT SHALL
UNDERTAKE ALL PUBLIC AUCTIONS AT THE BUREAU OF
CUSTOMS, AMENDING FOR THIS PURPOSE REPUBLIC ACT
NO. 10863, OTHERWISE KNOWN AS THE CUSTOMS
MODERNIZATION AND TARIFF ACT;”

House Bill No. 800 introduced by Representative Rozzano Rufino B. Biazon,
entitled:

“AN ACT AMENDING REPUBLIC ACT NO. 10863 OTHERWISE
KNOWN AS THE CUSTOMS MODERNIZATION AND TARIFF
ACT;”

House Bill No. 2591 introduced by Representative Jose L. Atienza, Jr., entitled:

“AN ACT AMENDING SECTION 440 OF REPUBLIC ACT 10863, OTHERWISE KNOWN AS THE ‘CUSTOMS MODERNIZATION AND TARIFF ACT (CMTA)’; and

House Bill No. 5278 introduced by Representative Rodante D. Marcoleta, entitled:

“AN ACT REQUIRING THE DECLARATION OF THE VALUE OF IMPORTED GOODS IN SHIPPING AND AIRLINE DOCUMENTS AND PROHIBITING FRAUDULENT ALTERATION OF CARGO MANIFEST, BILL OF LADING, AND AIRWAY BILL AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 10863, OTHERWISE KNOWN AS THE ‘CUSTOMS MODERNIZATION AND TARIFF ACT”

House Bill No. 5548 introduced by Representative Sharon S. Garin, entitled:

“AN ACT AMENDING FOR THE PURPOSE SECTIONS 102, 119, 201, 307, 402, 405, 407, 431, 802, 806, 1135, 1100, 1129, 1147, 1400 AND 1226 AND DELETING SECTION 709 OF THE REPUBLIC ACT NO. 10863 OTHERWISE KNOWN AS THE CUSTOMS MODERNIZATION AND TARIFF ACT;”

have considered the same and recommend that the attached House Bill No. **9322**, entitled:

“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 SECTION 709; AND ADDING SECTION 440-A, ALL UNDER REPUBLIC ACT NO. 10863, OTHERWISE KNOWN AS THE CUSTOMS MODERNIZATION AND TARIFF ACT”

be approved in substitution of House Bills Numbered 783, 784, 800, 2591, 5278 and 5548 with Representatives Sharon S. Garin, Rozzano Rufino B. Biazon, Joey Sarte Salceda, Jose L. Atienza Jr., Rodante D. Marcoleta, Eric Go Yap, Rose Marie "Baby" J. Arenas, Evelina G. Escudero, Ferdinand L. Hernandez, Strike B. Revilla, Rufus B. Rodriguez, Deogracias Victor "DV" B. Savellano, Kristine Singson-Meehan, Tyrone D. Agabas, Christopher V.P. De Venecia, Stella Luz A. Quimbo, Carlos Isagani T. Zarate, Elenita Milagros "Eileen" Ermita-Buhain, Lorna P. Bautista-Bandigan, Luis N. Campos, Jr., Junie E. Cua, Luisa Lloren Cuaresma, Paul Ruiz Daza, Rudys Caesar G. Fariñas I, Vincent Franco "Duke" D. Frasco, Greg G. Gasataya, Ed Christopher S. Go, Ruwel Peter S. Gonzaga, Sandro L. Gonzalez, Teodorico Haresco, Jr., Romeo M. Jalosjos, Jr., Jocelyn Sy Limkaichong, Corazon T. Nuñez-Malanyaon, Romeo S. Momo, Sr., Manuel T. Sagarbarria, David "Jay-Jay" C. Suarez, Jose Antonio "Kuya"

Sy-Alvarado, Alfred Vargas, Micaela S. Violago, Manuel F. Zubiri, Antonio "Tonypet" T. Albano, Angelo Marcos Barba, Alfel M. Bascug, Jose Francisco "Kiko" B. Benitez, Ph.D., Gabriel H. Bordado, Jr., Fernando T. Cabredo, Carl Nicolas C. Cari, Sergio C. Dagooc, Maximo Y. Dalog, Jr., Alfred C. Delos Santos, Abdullah D. Dimaporo, Mohamad Khalid Q. Dimaporo, Faustino "Inno" A. Dy V, Faustino Michael Carlos T. Dy III, Jocelyn F. Fortuno, Ramon "Mon-Mon" V. Guico III, DPM, Eduardo "Eddie" R. Gullas, Godofredo N. Guya, Ann K. Hofer, Cesar "Jawo" L. Jimenez, Jr., Glona G. Labadlabad, Maricel G. Natividad-Nagaño, Pablo C. Ortega, Joy Myra S. Tambunting, Alyssa Sheena P. Tan, John Reynald M. Tiangco, Diego "Nonoy" C. Ty, Samantha Louise Vargas Alfonso, Rosanna "Ria" V. Vergara, Leonardo L. Babasa, Jr., Michael T. Defensor, Sandra Y. Eriguel, M.D., Jonathan Keith T. Flores, Ferdinand R. Gaité, Mark O. Go, Virgilio S. Lacson, Florida "Rida" P. Robes, Estrellita B. Suansing, Cheryl P. Deloso-Montalla, Janette L. Garin, Jericho Jonas B. Nograles, Jose Gay G. Padiernos, Roman T. Romulo, Manuel Jose "Mannix" M. Dalipe, Arnie B. Fuentesbella, Angelina "Helen" D.L. Tan, Jumel Anthony I. Espino, Pablo John F. Garcia, Sonny "SL" L. Lagon, Ramon C. Nolasco Jr., Jesus "Bong" C. Suntay, Janice Z. Salimbangon, Johnny Ty Pimentel, Weslie Gatchalian, Horacio P. Suansing Jr., Joaquin M. Chipeco Jr., Jose Pingping I. Tejada and Shirlyn L. Bañas-Nograles, as authors.

Respectfully submitted



ERIC GO YAP
Chairperson
Committee on Appropriations



JOEY SARTE SALCEDA
Chairperson
Committee on Ways and Means

**THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY**

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 9322

(In substitution of House Bills Numbered 783, 784, 800, 2591, 5278 and 5548)

Introduced by Representatives Sharon S. Garin, Rozzano Rufino B. Biazon, Joey Sarte Salceda, Jose L. Atienza Jr., Rodante D. Marcoleta, Eric Go Yap, Rose Marie "Baby" J. Arenas, Evelina G. Escudero, Ferdinand L. Hernandez, Strike B. Revilla, Rufus B. Rodriguez, Deogracias Victor "DV" B. Savellano, Kristine Singson-Meehan, Tyrone D. Agabas, Christopher V.P. De Venecia, Stella Luz A. Quimbo, Carlos Isagani T. Zarate, Elenita Milagros "Eileen" Ermita-Buhain, Lorna P. Bautista-Bandigan, Luis N. Campos, Jr., Junie E. Cua, Luisa Lloren Cuaresma, Paul Ruiz Daza, Rudys Caesar G. Fariñas I, Vincent Franco "Duke" D. Frasco, Greg G. Gasataya, Ed Christopher S. Go, Ruwel Peter S. Gonzaga, Sandro L. Gonzalez, Teodorico Haresco, Jr., Romeo M. Jalosjos, Jr., Jocelyn Sy Limkaichong, Corazon T. Nuñez-Malanyaon, Romeo S. Momo, Sr., Manuel T. Sagarbarria, David "Jay-Jay" C. Suarez, Jose Antonio "Kuya" Sy-Alvarado, Alfred Vargas, Micaela S. Violago, Manuel F. Zubiri, Antonio "Tonypet" T. Albano, Angelo Marcos Barba, Alfel M. Bascug, Jose Francisco "Kiko" B. Benitez, Ph.D., Gabriel H. Bordado, Jr., Fernando T. Cabredo, Carl Nicolas C. Cari, Sergio C. Dagooc, Maximo Y. Dalog, Jr., Alfred C. Delos Santos, Abdullah D. Dimaporo, Mohamad Khalid Q. Dimaporo, Faustino "Inno" A. Dy V, Faustino Michael Carlos T. Dy III, Jocelyn F. Fortuno, Ramon "Mon-Mon" V. Guico III, DPM, Eduardo "Eddie" R. Gullas, Godofredo N. Guya, Ann K. Hofer, Cesar "Jawo" L. Jimenez, Jr., Glona G. Labadlabad, Maricel G. Natividad-Nagaño, Pablo C. Ortega, Joy Myra S. Tambunting, Alyssa Sheena P. Tan, John Reynald M. Tiangco, Diego "Nonoy" C. Ty, Samantha Louise Vargas Alfonso, Rosanna "Ria" V. Vergara, Leonardo L. Babasa, Jr., Michael T. Defensor, Sandra Y. Eriguel, M.D., Jonathan Keith T. Flores, Ferdinand R. Gaité, Mark O. Go, Virgilio S. Lacson, Florida "Rida" P. Robes, Estrellita B. Suansing, Cheryl P. Deloso-Montalla, Janette L. Garin, Jericho Jonas B. Nograles, Jose Gay G. Padiernos, Roman T. Romulo, Manuel Jose "Mannix" M. Dalipe, Arnie B. Fuentesbella, Angelina "Helen" D.L. Tan, Jumel Anthony I. Espino, Pablo John F. Garcia, Sonny "SL" L. Lagon, Ramon C. Nolasco Jr., Jesus "Bong" C. Suntay, Janice Z. Salimbangon, Johnny Ty Pimentel, Weslie Gatchalian, Horacio P. Suansing Jr., Joaquin M. Chipeco Jr., Jose Pingping I. Tejada and Shirlyn L. Bañas-Nograles

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

1 **OR ENTITIES TRANSACT WITH THE BUREAU ON MATTERS** relating to
2 the importation, exportation, movement or storage of goods.

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

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

8 Unpaid duties, taxes and other charges shall incur legal interest of twenty
9 percent (20%) per annum computed from the date of final assessment under Section
10 429 of this Act **OR UPON RECEIPT OF THE DEMAND TO PAY**
11 **DEFICIENCIES IN DUTIES AND TAXES ISSUED BY THE**
12 **COMMISSIONER IN CASE OF POST CLEARANCE AUDIT**, when payment
13 becomes due and demandable. The legal interest shall likewise accrue on any fine or
14 penalty imposed.

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

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

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

21 (a) x x x

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

26 x x x.”

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

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

4 (a) x x x;

5 (b) x x x;

6 (c) x x x;

7 (d) Review and decide disputed assessments and other matters related thereto,
8 subject to [review by the Secretary of Finance and] the exclusive appellate jurisdiction
9 of the Court of Tax Appeals (CTA);

10 (e) x x x

11 (f) Assignment or reassignment of any customs officer subject to the approval
12 of the Secretary of Finance: [Provided, That District Collectors and other customs
13 officers that perform assessment functions shall not remain in the same area of
14 assignment for more than three (3) years;] **PROVIDED, THAT THE MOVEMENT**
15 **OF A CUSTOMS OFFICER WITH SALARY GRADE 24 AND ABOVE OR**
16 **THOSE DESIGNATED AS DIVISION CHIEF SHALL BE BASED ON**
17 **REVENUE TARGET COLLECTION PERFORMANCE;**

18 (g) x x x.”

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

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

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

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

11 “**SEC. 423.** *Determination of the De Minimis Value.*— No duties and taxes
12 shall be collected on goods with an FOB or FCA value of ten thousand pesos
13 (₱10,000.00) or below. The Secretary of Finance [shall adjust] **MAY INCREASE**
14 **OR DECREASE** the *de minimis* value as provided herein, every three (3) years after
15 the effectivity of this Act. [The value herein stated shall be adjusted to its present
16 value using the CPI, as published by the PSA].”

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

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

22 (1) x x x

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

26 (3) x x x;

1 (4) x x x.”

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

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

7 x x x.”

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

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

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

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

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

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

26 (a) x x x

1 (b) x x x

2 (c) x x x

3 (d) x x x

4 (e) x x x

5 (f) x x x

6 (g) [Residents of the Philippines,] OFWs or other Filipinos while residing
7 abroad or upon their return to the Philippines shall be allowed to bring in or send to
8 their families or relatives in the Philippines balikbayan boxes which shall be exempt
9 from applicable duties and taxes imposed under the NIRC of 1997, as amended:
10 *Provided*, That balikbayan boxes shall contain personal and household effects only
11 and shall neither be in commercial quantities nor intended for barter, sale or for hire
12 and that the FCA value of which shall not exceed one hundred fifty thousand pesos
13 (₱150,000.00); *Provided, Further*, That every three (3) years after the effectivity of
14 this Act, the Secretary of Finance shall adjust the amount herein stated to its present
15 value using the CPI as published by the PSA; *Provided, Finally*, That [residents of
16 the Philippines,] OFWs or other Filipinos **WHILE RESIDING ABROAD** can only
17 avail of this privilege up to [three times] **A MAXIMUM FCA VALUE OF THREE**
18 **HUNDRED THOUSAND PESOS (PHP300,000.00)** in a calendar year. Any
19 amount in excess of the allowable non-dutiable value shall be subject to the applicable
20 duties and taxes;

21 1) x x x.”

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

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

24 Manufacturing customs bonded warehouse may be of the following types; (a)
25 miscellaneous customs bonded warehouse; (b) customs common bonded warehouse;

1 [or] (c) industry-specific bonded warehouse; **OR (D) GARMENTS AND**
2 **TEXTILES BONDED WAREHOUSE.**

3 x x x.”

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

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

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

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

19 (B) x x x

20 (C) x x x

21 (1) x x x

22 (2) x x x

23 (3) x x x

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

1 from the date of exportation; and

2 (5) x x x”

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

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

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

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

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

24 “**SEC. 1111. *Alert Orders.*** – Alert orders are written orders issued by
25 customs officers as authorized by the Commissioner on the basis of derogatory
26 information regarding possible noncompliance with this Act. An alert order will result

1 in the suspension of the processing of the goods declaration and the conduct of
2 [physical or nonintrusive] inspection of the goods within forty-eight (48) hours from
3 issuance of the order: **PROVIDED, THAT THE TERMINAL OPERATORS**
4 **SHALL ENSURE THAT THE INSPECTION IS SCHEDULED AND**
5 **CONDUCTED WITHIN THE SAID PERIOD.** Within forty-eight (48) hours or, in
6 the case of perishable goods, within twenty-four (24) hours from inspection, the
7 alerting officer shall recommend the continuance of processing of goods in case of a
8 negative finding, or issuance of a warrant of seizure and detention if a discrepancy
9 between the declaration and actual goods is found. The Bureau's information system
10 shall immediately reflect the imposition or lifting of an alert order.

11 x x x

12 (a) x x x

13 (b) x x x

14 (c) x x x

15 (d) x x x

16 x x x

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

21 x x x.”

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

23 “**SEC. 1117.** *Warrant of Seizure or Order of Release.* – The District
24 Collector shall have the authority to issue a warrant of seizure of the goods upon
25 determination of the existence of probable cause and in case of nonexistence thereof,
26 [the issuance of the order of release] **RECOMMEND THE LIFTING OF THE**

1 **ALERT ORDER.** In case the District Collector [issued an order of release,]
2 **RECOMMENDS THE LIFTING OF THE ALERT ORDER,** the District
3 Collector shall immediately transmit all the records to the Commissioner, who shall
4 automatically review **THE LIFTING OF THE ALERT ORDER** within forty-eight
5 (48) hours, or **IN CASE OF PERISHABLE GOODS,** within twenty-four (24)
6 hours. [, in case of perishable goods.] When no decision is made by the Commissioner
7 within the prescribed period, the imported goods shall be deemed lifted.

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

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

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

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

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

21 (a) x x x; or

22 (b) When the owner, importer, consignee, or interested party after due notice,
23 fails to [file] **LODGE** the goods declaration **AND PAY THE DUTIES AND**
24 **TAXES BASED ON SELF-ASSESSMENT** within the prescribed period in
25 Section 407 of this Act: *Provided,* That the term goods declaration shall include
26 provisional or incomplete goods declaration deemed valid by the Bureau as provided

1 in Section 403 of this Act. For this purpose, it is the duty of the District Collector to
2 post a list of all packages discharged and their consignees, whether electronically or
3 physically in the District Office, or send a notice to the consignee within five (5) days
4 from the date of discharge; or

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

15 [(d) Having paid the assessed duties, taxes and other charges, the owner,
16 importer or consignee or interested party after due notice, fails to claim the goods
17 within thirty (30) days from payment. For this purpose, the arrastre or warehouse
18 operator shall report the unclaimed goods to the District Collector for disposition
19 pursuant to the provisions of this Act; or]

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

22 x x x.”

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

24 “**SEC. 1131.** *Authority of the Commissioner to [Make] Compromise.* –
25 [Subject to the approval of the Secretary of Finance,] The Commissioner may
26 compromise any **CIVIL OR** administrative case arising under this Act involving the

1 imposition of fines and surcharges, including those arising from the conduct of a post
2 clearance audit, unless otherwise specified by law.

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

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

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

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

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

26 x x x.”

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

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

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

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

24 Upon arrival of the carrying vessel, the shipping company, NVOCC, freight
25 forwarder, cargo consolidator, or their agents shall provide two (2) hard copies of the
26 cargo manifest to the Bureau in case the port of entry is either the Port of Manila

1 (PoM) or the Manila International Container Port (MICP), and one (1) copy in the
2 case of the other ports of entry.

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

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

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

18 A. [Upon the recommendation of the] **THE** Commissioner, **WITH THE**
19 **APPROVAL OF** the Secretary of Finance, shall issue rules and regulations to
20 govern and regulate the conduct of all third parties dealing directly with the
21 Bureau in relation to the importation, exportation, movement, storage and
22 clearance of goods for and on behalf of another person. The rules and regulations
23 shall provide for specific conditions when third parties may or may not directly
24 transact with the Bureau **WHICH SHALL INCLUDE A RISK**
25 **MANAGEMENT SYSTEM FOR THIRD PARTIES, TAKING INTO**
26 **ACCOUNT THEIR CAPITALIZATION, VOLUME OF TRANSACTIONS,**

1 TRACK RECORD, AND ANY OTHER FACTOR AFFECTING THEIR
2 CAPABILITY TO IMPORT, EXPORT, MOVE, STORE OR CLEAR
3 GOODS. [shall provide a written notice in case such third parties are, for valid
4 reasons, barred from transacting with the Bureau]

5 B. THE BUREAU SHALL CREATE A COMMITTEE COMPOSED OF
6 REPRESENTATIVES FROM THE BUREAU OF CUSTOMS AND THE
7 DEPARTMENTS OF FINANCE, TRADE AND INDUSTRY,
8 TRANSPORTATION, AND THE NATIONAL ECONOMIC AND
9 DEVELOPMENT AUTHORITY, AND OTHER GOVERNMENT
10 AGENCIES REGULATING THIRD PARTIES THAT TRANSACT WITH
11 THE BUREAU. THE COMMITTEE, WHICH SHALL BE CHAIRED BY
12 THE SECRETARY OF FINANCE, SHALL PRESCRIBE AND
13 REGULATE RATES AND OTHER CHARGES FOR THE SERVICES
14 RENDERED BY THESE THIRD PARTIES IN ACCORDANCE WITH
15 THE TRADE FACILITATION PLANS AND PROGRAMS OF THE
16 COUNTRY.

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

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

23 “**SEC. 1400.** *Misdeclaration, Misclassification, Undervaluation in Goods*
24 *Declaration.*— Misdeclaration as to quantity, quality, description, weight, or
25 measurement of the goods, or misclassification through insufficient or wrong
26 description of the goods or use of wrong tariff heading resulting to a discrepancy in

1 duty and tax to be paid between what is legally determined upon assessment and
2 what is declared, shall be subject to a surcharge equivalent to two hundred fifty
3 percent (250%) of the duty and tax due. No surcharge shall be imposed when the
4 discrepancy in duty **AND TAX** is less than ten percent (10%), or when the declared
5 tariff heading is rejected in a formal customs dispute settlement process involving
6 [difficult or] A highly technical question of tariff classification, or when the tariff
7 classification declaration relied on an official government ruling.”

8 x x x

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

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

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

19 “**SEC. 1512.** *Reward to Persons Instrumental in the Actual Collection of*
20 *Additional Revenues Arising from the Discovery of Violations of this Act.* – A cash
21 reward equivalent to twenty percent (20%) **OR TEN MILLION PESOS**
22 **(PHP 10,000,000.00), WHICHEVER IS LOWER,** of the actual proceeds from the
23 sale of smuggled goods and confiscated goods or actual collection of additional
24 revenues shall be given to the [customs and] non-customs informers or
25 whistleblowers who are instrumental in the collection of additional revenues arising
26 from the discovery of violations of this Act in accordance with the rules and

1 regulations to be issued by the Secretary of Finance: **PROVIDED, THAT THE**
2 **NON-CUSTOMS INFORMERS OR WHISTLEBLOWERS ARE NOT**
3 **RELATED TO ANY CUSTOMS OFFICER OR EMPLOYEE WITHIN THE**
4 **FOURTH CIVIL DEGREE OF CONSAGUINITY OR AFFINITY.”**

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

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

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

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

16 Approved,

House of Representatives
Committee Affairs Department

FACT SHEET

House Bill No. **9322**

(In substitution of House Bills Numbered 783, 784, 800, 2591, 5278 and 5548)

“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 SECTION 709; AND ADDING SECTION 440-A
ALL UNDER REPUBLIC ACT NO. 10863, OTHERWISE KNOWN
AS THE CUSTOMS MODERNIZATION AND TARIFF ACT”

Introduced by: Representatives Sharon S. Garin, Rozzano Rufino B. Biazon, Joey Sarte Salceda, Jose L. Atienza Jr., Rodante D. Marcoleta, Rose Marie "Baby" J. Arenas, Evelina G. Escudero, Ferdinand L. Hernandez, Strike B. Revilla, Rufus B. Rodriguez, Deogracias Victor "DV" B. Savellano, Kristine Singson-Meehan, Tyrone D. Agabas, Christopher V.P. De Venecia, Stella Luz A. Quimbo, Carlos Isagani T. Zarate, Elenita Milagros "Eileen" Ermita-Buhain, Lorna P. Bautista-Bandigan, Luis N. Campos, Jr., Junie E. Cua, Luisa Lloren Cuaresma, Paul Ruiz Daza, Rudys Caesar G. Fariñas I, Vincent Franco "Duke" D. Frasco, Greg G. Gasataya, Ed Christopher S. Go, Ruwel, Peter Gonzaga, Sandro L. Gonzalez, Teodorico Haresco, Jr., Romeo M. Jalosjos, Jr., Jocelyn Sy Limkaichong, Corazon T. Nuñez-Malanyaon, Romeo S. Momo, Sr., Manuel T. Sagarbarria, David "Jay-Jay" C. Suarez, Jose Antonio "Kuya" Sy-Alvarado, Alfred Vargas, Micaela S. Violago, Manuel F. Zubiri, Antonio "Tonypet" T. Albano, Angelo Marcos Barba, Alfel M. Bascug, Jose Francisco "Kiko" B. Benitez, Ph.D., Gabriel H. Bordado, Jr., Fernando T. Cabredo, Carl Nicolas C. Cari, Sergio C. Dagooc, Maximo Y. Dalog, Jr., Alfred C. Delos Santos, Abdullah D. Dimaporo, Mohamad Khalid Q. Dimaporo, Faustino "Inno" A. Dy V, Faustino Michael Carlos T. Dy III, Jocelyn F. Fortuno, Ramon "Mon-Mon" V. Guico III, DPM, Eduardo "Eddie" R. Gullas, Godofredo N. Guya, Ann K. Hofer, Cesar "Jawo" L. Jimenez, Jr., Glona G. Labadlabad, Maricel G. Natividad-Nagaño, Pablo C. Ortega, Joy Myra S. Tambunting, Alyssa Sheena P. Tan, John Reynald M. Tiangco, Diego "Nonoy" C. Ty, Samantha Louise Vargas Alfonso, Rosanna "Ria" V. Vergara, Leonardo L. Babasa, Jr., Michael T. Defensor, Sandra Y. Eriguel, M.D., Jonathan Keith T. Flores, Ferdinand R. Gaité, Mark O. Go, Virgilio S. Lacson, Florida "Rida" P. Robes, Estrellita B. Suansing, Cheryl P. Deloso-Montalla, Janette L. Garin, Jericho Jonas B. Nograles, Jose Gay G. Padiernos, Roman T. Romulo, Manuel Jose "Mannix" M. Dalipe, Arnie B. Fuentebella, Angelina "Helen" D.L. Tan, Jumel Anthony I. Espino, Pablo John F. Garcia, Sonny

"SL" L. Lagon, Ramon C. Nolasco Jr., Jesus "Bong" C. Suntay, Janice Z. Salimbangon, Johnny Ty Pimentel, Weslie Gatchalian, Horacio P. Suansing Jr., Joaquin M. Chipeco Jr., Jose Pingping I. Tejada and Shirlyn L. Bañas-Nogralas

*Committee Referral: **COMMITTEE ON WAYS AND MEANS***
*Committee Chairperson: **REP. JOEY SARTE SALCEDA***

OBJECTIVE:

- To improve trade facilitation and assist the government in revenue collection

KEY PROVISIONS:

- Provides a classification system for third parties which shall be used in the assessment of their capabilities to import, export, move store or clear goods;
- Requires the acquisition of the services of a private auction house to undertake BOC public auctions to minimize collusion between BOC employees and favored bidders to the disadvantage of the government;
- Establishes a pre-shipment inspection of cargoes dependent upon risk-based parameters as determined by the Bureau and other competent authorities;
- Requires common carriers to declare the value of imported goods and articles from a foreign port in shipping and airline documents, and prohibit fraudulent alteration of the cargo manifest, bill of lading and airway bill;
- Ensures effective control and management of Customs Bonded Warehouses (CBW) and Customs Freight Warehouses (CFW) based on appropriate business requirements;
- Defines the authority of district collectors in processing tariff classification cases;
- Simplifies the issuance and conduct of alert orders and warrants of seizure; and
- Requires the presentation of certain documents by vessels coming from foreign ports in order to facilitate trade security and avoid smuggling

RELATED LAW:

- RA No. 10863, otherwise known as the "Customs Modernization and Tariff Act"