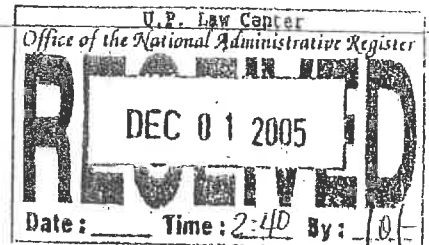




Republic of the Philippines
DEPARTMENT OF AGRICULTURE
NATIONAL TOBACCO ADMINISTRATION
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MEMORANDUM CIRCULAR NO. 04, SERIES 2005

TO : ALL EXPORTERS OF CIGARETTES

SUBJECT : REGULATION ON THE EXPORTATION OF CIGARETTES EXCLUSIVELY FOR SALE IN THE PHILIPPINE DOMESTIC MARKET

WHEREAS, it has come to the attention of the National Tobacco Administration (NTA) that there have been incidents of exportation of cigarettes which are intended by the manufacturers thereof to be sold only domestically, misdeclaration of exports, or non-compliance with pertinent rules and regulations being implemented by the NTA;

WHEREAS, this practice of cigarette exporters appears to undermine the development of the Philippine tobacco industry and places the Philippines in danger of violating its obligations under international treaties or conventions to which the Philippines is a party; and,

WHEREAS, in consonance with the power and authority vested on the NTA to regulate the tobacco industry and pursuant to NTA Board Resolution No. 093-2005, dated 26 October 2005, this Memorandum Circular is hereby issued to supplement the NTA Amended Rules and Regulations Governing the Exportation and Importation of Tobacco and Tobacco Products.

SECTION 1. OBJECTIVE

To provide a mechanism to eliminate the unlawful export of cigarettes intended exclusively for sale in Philippine domestic market.

SECTION 2. SCOPE

This Memorandum Circular shall apply to all exporters of cigarettes.

For purposes of this Memorandum Circular, "exporter" shall refer to any person, natural or juridical, who will bring cigarettes out of the Philippines in commercial quantities for sale or for any other purpose abroad.

SECTION 3. EXPORT OF CIGARETTES INTENDED ONLY FOR DOMESTIC SALE

- a. All exports of cigarette products from the Philippines shall be covered by an Export Commodity Clearance (ECC) duly issued by the NTA.

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- b. Export Commodity Clearance (ECC) shall not be issued by the NTA for cigarettes contained in packs, reams, cartons, shipping cases, or other similar containers bearing the marking **"FOR DOMESTIC SALE ONLY"**, **"NOT FOR EXPORT"**, or other words or phrases of similar import, or which would otherwise indicate that such cigarettes are intended exclusively for sale in the Philippine domestic market.

ECC shall not be issued likewise where there is evidence that such markings have been erased, altered, cancelled or otherwise tampered with.

- c. Any exporter, who is not the local manufacturer of the cigarette product, subject of the exportation, marked "FOR DOMESTIC SALE ONLY", "NOT INTENDED FOR EXPORT" and similar markings, shall not be issued an ECC by the NTA, until the said exporter shall submit a notarized certification from the local manufacturer that it interposes no objection to the export of the subject cigarette products.

Provided, however, that any local manufacturer may allow the exportation and request the NTA to waive the requirement under this paragraph with respect to its product.

- d. For exporters of cigarettes other than cigarette manufacturers, no loading of cigarette products onto shipping or transport containers (overland, sea freight, airfreight) shall commence, and no transfer of cigarette products to transport companies/couriers, consolidators, CFS or LCL receiving stations, and others shall be undertaken, in the absence of an authorized inspector from the NTA who shall inspect the cigarettes for export and monitor the entire loading and transfer operations until completion. The NTA inspector shall be allowed to obtain samples of the cigarettes intended for export to be submitted to the cigarette manufacturer concerned for their own analysis/evaluation or, if circumstances so warrant, the NTA inspector shall be joined by representative(s) of cigarette manufacturer(s) at the latter's request duly approved by the NTA Administrator or his duly authorized representative. Upon loading, the NTA shall then witness the sealing of the containers.
- e. In addition to all other requirements, it shall be mandatory for exporters other than cigarette manufacturers applying for an ECC in connection with cigarettes intended for export abroad to execute a sworn certification confirming that such cigarettes do not bear the markings specified in Paragraph b hereof. The certification shall be sworn to before a notary public or other officer competent to administer oaths, and shall contain the following language:

"I, [name], the [position] of [company], hereby certify, attest, and confirm, under pain of perjury and other punishments imposed by applicable laws and regulations, that the [cigarettes, cigars, and/or other tobacco products shall be specified, both as to manufacturer, brand and quantity] sought to be exported comply with the export marking requirements contained in Section 30, Republic Act No. 9211 (the Tobacco Regulation Act of 2003) and other relevant laws and

regulations. Specifically, I attest that the tobacco products intended for export do not bear the markings "For Domestic Sale Only", "Not For Export" or other words or phrases of similar import, or which would otherwise indicate that such cigarettes are intended exclusively for sale in the Philippine domestic market."

or, if the exportation is authorized by the manufacturer concerned, a sworn certification shall be submitted and which shall contain the following language:

"I, [name], the [position] of [company], hereby certify, attest, and confirm, under pain of perjury and other punishments imposed by applicable laws and regulations, that the [cigarettes, cigars, and/or other tobacco products shall be specified, both as to manufacturer, brand and quantity] sought to be exported bears the written consent of the manufacturer. Specifically, I attest that the tobacco products intended for export bear the marking "For Export Only" or other words or phrases of similar import, or which would otherwise indicate that such cigarettes are intended exclusively for export."

Should the Applicant be an association, partnership, corporation, other juridical entity, the sworn certification may only be executed by the President, Vice-President, General Manager, or other senior officer duly authorized to issue the sworn certification.

- f. If there is any misrepresentation in the cigarette shipment to be exported or in any document submitted by the exporter in support of the cigarette shipment, the cigarettes sought to be exported shall be summarily confiscated for destruction, and that the NTA after due investigation shall suspend and/or cancel the authority of the erring licensee to export tobacco products and shall be temporarily or perpetually prohibited from applying for any authority to export tobacco products in the future at the discretion of the NTA Administrator.

SECTION 4. EFFECTIVITY

This Memorandum Circular shall take effect immediately.

BY AUTHORITY OF THE NTA BOARD OF DIRECTORS


CARLITOS S. ENCARNACION

Administrator 