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By: Francisco E. Cruz Febus
Auxiliary Secretary of Government Affairs

PUERTO RICO PORTS AUTHORITY

REGULATION FOR THE CONTINUING IMPLEMENTATION OF THE NECESSARY MEANS TO GUARANTEE AN EFFICIENT FLOW OF COMMERCIAL TRAFFIC IN THE SCANNING OF INBOUND CARGO CONTAINERS, TO SUSTAIN AN IMPROVEMENT OF SECURITY AND SAFETY AT PORT FACILITIES, AND/OR TO OTHERWISE MAINTAIN THE IMPLEMENTATION OF THE PUBLIC POLICY OF THE COMMONWEALTH OF PUERTO RICO DELEGATED UPON THE PUERTO RICO PORTS AUTHORITY

ARTICLE I. INTRODUCTION AND LEGAL GROUNDS

A. The Puerto Rico Ports Authority (the Authority) owns, supervises, and administers the maritime facilities of the Port of San Juan, through which most of the domestic and foreign products are imported into the Island of Puerto Rico, most commonly inside Inbound Cargo Containers. The Authority has the responsibility of guaranteeing, among others, both port security and an efficient commercial traffic flow. In addition to the aforementioned responsibilities, the Authority must implement and fully comply with its law and contractual obligations.

B. Although the previously mentioned Inbound Cargo Containers should include only the items and products disclosed in the Ship's Manifest and/or on its Bill of Lading, it is a well-known fact that the Inbound Cargo Containers may sometimes include undisclosed items and products that are to be cleverly introduced as contraband into Puerto Rico in order to avoid the payment of the applicable excise tax, of other related taxes, or to otherwise avoid their detection. This practice has a direct and negative effect upon Puerto Rico's tax revenues.

C. On August 2, 2007, the Authority and the Treasury Department, along with several other agencies and instrumentalities of the Government of Puerto Rico, entered into a multi-party agreement, whereby the parties, among other things, agreed to cooperate with— and support— the Treasury Department's tax fiscalization efforts. This agreement places upon the participant agencies the responsibility of coordinating and cooperating among each other in order to implement an efficient tax collection process that provides minimal disturbances to the flow of merchandize arriving at the ports.

D. Thereafter, on February 18, 2008, the Commonwealth of Puerto Rico approved Act No. 12 of February 18, 2008, which adopted the purpose, findings, and policy objectives outlined in the aforementioned multi-party agreement.

E. Subsequently, on February 16th, 2011, the Treasury Department of the Government of Puerto Rico and the Authority signed a Memorandum of Understanding between themselves that set forth specifically how these two public entities would conform and cooperate in furtherance of such obligations and public policy objectives.

F. In response to the mandate of Act No. 12, *supra*, and in compliance with the Memorandum of Understanding signed with the Puerto Rico Treasury Department, the Authority has and will continue to maintain a fast track method of inspecting Inbound Cargo Containers, which detect undisclosed taxable goods, as well as increase port security in the Port of San Juan, while preserving a free flow of commerce and the efficient movement of cargo.

G. The fast track method selected by the Authority is a non- intrusive cargo scanning (imaging) system under which up to 100% of all Inbound Cargo Containers may be scanned. This is an effective method that seeks to maximize the safety and security of the ports of Puerto Rico, and which accommodates the Department of the Treasury's tax enforcement/collection goals, while preserving an efficient flow of commercial traffic. The inspection process of any foreign Inbound Cargo Containers or foreign cargo that arrive to the island of Puerto Rico will commence after US Customs and Border Protection has completed its inspection process and released federal interests in the containers.

H. These rules shall be known as REGULATION FOR THE CONTINUING IMPLEMENTATION OF THE NECESSARY MEANS TO GUARANTEE AN EFFICIENT FLOW OF COMMERCIAL TRAFFIC IN THE SCANNING OF INBOUND CARGO CONTAINERS, TO SUSTAIN AN IMPROVEMENT OF SECURITY AND SAFETY AT PORT FACILITIES, AND/OR TO OTHERWISE MAINTAIN THE IMPLEMENTATION OF THE PUBLIC POLICY OF THE COMMONWEALTH OF PUERTO RICO DELEGATED UPON THE PUERTO RICO PORTS AUTHORITY or, for short, the "Scanning Regulations." The same are set in accordance with the provisions of Article VI, § 2, 6, of the Constitution of Puerto Rico; Act No. 125 of May 7th, 1942, as amended; Act No. 171 of June 28, 1968, as amended; Act No 120 of October 31, 1994; Act No. 12 of February 18, 2008; Act No. 1 of January 31, 2011; and Regulation 7437 of December 14, 2007.

ARTICLE II. PURPOSE AND APPLICATION

This Regulation aims to maintain the procedures at the inspection facilities established by the Authority in its maritime port facilities at the Port of San Juan. The measure seeks to accommodate the Department of the Treasury's interest of inspecting up to 100% of all Inbound Cargo Containers, in order to identify unreported taxable goods, by a non-intrusive scanning (imaging) system that preserves a free and efficient flow of commercial traffic at the ports. It also seeks to improve security and safety at the port facilities, and/or to otherwise advance (or more efficiently advance) the public policy of the Commonwealth of

Puerto Rico outlined in the documents and provisions mentioned above, and/or to improve related services.

ARTICLE III. DEFINITIONS

1. Cargo Container - Shall mean all types of containers used to carry cargo freight in ships, regardless of whether the container is empty, but shall not include uncontaineraized bulk cargo.

2. Ship's Manifest- Means the statement submitted by the Ship Owner or Ship Agent to the different Authority facilities and Regulatory Agencies related to the inbound and outbound cargo delivered. The Ship manifest statement is supported, but not limited to, by bills of lading describing Cargo and weight and any other kind of valid documentation which provides a clear description of type of Cargo and weight conveyed.

3. Bill of Lading- Document issued by a Carrier, acknowledging that specified goods have been embarking or disembarking as Cargo from one consignee to other, and which involves the use of at least two different types of transportation (for example: land and sea).

4. Containers - A truck trailer body that can be detached from the chassis for a loading into a vessel. Containers may be ventilated, insulated, refrigerated or equipped with interior devices. A container may be 20 feet, 40 feet, 45 feet, 48 feet or 53 feet in length, 8.0" or 8'6" in width, and 8'6" or 9'6" in height.

5. Contraband – Anything, whether prohibited or not, that has not been properly disclosed in the Ship's Manifest and/or Bill of Lading.

6. Inspection Lanes - Sites where the Scanning will be placed.

7. Enhanced Security Fee- The user fee established to recover all of the costs incurred by the Puerto Rico Ports Authority to guarantee the free and efficient flow of commerce at the maritime facilities of the Port of San Juan under the non-intrusive scanning process service; establish the necessary means to improve effectiveness, security and safety at the port facilities; comply with its legal and contractual obligations; and/or to otherwise implement the means necessary to advance (or more efficiently advance) the public policy of the Commonwealth of Puerto Rico outlined in the documents and provisions mentioned above.

8. Ship or Vessel Agent- Person or company authorized to transact business for and in the name of another person or company

9. Image - Digital representation of the Cargo by the Scanning portal.

10. Puerto Rico Ports Authority or the Authority- Public Corporation as created by Act No.125 of April 7, 1942, (23 LPRA § 331-352), also identified as the "Authority" or by its acronym "PRPA".

11. Governmental Entity (ies)- Any of the Commonwealth of Puerto Rico's executive departments, agencies, instrumentalities, administrations, and/ or public corporations, including any of the municipalities of the Commonwealth of Puerto Rico. It likewise means the Federal Government, or any of its executive departments, agenc1es, instrumentalities, administrations, public corporations, etc., except for the purposes of this Agreement the US Customs and Border Protection ("CBP").

12. Inbound Cargo Containers - any Inbound Cargo Container that arrives to the island of Puerto Rico from any foreign or domestic port and has been released by U.S. Customs and Border Protection.

ARTICLE IV. GENERAL RULES

A. To meet the challenge of complying with its legal and contractual duties, while not restricting the free flow of commerce, the Authority will continue to maintain the inspection system that uses non-intrusive scanning technology with the capacity of scanning up to 100% of the Inbound Cargo Containers entering the San Juan Port facilities.

B. To a feasible extent, the Authority seeks to provide for the inspection of up to 100% of all Inbound Cargo Containers that arrive at the Port of San Juan, in a manner that will not unduly affect the free flow of commercial traffic-namely, by way of the non-intrusive scanning (imaging) mechanism. The inspections will continue to be the responsibility of Treasury Department personnel in the facilities, but providing a free, efficient, and expedited flow of cargo container traffic through and during the inspection process is still the responsibility of the Authority personnel therein. Following closely, to the extent that is possible, the sequence in which the cargo containers were unloaded from the arriving ship, the Authority will continue to direct each Inbound Cargo container to the nearest available Inspection Lane; provided, however, that notwithstanding anything else provided herein or in any other applicable statute or regulation, if there is an undue delay and waiting period in any of the Inspection Lanes (for any reason, such as a peak in the inflow of Inbound Cargo Containers at one time), the Authority reserves the right to reduce the percentage of Inbound Cargo Containers to be scanned, to the percentage that the Authority deems necessary, by randomly selecting among the inbound Cargo Containers that arrive at the Port of San Juan, so as to minimize or eliminate the inspection lane waiting period to an acceptable level that does not unduly hinder the inflow of inbound commerce.

C. the Authority reserves the faculty to exempt from scanning inspection those Inbound Cargo Containers that are from companies that are C-TPAT certified trade partners; provided the C-TPAT trade partner notifies and identifies in writing prior to their unloading, which Cargo containers are under its control, certifying in writing that the Inbound Cargo Container has been fully controlled and supervised by it at all times.

D. Notwithstanding anything else provided to the contrary in this Regulation, the Authority reserves the faculty, at all times, to allow the inspection by scanning of:

(i) Any Inbound Cargo Container subject to a court order from a court of competent jurisdiction requiring its inspection;

(ii) Any Inbound Cargo Container whose inspection is required for just cause;

(iii) Any closed Inbound Cargo Container that the Department of Treasury requires pursuant to statutory, regulatory and administrative powers.

E. The foregoing dispositions shall not be construed as a limitation upon the Treasury Department to conduct any inspection authorized by regulation or statute.

F. If any agent claims that its Inbound Cargo containers are being unfairly discriminated against or has any other type of complaint concerning the above scanning process, it may file a complaint at the Administrative Offices of the Authority and commence an adjudicative procedure pursuant to Act No. 170 of August 12, 1988, as amended.

G. If due to the scanning results it is determined that a particular inbound cargo container requires further inspection (including by any other means), unless other applicable statutes and regulations state differently, the Authority will direct the party in charge of the corresponding cargo container to move it quickly from the corresponding Inspection Lane to a specially designated area. The procedures to be followed will depend on the reason for the secondary inspection. Prompt cooperation from the party will be expected to avoid any unnecessary delays in the flow of traffic through the corresponding Inspection Lanes.

H. The Authority reserves the right to enter, from time to time, into memorandums of understanding or other types of agreements with other Governmental Entities or others to advance the purpose reflected herein.

I. The Enhanced Security Fees set forth below are established to recover, as required by law, all costs incurred by the Authority in providing the service and also, repairing, and maintaining an efficient scanning system, related operations and areas, in an effort to limit the effect upon the free flow of commerce, as well as providing better security and safety measures/or related facilities at the Port of San Juan. The Puerto Rico Ports Authority has hired a third party to perform the required scanning services. The authority reserves the right to delegate the collection of the Enhanced Security Fees process to a private operator or any other entity

J. In order to recover costs incurred by the Authority arising from the abovementioned, each ship's or vessel's agent with inbound cargo that effectively arrives, is unloaded into the Port of San Juan, and are scanned pursuant to this Regulation, must pay an Enhanced Security Fee to be calculated as follows:

Cargo in containers	$4.00 per Ton up to $69 per container
General Cargo	$3.25 per Ton
Motor Vehicles	$4.00 per Ton
Liquid Cargo handled in Bulk	$0.039 per 42 Gallon Barrel
Liquid Sugar and Molasses	$0.58 per Ton
Empty Containers or Chassis	$4.00 per Unit

K. Shipping operators that neither use nor have the privilege of using the Authority's scanning facilities will not have to pay the Enhanced Security Fee.

ARTICLE VI. GRIEVANCES/JURISDICTION

Any claim or grievance filed by any party in connection with the above process shall commence with an adjudicative procedure pursuant to Act No. 170 of August 12, 1988, as amended. The Authority shall have primary jurisdiction of the grievance and complaint.

ARTICLE VII. AMENDMENDTS

This Regulation may be amended in accordance to the procedures laid down in Act No. 170 of August 12, 1988, as amended.

ARTICLE VIII. SEVERABILITY

If any article, provision, part or section of this Regulation, or any of its applications, are declared by a court of competent jurisdiction to be invalid, void or unconstitutional, all other remaining articles, provisions, parts or sections of this

Regulation, and their applications, shall continue to be valid and in full force and effect.

ARTICLE IX. EFFECTIVENESS, REPEAL AND APPROVAL

This Regulation shall become effective immediately from the date its filing at the Department of State of Puerto Rico, and supersedes Regulation 8067 and any other existing provision on this matter that is not consistent and irreconcilable with the provisions herein established.

Approved in San Juan, Puerto Rico, on November 16, 2016

Ingrid C. Colberg Rodríguez
Executive Director