



**ARTA**  
ANTI-RED TAPE AUTHORITY  
OFFICE OF THE PRESIDENT



3 March 2023

**ATTY. JAY DANIEL R. SANTIAGO**  
General Manager  
Philippine Ports Authority  
PPA Corporate Bldg., Bonifacio Drive  
South Harbor, Port Area, Manila

ATTENTION: **ATTY. MARK JON S. PALOMAR**  
**MANAGER, COMMERCIAL SERVICES DEPARTMENT**

SUBJECT: **ASSESSMENT AND COMMENTS ON THE REGULATORY  
IMPACT STATEMENT (RIS) OF THE PHILIPPINE PORTS  
AUTHORITY (PPA) ADMINISTRATIVE ORDER (AO) NO. 04-  
2021 OR THE POLICY AND THE REGISTRATION AND  
MONITORING OF CONTAINERS**

Dear General Manager Santiago:

Greetings from the Anti-Red Tape Authority!

This refers to the Regulatory Impact Statement submitted by the Philippine Ports Authority (PPA) last 2 March 2023 on their issuance of Administrative Order (AO) No. 04-2021 or the Policy and the Registration and Monitoring of Containers. To recall, the PPA submitted its Preliminary Impact Statement (PIS) on the regulation last 25 January 2023. The Authority then recommended the conduct of a Regulatory Impact Assessment on the proposed regulation, hence, the submission of the Regulatory Impact Statement (RIS) last 30 January 2023.

Henceforth, to complete the RIA process, the Authority is hereby providing the results of the RIS Assessment. Basing to the handholding sessions conducted by the PPA and the ARTA to incorporate and address the recommendations of the latter to drastically improve the RIS, ARTA rated the subject regulation to hold **GOOD PRACTICE RIS**. We congratulate the PPA for this achievement and we at ARTA extend to them our utmost gratitude for the collaborative efforts it has exerted to improve the subject regulation and its Implementing Operational Guidelines (IOG).

It should be known however, that the handholding sessions held by both agencies is not to be considered as a mere pursuit for compliance to the conduct of RIS. ARTA is confident that the PPA will duly reflect the comments and recommendations that have been threshed out in the sessions in the finalization of the IOG. **Further, it is worth noting that as part of the Section 8 of the RIS or the Monitoring and Evaluation Plan, the PPA has signified that the IOG will be subjected to a pilot implementation and will be amended accordingly to address any issues and concerns that may arise.** We also recognize that in your letter dated 2 March 2023,



SMARTER INITIATIVES BETTER PHILIPPINES

the said IOG will include a periodic review on the implementation of the Trusted Operator Program-Container Registry and Monitoring System (TOP-CRMS). Lastly, we understand that the PPA's IOG on the subject regulation is still on its draft form. Hence, ARTA would like to extend any assistances the PPA may need on the matter.

With this, ARTA avails itself of this opportunity to renew to the PPA the assurances of its highest consideration.

Should you have any queries and/or clarifications, please do not hesitate to contact the Better Regulations Office at [regulatorymanagement@arta.gov.ph](mailto:regulatorymanagement@arta.gov.ph).

Respectfully,



**SECRETARY ERNESTO V. PEREZ**  
Director General





### REGULATORY PROPOSAL DETAILS

<b>Agency</b> <b>Philippine Ports Authority</b>	<b>Head of Agency</b>	<b>Name and Designation</b>	<b>Jay Daniel R. Santiago</b> <b>General Manager</b>
		<b>Date of Approval</b>	<b>March 2, 2023</b>
<b>Name of the Proposal</b> <b>Proposed Implementing Operational Guidelines (IOG) of PPA Administrative Order No. 04-2021, entitled "Policy on the Registration and Monitoring of Containers"</b>	<b>Contact Officer</b>	<b>Email Address</b>	<a href="mailto:ogm@ppa.com.ph">ogm@ppa.com.ph</a>
		<b>Name and Designation</b>	<b>Elmer Nonnatus A. Cadano</b> <b>Assistant General Manager for Finance, Legal and Administration</b>
		<b>Phone Number</b>	<b>(02)8954-8800 loc. 612</b>
		<b>Email Address</b>	<a href="mailto:enacadano@ppa.com.ph">enacadano@ppa.com.ph</a>

### SUMMARY OF ASSESSMENT

FINAL RATING		ASSESSMENT PER SECTION	
RIS SCORE:	RATING:	RIS SECTION	RATING
36	Good Practice RIS	Policy Problem and Need for Government Action	
OVERALL REMARKS		Policy Objective	
		Identification of Policy Options	
PPA has provided concise and satisfactory evidence on all RIA Sections. Hence, the RIS was assessed as Good Practice.		Assessment of Impacts of Policy Options	
		Consultation	
		Recommended Option	
		Implementation & Enforcement	
		Monitoring & Evaluation	

### ASSESSMENT DETAILS

<b>Division</b>	<b>Assessed by:</b>	<b>Reviewed by:</b>
<b>BRO C</b>	 <b>Daniel Paulo T. Bacsafra</b> <b>Project Development Officer I</b> Date: 03/03/2023	 <b>Usec. Gerald D. Divinagracia</b> <b>Deputy Director General for Operations</b> Date: 03/03/2023
<b>Approved by:</b>  <b>SECRETARY ERNESTO V. PEREZ</b> <b>Director General</b> Date of Approval: 03/03/2023		

## Section 1- POLICY PROBLEM AND NEED FOR GOVERNMENT ACTION

### AGENCY STATEMENT

#### **Descripti on of the policy problem**

*Describe the present situation and what is likely to occur without government action.*

*Describe the nature, size and causes of the problem/s. Identify the groups impacted or likely to be impacted by the problem/s.*

**An Illustration of the Present Situation is hereto attached as Annex  
“A”**

#### Container Deposits

Under DOTr Department Order (DO) No. 2020-008, dated June 24, 2020, the Department of Transportation (DOTr) established the Shippers' Protection Office (SPO) to protect domestic and international shippers "against unreasonable fees and charges imposed by domestic and international shipping lines." As such, the SPO will investigate "all complaints and issues related to the rates, charges, practices and operations of international and domestic shipping lines in the country."

The DO follows the Inter-agency Task Force (IATF) for the Management of Emerging Infectious Diseases Resolution No. 46, which approved DOTr's recommendation creating a complaints office against international shipping lines under the Philippine Ports Authority (PPA).

Eighty percent (80%) of the 83 complaints against international shipping lines received by the PPA dealt with the imposition of container deposits of foreign shipping lines. The said container deposits are imposed by the foreign shipping lines to cover damage or loss of the container.

Based on the sample billings/invoices, these container deposits ranges from Ten Thousand Pesos (PHP 10,000.00) to Thirty Thousand Pesos (PHP 30,000.00) for dry containers and up to One Hundred Eighty Thousand Pesos (PHP 180,000.00) for refrigerated containers.

The complaints of port users on the container deposits hinged on the failure of the shipping lines to be transparent of the charges levied on the said deposits in case of loss or damage and the delay of, on average, six months for the return of said container deposits. However, there also have been cases where the container deposits were never returned.

In 2022, 1,145,355 foreign containers entered the Port of Manila were released with a required container deposit. If computed at PHP 20,000.00

each, a total of PHP 22,907,100,000.00 is being held as container deposit even though the container has been returned to the shipping lines.

<b>Total Incoming Foreign Containers in Metro Manila (2022)</b>	<b>Maersk (No Container Deposit)</b>	<b>Total Foreign Containers with Container Deposit</b>
1,266,659	121,304	1,145,355

#### **Current Costs**

<b>Total Containers</b>	<b>Container Deposit (PHP 20,000.00 each)</b>	<b>Container Yard Costs (PHP 6,400.00 each)</b>	<b>Total Cost</b>
1,145,355	22,907,100,000	7,330,272,000	30,237,372,000

Without any government action, the difficulty on the return of container deposits is unlikely to improve. This is particularly troubling when a shipping line declares bankruptcy or stops calling in the Philippines. Furthermore, the imposition of container deposits acts as a barrier to the entry of new players since the sheer quantity of container turnover quickly adds up to a colossal financial amount. Finally, the long administrative time gap between claim submission and deposit recovery impacts cash flow and adds financial burden particularly to small freight forwarders.

The prohibitive cost of container deposits also restricts the practice of customs brokers. According to the Philippine Chamber of Customs Brokers, Inc., only 4,000 out of their 14,000 members can afford to put up their own customs brokerage due to the uncertainties concerning container deposits.

#### **Return of Empty Containers**

Currently, empty containers are returned to the shipping lines at their designated container yard. Upon release of a laden container from the port, there is already an identified container yard for the return, wherein the empty container must be delivered within 72 hours.

For the return of an empty container, the following costs are incurred:

Pre-Advise	PHP 1,500.00
Documentation	PHP 1,200.00
Per Lift-on	PHP 1,100.00
Per Lift-off	PHP 1,100.00
Three days' Storage	PHP 1,500.00

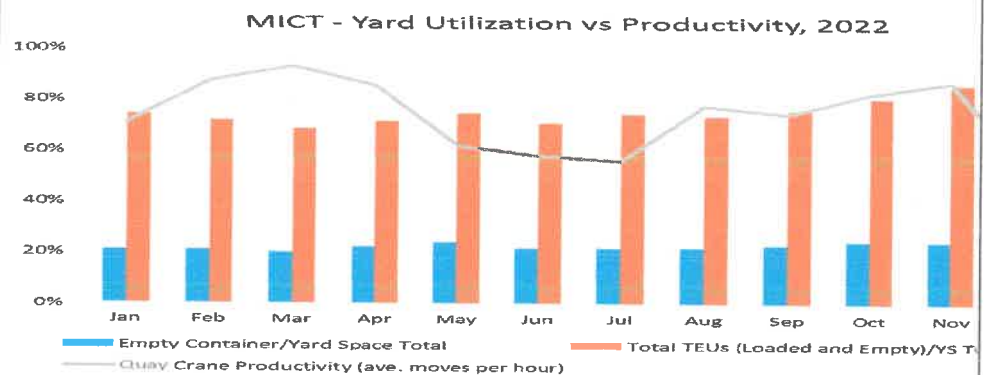
However, more often than not, the return of empty containers is not readily accepted at the shipping line designated container yard. As such, trucks

bearing empty containers line the streets around the container yard while waiting for yard space, subjecting as such to additional costs (fuel, salaries of personnel, accommodation costs for traffic enforcers and barangay personnel).

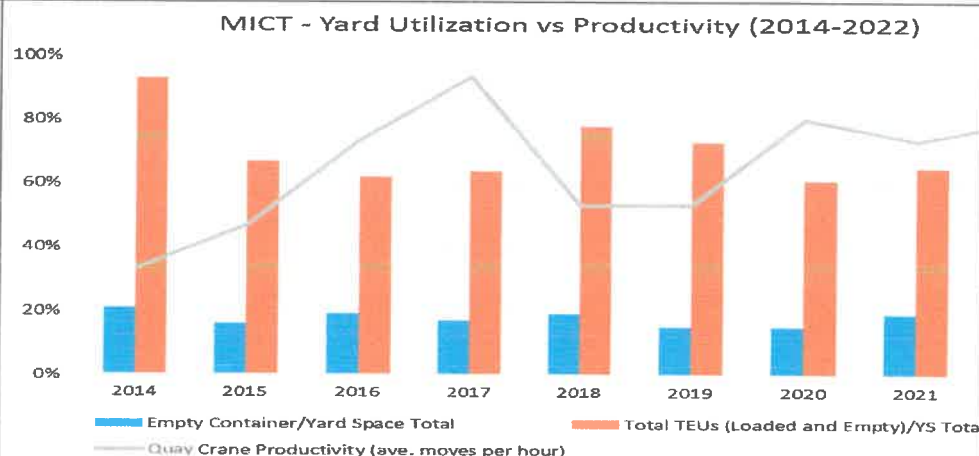
Moreover, the failure to return the empty containers within the 72- hour period subjects the same to detention charges; PHP 4,000.00 is charged by the shipping lines to truckers while PHP 15,000.00 is charged to the importers.

The challenges that truckers encounter in returning empty containers, diminishes the number of clients that a trucker can provide such service thereby increasing trucking costs.

Under the current system, the export of empty containers is managed by shipping lines with little or no regulation from PPA. As such, empty containers stored at the port terminals are occupying valuable space at the operational area, adversely contributing to port congestion which negatively impacts the quay crane production rate at the ports. Simply put, the number of containers that a quay crane can move in an hour is reduced. In 2022, empty containers accounted for more than 20% of yard utilization at the port terminals with an average dwell time of almost triple of the allowed 72 hours.







Shipping lines have little incentive to export the empty containers, considering the low storage charges imposed by Philippine Ports. As such, containers are usually stored for the full 90 days allowed by the regulations of the Bureau of Customs.

Without government action, empty containers will continue to utilize valuable operational area adversely affecting quay crane productivity rate. The access roads around container yards will remain congested.

### Nature, Size and Causes

#### Container Deposits

Container deposits are being imposed by shipping lines as a risk diminutive measure to address a perceived higher risk of containers being stolen, damaged, abandoned or detained for a prolonged period. This, however, is not mandatory and is waived by shipping lines for favored clients.

In 2022, 2,468,774 TEUs entered through all PPA Ports.

Shown below is the total amount of deposits paid for containers upon entry in the Port of Manila:

Total Containers	Total Container Deposit (PHP 20,000.00 for each container)
1,145,355	22,907,100,000

The port users affected by the issues hounding the return of the container deposit are mainly the truckers, brokers, and freight forwarders.

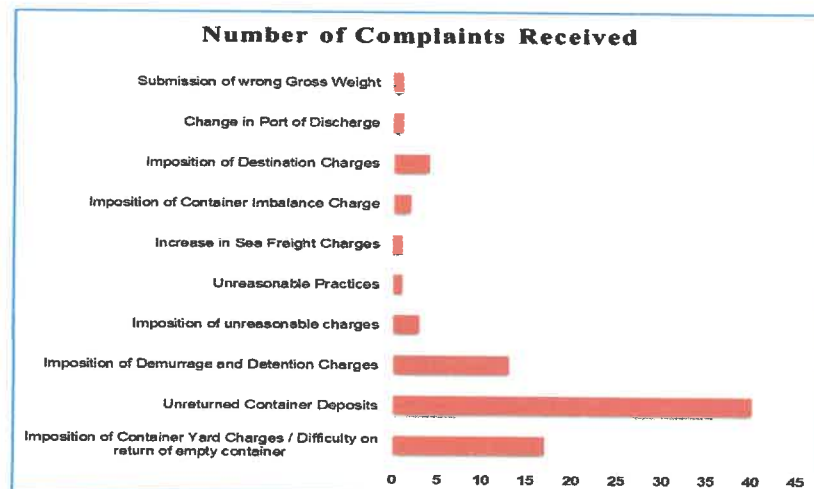
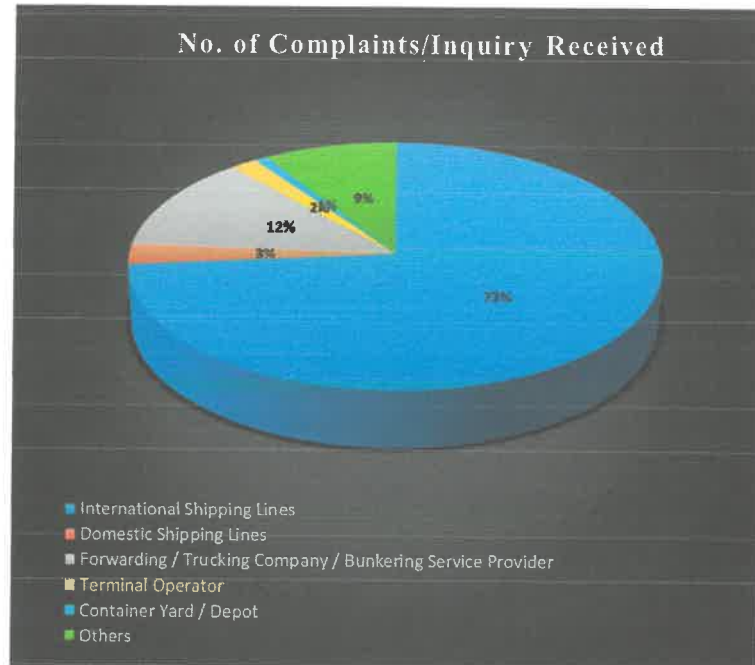
The long administrative time gap between claim submission and deposit recovery, impacts cash flow and adds financial burden particularly to port users which fall under small-sized enterprises.

Indirectly, the issue results to higher logistics costs.

	<p><u>Return of Empty Containers</u></p> <p>Under Customs Administrative Order No. 08-2019, containers are to be re-exported within ninety (90) days from the date of discharge of the last package. This, coupled with low storage charges at the port terminal yards, contributes to long dwell times in the terminals.</p> <p>In 2022, there were a total of 560,524 empty containers exported from the Port of Manila. The average dwell time ranging from 6-8 days.</p> <p>Affected port stakeholders are the terminal operators, container yard operators, and truckers.</p> <p>Indirectly, the abovementioned issue results to higher logistics costs as well.</p> <p>To effectively manage the return of empty containers, on September 22, 2021, PPA issued Administrative Order No. 04-2021, entitled "Policy on Container Registration and Monitoring". The policy seeks to accredit container yards around the port terminals which will not be allowed to reject any empty container return once booked in the system. These container yards will then act as staging areas of empty containers until they are to be reexported. This will guarantee that empty containers will only occupy valuable space in the operational area of the port terminal for a maximum period of seventy-two hours before it is reexported.</p> <p>However, without the approval of the Implementing Operational Guidelines (IOG), PPA will not be able to implement AO 04-2021.</p>
<p><b>Evidence of the problem/s</b></p>	<p><i>Attached as <b>Annex "B"</b> are sample billings/invoices/evidence that shows that the problem/s on container deposits and other destination charges do exist.</i></p> <p><u>Container Deposits</u></p> <p>Container deposits that the shipping lines charge against truckers, customs brokers, and forwarders, have been a long-time problem. For every container shipment, shipping lines usually charge from PHP 10,000.00 to PHP 30,000.00 for dry containers and up to PHP 180,000.00 for refrigerated containers. Shipping lines have imposed such practice to other stakeholders to ensure that the containers will be returned in good condition and to cover damage, demurrage, and detention of containers.</p> <p>The sheer quantity of container turnover quickly adds up to a colossal financial amount. Furthermore, the long administrative time gap between claim submission and deposit recovery, impacts cash flow and adds financial burden particularly to small-sized freight forwarders. Based on PPA's data, the return of container deposit takes at least 6 months and, in many cases, years.</p> <p>As of January 6, 2023, the Shipper's Protection Office (SPO), created pursuant to Department of Transportation (DOTr) Department Order No.</p>



2020-008 dated June 24, 2020, received a total of 113 complaints filed by the shippers, 83 of which are against the international shipping lines. A total of 40 complaints are specific to container deposits and other surcharges imposed by the international shipping lines.



**Details of the Complaints:**

- Range of Unreturned Container Deposit - Php10,000 to Php2,208,000
- Range of Demurrage / Detention Charges – Php51,000 to Php897,000.00
- Range of Container Yard Charges / Empty Container – Php700.00 to Php10,000.00
- Release refunds with an average period of 4 months (late release/delay refund)
- Refusal of acceptance or diversion of empty return (CY congested)

	<p><b><u>Empty Container Return</u></b></p> <p>Currently, port users are instructed to return the empty containers to an identified container yard. However, despite said instructions, the container yards are frequently unable, or even refuse, to accommodate empty container returns resulting in other surcharges.</p> <p>The charges to return a container are the following:</p> <table border="1"> <tr> <td>Pre-Advise</td><td>PHP 1,500.00</td></tr> <tr> <td>Documentation</td><td>PHP 1,200.00</td></tr> <tr> <td>Per Lift-on</td><td>PHP 1,100.00</td></tr> <tr> <td>Per Lift-off</td><td>PHP 1,100.00</td></tr> <tr> <td>Three days' Storage</td><td>PHP 1,500.00</td></tr> </table> <p>To effectively manage the return of empty containers, the TOP-CRMS will accredit container yards around the port terminals which will not be allowed to reject any empty container return, once booked in the TOP-CRMS. These container yards will then act as staging areas for empty containers until they are to be reexported. This will guarantee that empty containers will only occupy valuable space in the operational area of the port terminal for a maximum period of seventy-two hours before it is reexported.</p>	Pre-Advise	PHP 1,500.00	Documentation	PHP 1,200.00	Per Lift-on	PHP 1,100.00	Per Lift-off	PHP 1,100.00	Three days' Storage	PHP 1,500.00
Pre-Advise	PHP 1,500.00										
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Per Lift-off	PHP 1,100.00										
Three days' Storage	PHP 1,500.00										
<p><b>Existing regulation or other government measures relevant to the problem/s</b></p>	<p><i>List existing regulations or other government measures related to the problem/s and explain why they are not adequately addressing the problem/s.</i></p> <p>At present there is no existing government policy that will protect importers, consignees, and trucking companies from the exorbitant and unreasonable fees imposed by shipping lines with respect to its containers. Neither there is any policy as well that manages empty container returns to PPA ports.</p>										
<p><b>Rationale for government action</b></p>	<p><i>Provide a compelling case for government action and the legal provision allowing for such action</i></p> <p><b><u>Container Deposit</u></b></p> <p>The intervention of PPA on the issue of container deposits would revert a significant amount of capital to the hands of the port users. Based on the data from 2022, PHP 22,907,100,000.00 would be freed up. Moreover, the use of container deposit insurance in lieu of container deposits would reduce costs of doing business, encouraging the entry of new players.</p>										

### Empty Container Return

Port efficiency is an important determinant of shipping costs. Manila ranks well below the global performers, such as Singapore and Shanghai, both in port productivity and in port efficiency. Port efficiency is determined by port size and infrastructure, private sector participation, **quality of both cargo-handling and logistics services, operational efficiency of port management**, and conducive public-policy framework. By avoiding port congestion, PPA can ensure optimal quay crane operations.

Moreover, by guaranteeing availability of space for empty container returns, trucking companies can operate more efficiently and thereby afford to lower trucking costs.

### Legal bases

- Under Pres. Dec. No. 857 (December 23, 1975), the Philippine Ports Authority has the corporate duty to “supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in, or belonging to the Authority”.
- Under DOTr Department Order (DO) No. 2020-008, dated June 24, 2020, the Department of Transportation (DOTr) established the Shippers’ Protection Office (SPO) to protect domestic and international shippers “against unreasonable fees and charges imposed by domestic and international shipping lines.”

The DO follows Inter-agency Task Force for the Management of Emerging Infectious Diseases (IATF) Resolution No. 46, which approved DOTr’s recommendation creating a complaints office to help address concerns raised by shippers including complaints against international shipping lines. The General Manager of the Philippine Ports Authority (PPA) is the Chairman of the SPO.

- Under PPA Administrative Order No. 06-2019, accreditation by PPA of foreign shipping lines is required as a condition to provide port services at ports under the administrative jurisdiction of PPA. Among the conditions for accreditation is compliance with PPA regulations, such as regulations on innovation and improvement of processes and procedures, in the exercise of PPA’s mandate to provide efficient port services to the public.

Rubric	Rating	Remarks
<b>Description of the Policy Problem</b>		The PPA was able to clearly explain the problem in their problem statement by providing the (1) present situation; (2) nature, magnitude and cause of the problem; and, (3) the stakeholders impacted by the problems.
<b>Evidence of the problem/s</b>		<p>The pieces of evidence through attachments, evidently showed that the problem on the charges on container deposits exist.</p> <p>Among others, PPA showed data on the complaints it had received that out of 113 complaints filed by shippers, 83 of them are against international shipping lines and 40 complaints were against container deposits and other surcharges imposed by international shipping lines.</p> <p>In sum, PPA was able to provide evidence which clearly established that the problem exists.</p>
<b>Existing Regulation or Other Government Measures relevant to the problem</b>		The PPA has identified that there is lack of regulation to address the current issue which shows that said lack of regulation is the main cause of the problem.
<b>OVERALL ASSESSMENT</b>		The PPA was able to provide a clear and concise problem statement.

## Section 2 – POLICY OBJECTIVE

AGENCY STATEMENT	
<b>Objective of government action</b>	<p><i>State the ends that government action would seek to achieve (goals, targets, or the broad policy outcomes desired).</i></p> <p>Among the objectives of PPA Administrative Order No. 04-2021 as stated in the issued policy are the following:</p> <ul style="list-style-type: none"> <li>• To prescribe the policy in the registration and monitoring of containers entering and leaving PPA ports including the scheduling, loading, unloading, release and movement of all containers.</li> <li>• To promote competitiveness and provide cost-saving mechanisms that mutually benefit importers and foreign carries by prescribing container insurance policies from authorized and accredited insurance providers as an available option in lieu of the current container deposit and container maintenance fees.</li> </ul>

	PPA seeks to provide cost-saving mechanisms for shippers (importers and foreign carriers) in lieu of the container deposit and aims to decongest port terminals, and port access roads, from empty container returns and reduce dwell time to less than 72 hours.
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Rubric	Rating	Remarks
<b>Objective of Government Action</b>		The PPA's statement meets the SMART criterion. PPA seeks to provide cost-saving mechanisms for shippers (importers and foreign carriers) in lieu of the container deposit and aims to decongest port terminals, and port access roads, from empty container returns and reduce dwell time to less than 72 hours.

### Section 3 – POLICY OPTIONS

#### AGENCY STATEMENT

<b>List of different policy options</b> (regulatory and non-regulatory)	<p><i>List the possible options for addressing the problem and achieving the objective. One option should be the status quo that describes expected outcome if no additional government action is taken.</i></p> <p><i>Describe key features of each option.</i></p> <p>PPA has identified the following available options for addressing the concerns regarding container deposits and empty container management:</p> <p><u>Option 1</u> - Status Quo or Do nothing. PPA will not adopt any intervention. Container deposits will continue to be imposed and the return of empty containers will remain unregulated.</p> <p>In case of delay in the return of empty containers, detention charges will be applied as a deduction from the container deposit refund. As well, container imbalance charges and peak season charges will be deducted from the container deposit refund.</p> <p><u>Option 2:</u> Shipping lines to remove the practice of container deposits and bear the risk for damaged or unreturned containers.</p> <p>In case of delay in the return of empty containers, detention charges will be applied as a deduction from the container deposit refund. As well, container imbalance charges and peak season charges will be deducted from the container deposit refund.</p> <p><u>Option 3:</u> Container Ledger Account (CLA) (<a href="https://clap.ph/">https://clap.ph/</a>), spearheaded by the Association of International Shipping Lines (AISL). Marketed by the AISL as “an alternative to the Container Deposit practice</p>
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in the Philippines", it provides a somewhat flexible deposit arrangement, depending on the volume of containers delivered every month.

It seeks to process container deposit refunds within 3 working days upon the approval of Shipping Line / Shipping Agent / NVOCC but requires registration.

Once the registration is approved, CLA Subscriber can choose to utilize the CLA Cash or CLA Deposit for every container deposit exemption.

CLA Cash will require a security payment (as per table below) and it is refundable upon CLA deactivation.

Monthly Container Volume	CLA Cash Amount in PHP
10 and below	75,000.00
11 to 50	150,000.00
51 to 100	250,000.00
More than 100 containers	350,000.00

CLA Deposit will require deposit amount for every Bill of Lading equivalent to the published tariff from the Shipping Lines.

CLA covers container Detention and Damage charges only.

Under the CLA the current billing process does not change, CLA Principal will continue to issue invoice directly to CLA Subscriber for any charges incurred.

The CLA fees applied are:

- PHP 100.00 per TEU for CLA Cash; and
- PHP 200.00 per TEU for CLA Deposit.

In case of delay in the return of empty containers, detention charges will be applied as a deduction from the container deposit refund. As well as container imbalance charges and peak season charges will be deducted from the container deposit refund.

Option 4: Electronic Tracking of Containerized Cargo (e-TRACC) System of the Bureau of Customs:

The e-TRACC System was established under Customs Memorandum Order No. 04-2020 to implement Customs Administrative Order No. 15-2019 (Rules and Regulations for Customs Transit in the Customs Territory). The objective of the e-TRACC is to prevent smuggling by diversion. The program is currently being pilot implemented in Batangas, MICP and POM. The BOC is planning a phased implementation of e-TRACC across the country starting with major ports between in Subic, Davao and Cebu between July to August. The program service provider has 1,300 devices are ready for deployment.

Authorized representatives or brokers that process the release of containers would have to register and execute a trip booking. The fee is



PHP 500.00 per container within a 10-kilometer radius from port of discharge and PHP 700.00 per container beyond 10 kilometers.

The sealing of the Electronic Customs Seal (ECS) is at the designated Arming Station at the Port of Discharge for Import; and the respective Exporters warehouses after stuffing of container for Export. It purportedly can be done in two to three minutes.

The arming and disarming of the ECS is performed by the BOC's Port Inspection Division Personnel (PID).

Coverage of e-TRACC is for loaded containers:

- Transfer of a Cargo to a Container Yard/Customs Freight Station or other Customs Facilities and Warehouses;
- Transit Cargo bound to free zones, Inland Customs Office, Depots or Terminals;
- Transit to Customs Bonded Warehouses (CBW);
- Export of Cargo from Free Zones, Inland Customs Office, Depots or Terminals and CBWs to Port of Loading; and
- Transfer of Shipments Subject to Further Verification and/or Monitoring.

In case of delay in the return of empty containers, detention charges will be applied as a deduction from the container deposit refund. As well, container imbalance charges and peak season charges will be deducted from the container deposit refund.

Option 5 – Trusted Operator Program-Container Registry and Monitoring System (TOP-CRMS) / IOG for PPA AO 04-2021:

PPA AO No. 04-2021 on the Trusted Operator Program-Container Registry and Monitoring System (TOP-CRMS), it is a program which was presented and approved by the PPA Board of Directors which consist of the following members:

- The Secretary of Transportation, who acts as Chairman.
- The PPA General Manager, who acts as Vice-Chairman.
- The Director-General of National Economic and Development Authority.
- The Secretary of Finance.
- The Secretary of Environment and Natural Resources.
- The Secretary of Trade and Industry.
- The Secretary of Public Works and Highways.
- The Administrator of MARINA
- A Public Sector Representative

As such, the program is not simply an initiative of the Authority but is a solution to perennial problems which passed muster from the perspectives of the members of the Board of Directors.

The TOP-CRMS, in a nutshell, seeks to do away with the payment of container deposits by port users and to efficiently manage the return of empty containers.

All foreign containers entering the Philippines through a port under the jurisdiction of the authority must be registered in the TOP-CRMS and will be insured in lieu of a container deposit.

Upon leaving the port, the container will be tracked to where it will be unloaded. When it is once again picked up, the now empty container will also be tracked until it is delivered to a PPA container yard. Only upon advice of the shipping lines that the empty container will be reexported will the container be brought to the port terminal.

#### Container Deposits

The container deposits are imposed by the foreign shipping lines to cover damage or loss of the container. The amount of the deposit ranges from Ten Thousand Pesos (PHP 10,000.00) to Thirty Thousand Pesos (PHP 30,000.00) for dry containers and up to One Hundred Eighty Thousand Pesos (PHP 180,000.00) for refrigerated containers.

The complaints of port users on the container deposits hinged on the failure of the shipping lines to be transparent of the charges levied on the said deposits in case of loss or damage; and the delay of, on average, six months for the return of said container deposits. However, there also have been cases where the container deposits were never returned.

Under the TOP-CRMS, the payment of the container deposit, which is imposed to answer for the loss or damage of the container, is insured. In the event that a container is lost or damaged, a PPA accredited Insurer will guarantee the payment of Thirty Thousand Pesos (PHP 30,000.00) to the foreign shipping lines. It must be noted that aside from the collected container deposit, containers are also insured for loss or damage from the port of origin.

#### Management of Empty Containers

Currently, the return of empty containers for reexport causes congestion within the port terminals and traffic along the roads surrounding the port. While foreign shipping lines charge One Thousand Five Hundred Pesos (PHP 1,500.00) per container as a booking fee for the return of empty containers to container yards, this does not guarantee that the empty containers are actually accepted at the container yards. Furthermore, the failure to return the empty containers within seventy-two (72) hours from release results in detention charges being imposed by the shipping lines.

The TOP-CRMS will accredit container yards around the port terminals which will not be allowed to reject any booked empty container. Cameras installed at the entrance of these accredited container yards will record the condition of each container as they are accepted in the yard.

These container yards will then act as staging areas of empty containers until they are to be reexported. This will guarantee that empty containers

	<p>will only occupy valuable space in the operational area of the port terminal for a maximum period of seventy-two hours before there are reexported.</p> <p><u>Rates</u></p> <p>To cover insurance and container monitoring, a total fee of Nine Hundred Eighty Pesos (PHP 980.00) will be charged. Of this amount, Two Hundred Fifty Pesos (PHP 250.00) will cover the insurance of the Thirty Thousand Pesos (PHP 30,000.00) container deposit, only Two Hundred Fifty Pesos (PHP 250.00).</p> <p>For the use of the container yard staging area, a flat rate of Three Thousand Five Hundred Twenty Pesos (PHP 3,520.00) will be charged. This will cover the lifting off and lifting on of the empty containers as well as seventy-two (72) hours of storage.</p>
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Rubric	Rating	Remarks
<b>List of Policy Options</b>		PPA was able to identify several Policy Options, including the Status Quo and a Non-Regulatory Option with the corresponding Cost and Benefits Analysis for each option.

#### Section 4 – ASSESSMENT OF IMPACTS OF POLICY OPTION/S

AGENCY STATEMENT	
<b>Analysis of expected impacts of policy options</b>	<p><i>Assess the impacts (costs and benefits) of each of the options on consumers, businesses, government, community and other relevant stakeholders.</i></p> <p><i>Assess the socio-economic, environmental, gender and social inclusion, and disaster risk impacts where relevant.</i></p> <p><b>An Illustration after the CRMS is hereto attached as Annex “C”.</b></p> <p><u>Option 1 - Status Quo or Do nothing.</u> No intervention from PPA. Stakeholders will continue to bear the monetary burden of container deposit for every inbound foreign-owned container which ranges from PHP10,000.00 up to PHP30,000.00 for dry containers and up to PHP180,000.00 for refrigerated containers.</p> <p>The issues of port users on the return of container deposits will remain unaddressed and may possibly worsen.</p> <p>Furthermore, other charges will continue to be imposed for the return of every inbound foreign-owned container, such as:</p> <ul style="list-style-type: none"> <li>• Pre-Advise - PHP 1,500.00</li> <li>• Documentation - PHP 1,200.00</li> <li>• Per Lift-on - PHP 1,100.00</li> <li>• Per Lift-off - PHP 1,100.00</li> </ul>

- Three days' Storage - PHP 1,500.00

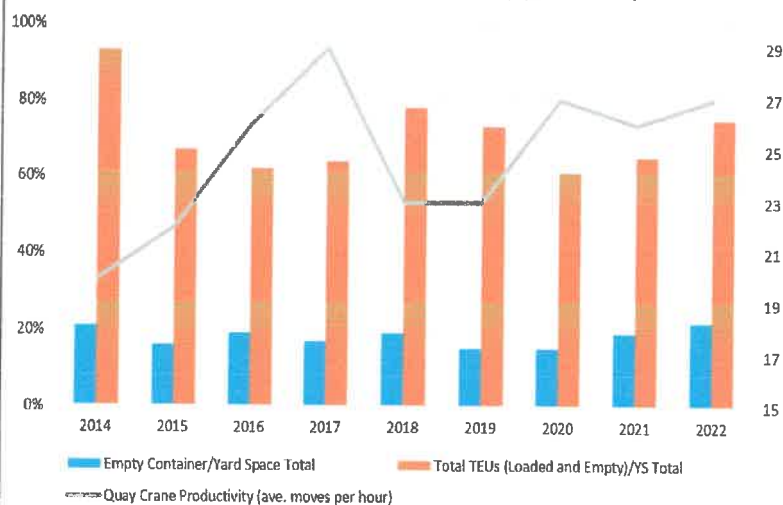
Imposition of other surcharges will likewise continue, such as:

- Peak season charge - PHP 4,000.00
- Container Imbalance - PHP 25,000.00
- Shipping Line Detention Fee (per day paid by trucking) - PHP 4,000.00
- Trucker Detention Fee (charged to the importer) - PHP 15,000.00

In addition, concerns about unavailable container depot/yard will persist, redounding to congestion at the ports and port access roads.

With regard PPA's terminal management, in the past 3 years, the yard utilization of empty containers has increased. In fact, in 2022, the yard utilization of empty containers has exceeded the yard utilization in 2014. This is only expected to go up and would adversely affect yard productivity.

MICT - Yard Utilization vs Productivity (2014-2022)



Option 2: Shipping lines to remove the practice of container deposits. Shippers and consignees will be relieved from allocating funds for container deposit; hence, stakeholders will have available funds for other business productivity pursuits such as capital investment, product improvement or service efficiency.

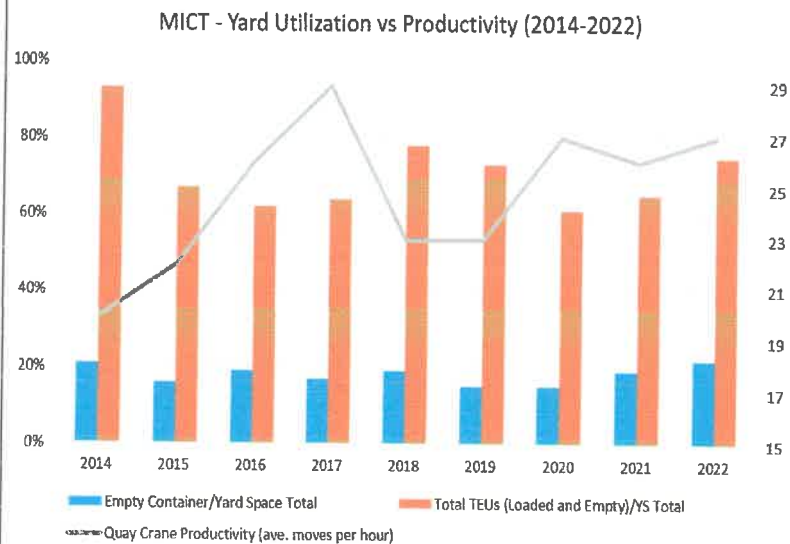
However, the purported risk of containers being stolen, damaged, abandoned, or detained for prolonged periods is not addressed by this option.

Furthermore, the other charges and other surcharges, as above-enumerated (under Option 1 - Status Quo or Do nothing) will continue to be imposed.

In addition, concerns about unavailable container depot/yard will persist, redounding to congestion at the ports and port access roads.

With regard PPA's terminal management, in the past 3 years, the yard utilization of empty containers has increased. In fact, in 2022, the yard utilization of empty containers has exceeded the yard utilization in 2014.

This is only expected to go up and would adversely affect yard productivity.



**Option 3:** The newly deployed Container Ledger Account (CLA) (<https://clap.ph/>) is intended to speed-up container deposit refunds within 3 working days upon the approval of Shipping Line / Shipping Agent / NVOCC.

It requires a voluntary participation by the CLA Principal and CLA Subscriber. Being voluntary, CLA cannot ensure that the issue about delay in the refund of container deposit. Moreover, CLA also does not address the issue of deductions from the container deposit of amounts associated to alleged damages to containers.

Furthermore, considering that the refund of the container deposit is dependent on the approval of the Shipping Line / Shipping Agent / NVOCC, it seems the same issue as the current system, described under Option 1 - Status Quo or Do nothing, remains. Such that, the approval of the container deposit refund is delayed.

Container deposit will still have to be made by registered port users; either based on the monthly container volume or for every Bill of Lading based on a published tariff by shipping lines.

Use of the CLA will also incur fees on the part of the port user.

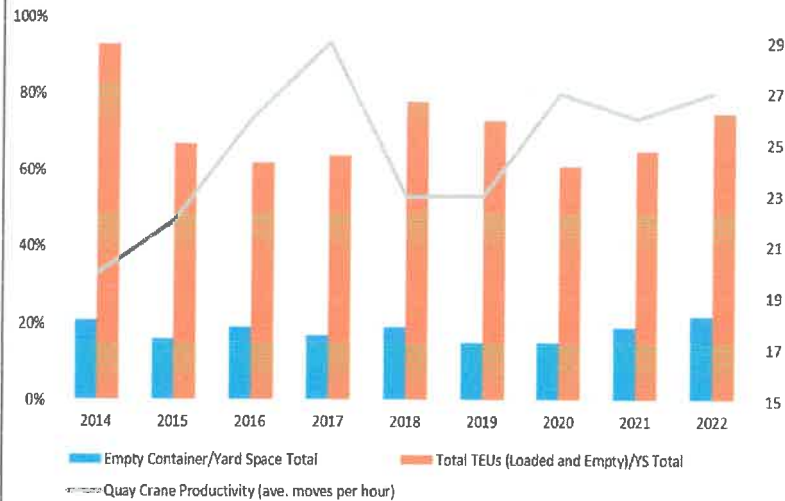
The CLA will not address the issues on empty container return.

Furthermore, the other charges and other surcharges, as above-enumerated (under Option 1 - Status Quo or Do nothing) will continue to be imposed.

In addition, concerns about unavailable container depot/yard will persist, redounding to congestion at the ports and port access roads.

With regards to PPA's terminal management, in the past 3 years, the yard utilization of empty containers has increased. In fact, in 2022, the yard utilization of empty containers has exceeded the yard utilization in 2014. This is only expected to go up and would adversely affect yard productivity.

MICT - Yard Utilization vs Productivity (2014-2022)



#### Option 4: BOC's e-TRACC System

The e-TRACC System, launched through the issuance of Customs Memorandum Order 04-2020, enables the real-time monitoring of inland movements of containerized goods using an Information and Communications Technology-enabled system such as the GPS-enabled tracking device to secure its transport to the intended destination. In addition, the system has a state-of-the-art alarm feature than can detect diversion and tampering.

As such, the e-TRACC System cannot address the issues of port users on container deposits.

Furthermore, the e-TRACC System only covers laden containers headed to/from customs bonded warehouses, economic zones, and customs facilities or warehouses. Thus, it only covers 20-25% of laden containers, as such the e-TRACC does not address concerns about empty container returns.

The Customs Electronic Seal is also insufficient to assist in empty container return management considering its limited battery life and number of devices.

On the average, 4,857 containers are released from PPA NCR port terminals every day. As such, 1,300 devices used by the e-TRACC for tracking laden containers are severely insufficient.

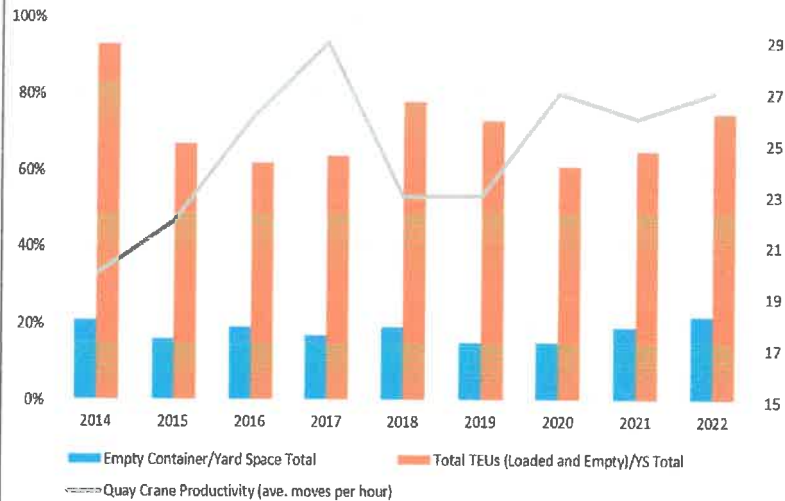
Furthermore, the other charges and other surcharges, as above-enumerated (under Option 1 - Status Quo or Do nothing) will continue to be imposed.

In addition, concerns about unavailable container depot/yard will persist, redounding to congestion at the ports and port access roads.

With regard PPA's terminal management, in the past 3 years, the yard utilization of empty containers has increased. In fact, in 2022, the yard utilization of empty containers has exceeded the yard utilization in 2014. This is only expected to go up and would adversely affect yard productivity.



MICT - Yard Utilization vs Productivity (2014-2022)



**Option 5: TOP-CRMS.** Using the TOP-CRMS, Brokers/Consignees are free to choose and access all available trucking companies, prices and quality of service.

*Quantify impacts in monetary terms where feasible and cost effective; otherwise, rigorous qualitative analysis should be used to demonstrate impacts.*

Once implemented, TOP-CRMS would result to reduced logistics costs since: (1) the PHP980.00 container monitoring fee, inclusive of container insurance, would replace the PHP10,000 to PHP30,000 container deposit imposed by shipping lines; and (2) Empty Container Handling costs would be reduced from PHP6,400 to PHP3,520. Additionally, trucking costs will also be reduced since the TOP-CRMS would help ensure that empty containers can be returned without delays. As such, the TOP-CRMS is more efficient, transparent and less costly.

With less truck trips and idling, TOP-CRMS will indirectly reduce, if not eliminate, the air pollution/smog around the port areas

Smog is formed when emissions from trucks, cars, and other industrial sources react with heat and sunlight in the atmosphere. Long-term exposure to smog will result to health risks to the general population.

### **Cost-Benefit Analysis**

Based on the Cost/Benefit Analysis (CBA), only Option 5 resulted to a Net Present Value with Php282,658,215,086.00 net benefit for the 10-year period.

Summarized below is the CBA for Options 1 to 5:

Summary	For 10-Year Period			
	Cost	Benefit	Net Benefit (Cost)	Net Present Value
Option 1 - Status Quo	484,303,034,758	14,283,410,401	(470,019,624,356)	-282,233,835,165
Option 2 - Shipping Lines to Remove Imposition of Container Deposit	215,086,922,483	14,283,410,401	(200,803,512,082)	-120,576,976,774
Option 3 - Use of Container Ledger Account	486,322,155,600	14,283,410,401	(472,038,745,198)	-283,446,261,602
Option 4 - Use of BOC E-TRACC System	486,172,591,093	14,283,410,401	(471,889,180,692)	-283,356,452,237
Option 5 - PPA Policy on Container Registration and Monitoring	14,283,410,401	485,009,778,126	470,726,367,724	282,658,215,086

**Assumption:**

Port Covered - Manila International Container Terminal (MICT) and South Harbor

Baseline Year - 2022

Annual Increase of Imported/Exported Container -3.3%

Percentage of Imported Container with Container Deposit - 90.0%

**Option 1 - Status Quo or Do nothing.** PPA will not adopt any intervention. This option's **net cost** for a 10-year period is computed at P470,019,624,356, considering the present practice of container deposit payment, cost of processing refund for container deposit, pre-advise fees, documentation fee, detention charges (for delayed return of empties), container handling and storage cost and cost of truck waiting time, such as fuel cost and driver's salary. If government will not intervene, importer will not pay the container insurance and container monitoring fee. This was considered as benefit in the CBA.

**Option 2: Shipping lines to remove the practice of container deposits and bear the risk for damaged or unreturned containers.** The **net cost** for this option, for the same period is computed at P200,803,512,082, considering the same cost items under Option 1, except container deposit payment and cost of processing refund for container deposit. Again, if government will not intervene, importer will not pay the container insurance and container monitoring fee. With this option, it is assumed that PPA will no longer issue the IOG for PPA AO 04-2021, hence, importer will not pay the container insurance and container monitoring fee. This was considered as benefit in the CBA.

**Option 3: Container Ledger Account (CLA)** (<https://clap.ph/>), spearheaded by the Association of International Shipping Lines (AISL). Among the policy options, this option presents a highest **net cost** for a 10-year period, computed at P472,038,745,198. The same cost items under Option 1 were considered, however, instead of container deposit, using CLA requires payment of "deposit ledger account" and "cash ledger account", both payments incur cost of money to the shippers or truckers. With this option, it is assumed that PPA will no longer issue the IOG for PPA AO 04-2021, hence, importer will not pay the container insurance and container monitoring fee. This was considered as benefit in the CBA.

**Option 4: Electronic Tracking of Containerized Cargo (e-TRACC) System** of the Bureau of Customs. Under e-TRACC, which presents the second highest **net cost**, amounting to P471,889,180,692, the same cost items under Option 1 were considered, plus fees for using e-TRACC. With this option, it is assumed that PPA will no longer issue the IOG for PPA AO 04-2021, hence, importer will not pay the container insurance and container monitoring fee. This was considered as benefit in the CBA.

	<p>Option 5. TOP-CRMS. With this policy option, a net benefit of Php470,726,367,724.00 is projected to be recognized with a 10-year period. Under TOP-CRMS, the cost is the container insurance and monitoring fee while the benefits considered are cost-savings from pre-advise, documentation fee, reduced CY and storage, container deposit, truck waiting time, salary of truck driver from waiting to return empty container, 1-day detention charge. Also consider as benefit is the administrative fee to be paid to PPA.</p>
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Rubric	Rating	Remarks
<b>Assessment of Policy Options</b>		PPA was able to assess the impacts (costs and benefits) of each of the options on directly impacted stakeholders and was able to provide a quantification of impacts in monetary terms in a qualitative analysis with appropriate analytical methodology, data and evidence.

## Section 5 – CONSULTATION

AGENCY STATEMENT	
<b>List of stakeholders consulted and their views on the proposed regulation or option</b>	<p><i>Describe how consultations were done, the results/information from those consultations, and the action taken by the Agency on the views/suggestions given by stakeholders.</i></p> <p>Prior to issuance of PPA AO No. 04-2021 dated September 22, 2021, consultations with the stakeholders have been conducted on June 15, 2021 and July 2, 2021. The Minutes of the Meetings are hereto attached as <b>Annex “E”</b>.</p> <p>Focus Group Discussions (FGDs) with the terminal operators, truckers/brokers/consignees, shipping lines and other government agencies were conducted on December 1, 2022, December 2, 2022, December 6, 2022 and December 9, 2022, respectively, to discuss the proposed IOG of PPA AO No. 04-2021. The minutes of the FGDs are hereto attached as <b>Annex “F”</b>.</p> <p>Public Consultation was conducted on January 4, 2023, and a Trucker’s Summit was held on January 16, 2023. Attached as <b>Annex “G”</b> are the attendance sheets of the said activities. Attached as <b>Annex “H”</b> is the list of issues and concerns raised by stakeholders during said consultations, as well as PPA’s response. The same was posted in the PPA website, and the concerned stakeholders were also informed of the same.</p> <p>The key changes in the draft IOG as of February 17, 2023 hereto attached as <b>Annex “I”</b>.</p>

Rubric	Rating	Remarks
		The proponent agency was able to provide evidence and documentation on its conduct of consultations which clearly showed results in the revisions made in its IOG in favor of the private stakeholders. The proponent agency was able to consult and coordinate with relevant government agencies and regulators.

## Section 6- RECOMMENDED OPTION

AGENCY STATEMENT	
<p><b>The option being recommended to the decision maker (department secretary/head of agency)</b></p>	<p><i>State clearly why the chosen option is being recommended. Indicate how the recommended provides the greatest net benefit to the people of the Philippines/relevant stakeholders.</i></p> <p>As presented in Section 4, Options 1-4 will not solve the current problem that PPA seeks to resolve namely: (1) the difficulty on the return of container deposits and (2) the challenges that truckers encounter in returning empty containers which resulted to empty containers piling up along port access road and/or stored at the port terminals occupying valuable space at the operational area, adversely contributing to port congestion which negatively impacts the quay crane production rate at the ports. Further, Options 2 and 3 are voluntary on the part of shipping lines, as such, adoption of these options is difficult and will not be responsive to the objectives of government action. Only Option 5 which is the implementation of TOP-CRMS / IOG of PPA AO 04-2021 will address these perennial problems. Furthermore, only Option 5 resulted to a <b>net benefit</b> which amounts to P470,726,367,724 for 10-year period.</p> <p>TOP-CRMS program, once implemented, would resolve the issues of port users regarding delay in the processing of refund of container deposits, as well as arbitrary deductions to container deposits.</p> <p>TOP-CRMS would also improve empty container return management by ensuring the availability of spaces at container yards that can accommodate return of empty containers and reducing dwell time of empty containers at the port terminals. The reduced dwell time will ensure that port terminal yard efficiency will not be hampered by empty containers occupying valuable operational areas.</p> <p>Furthermore, it would result to reduced logistics costs since: (1) the PHP 980.00 container monitoring fee, inclusive of container insurance, would replace the PHP 10,000.00 to PHP 30,000.00 container deposit imposed by shipping lines; and (2) Empty Container Handling costs would be reduced from PHP 6,400.00 to PHP 3,520.00.</p> <p>Additionally, trucking costs will go down since TOP-CRMS would ensure that empty containers can be returned to container yards without delay. As such, TOP-CRMS promotes efficiency, transparency and is less costly.</p> <p>There will also be a positive cascading effect by TOP-CRMS to other sectors and to the public. Since the overall logistics fees shouldered by the consignees will be reduced, it will as well help reduce prices of imported goods and commodities.</p>



Below is a sample comparison of commodity in a 40-footer container:



Aligned with the directive of President Ferdinand R. Marcos to reduce logistics cost, implementation of the TOP-CRMS would not only benefit port users but the general public.

Rubric	Rating	Remarks
<b>The option being recommended to the decision maker</b>		PPA was able to provide adequate information with clear explanation why the option is being recommended and demonstrated why the other alternatives do not address the identified problem. The PPA was also able to show that the chosen option provided the greatest net benefit to the people and relevant stakeholders.

## Section 7- IMPLEMENTATION & ENFORCEMENT

### AGENCY STATEMENT

<b>Description of implementation and enforcement plan</b>	<p><i>Describe the implementation and enforcement plan for the recommended option. Discuss any implementation and/or enforcement issues or risks and strategies for dealing with them.</i></p> <p>The implementation and enforcement plan will be under the supervision of the Electronic Container Registry and Monitoring (ECRM) Committee created pursuant to PPA Special Order (SO) No. 216-2021 dated May 26, 2021 (<b>Annex "J"</b>).</p>
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	<p>As part of the proposed IOG, a comprehensive standard procedural operations reference guide will be issued by PPA. Further, there shall be trainings conducted for recipients of devices to be utilized for the TOP-CRMS to help ensure that objectives for implementation of the system will be achieved.</p> <p>Pilot implementation of the TOP-CRMS shall cover Manila International Container Terminal (MICT) and Manila South Harbor (MSH). The TOP-CRMS will eventually be rolled out to other ports under the administrative jurisdiction of PPA.</p> <p>Prior to the full implementation of the TOP-CRMS, a dry-run of 100,000 containers will be conducted to ensure that all issues and concerns will be addressed prior to full implementation.</p> <p>There will be information drive on the nationwide implementation of the program by phases.</p> <p>Attached as <b>Annex "K"</b> is the proposed timeline for the implementation and enforcement of the TOP-CRMS.</p>
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Rubric	Rating	Remarks
<b>Description of implementation and enforcement plan</b>		<p>The proponent agency provided adequate information with regard to their implementation and enforcement plan for the intended policy option. It was stated that prior to the full implementation of the recommended option, a dry run will be conducted to ensure that all issues and concerns will be addressed prior to full implementation. The proposed timeline for the implementation and enforcement was also provided as annexed in their document.</p> <p>Meanwhile, they should have discussed the specific implementation and/or enforcement issues and risks as well as the mitigation measures should they arise.</p>

## Section 8 – MONITORING & EVALUATION

AGENCY STATEMENT	
<b>Description of monitoring and evaluation plan</b>	<p><i>Describe a strategy for monitoring, reviewing and evaluating the recommended option post- implementation.</i></p> <p>The entire project shall be supervised by the Steering Committee. There will be a Project Monitoring Team (PMT) compose of a Project Manager, Technical Team, Functional Team, Subject Matter Experts and Change Management Team.</p> <p>The PMT shall be responsible in the monitoring and evaluation of the Project. The Project Manager shall oversee the project, coordinate and implement support system and project engagement. The Technical Team will provide technical and operations support during the deployment phase. The Functional Team shall oversee the whole operational procedure of the system. Subject Matter Experts shall oversee tasks, expectations and skills during the milestone of the project. The Change Management Team shall oversee the planning, developing, delivering and tracking change management deliverables.</p> <p>During and after the dry-run, evaluation on the TOP-CRMS will be conducted and the necessary amendments to the IOG and other PPA policies will be done, as necessary.</p> <p>The implementation of PPA AO No. 04-2021 and its IOG will be constantly monitored, and the necessary amendments will be done, as necessary.</p> <p>The following shall also be included in the monitoring and evaluation plan of the Project Monitoring Team:</p> <ol style="list-style-type: none"> <li>1. The complaints received by the Shippers Protection Office would reveal any issues resulting from the implementation of the TOP-CRMS.</li> <li>2. Coordination with the accredited insurers, shipping lines, and container yards, will ensure that issues regarding any claims on container deposit insurance are addressed.</li> <li>3. Through the TOP-CRMS, there will be a database which will be the source of information on the status of container dwell time and utilization of the accredited container yards. PPA would be able to help ensure that there will be no issues, or that issues are addressed, regarding empty container return.</li> </ol>

	4. The Port Management Office will also be monitoring yard utilization level, productivity, and empty container dwell time at the port terminals.
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Rubric	Rating	Remarks
<b>Monitoring and Evaluation</b>		<p>PPA has provided a description in its strategy for the monitoring and reviewing and evaluating the recommended option post-implementation by creating a specific office dedicated to perform such tasks. The PPA has formed a Project Monitoring Team (PMT), created pursuant to PPA Special Order (SO) No. 216-2021 which shall be responsible for the monitoring and evaluation of the Project. It shall oversee the project and coordinate and implement support system and project engagement.</p> <p>While a monitoring and evaluation plan was provided, PPA has yet to present indicators and/or outputs to monitor as well as the allocation of resources for the monitoring and evaluation. PPA also should have provided the time-periods for the monitoring and evaluation to take place.</p>

### Summary ARTA Assessment

#### SUMMARY ARTA Assessment

RIS SECTION	RATING
• Policy Problem and Need for Government Action	
• Policy Objective	
• Identification of Policy Options	
• Assessment of Impacts of Policy Options	
• Consultation	
• Recommended Option	
• Implementation & Enforcement	
• Monitoring & Evaluation	

### Final ARTA Assessment

#### FINAL ARTA Assessment

RATING	GOOD PRACTICE RIS (Score: 36)
REMARKS	PPA has provided concise and satisfactory evidence on all RIA Sections. Hence, the RIS was assessed as Good Practice.