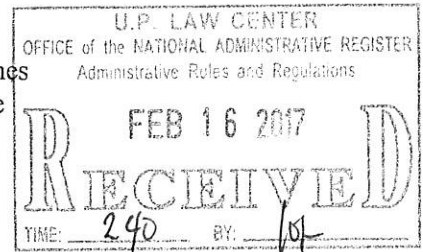




Republic of the Philippines
Department of Finance
Bureau of Customs
1099 Manila



30 January 2017

CUSTOMS MEMORANDUM ORDER

No. 09-2017

SUBJECT: STRENGTHENING THE LEGAL SERVICE BY CONSOLIDATING ITS FUNCTIONS UNDER E.O. 724 AND OTHER PERTINENT LAWS, RULES AND REGULATIONS AND CREATING UNITS UNDER THAT SERVICE TO INTENSIFY ITS ROLE IN THE ANTI-SMUGGLING EFFORTS OF THE BUREAU OF CUSTOMS

In order to further strengthen the anti-smuggling drive of the Bureau of Customs, through the Legal Service, the following rules and regulations are hereby promulgated.

I. GENERAL PROVISIONS

A. Objectives

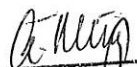
1. To effectively carry out the objectives of Executive Order No. 724 entitled "REORGANIZING CERTAIN FUNCTIONS WITHIN THE BUREAU OF CUSTOMS (BOC) TO MAKE IT MORE RESPONSIVE TO THE INTENSIFIED ANTI-SMUGGLING THRUSTS OF THE GOVERNMENT" in relation to Executive Order No. 127.
2. To centralize, absorb, integrate and harmonize the prosecution functions of the various offices, units, divisions, and *ad hoc* bodies in the Bureau of Customs to the Legal Service.
3. To put the Legal Service in the forefront of the intensified anti-smuggling drive of the government.

B. Coverage

This Administrative Order shall affect the following Offices/units:

1. Investigation and Prosecution Division (IPD);

Certified True Copy

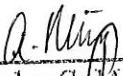

Alexander C. Montemayor
Admin Officer V
CRMD - BOC


2. Internal Inquiry and Prosecution Division (IIPD);
3. Customs Intelligence and Investigation Service (CIIS);
4. Enforcement and Security Service (ESS);
5. Certain offices and units under the Office of the Director of the Enforcement and Security Service (ESS) performing prosecution functions;
6. Other offices and units under the Office of the Deputy Commissioner for Intelligence and Enforcement Group (IEG) performing prosecution functions; and
7. Run After the Smugglers (RATS) Program of the Bureau of Customs.

II. ADMINISTRATIVE PROVISIONS

1. Pursuant to Executive Order No. 724, the prosecution function of the IPD-CIIS, IIPD-CIIS, ESS, and other offices/units of the Intelligence Group (IG) and Enforcement Group (EG), including *ad hoc* bodies, is transferred to the Legal Service. Accordingly, all case folders, files and/or records of these offices pertaining to the prosecution of criminal and administrative/seizure cases shall be inventoried and docketed before the same are turned over to the Legal Service within 30 days from the effectivity of this Order.
2. Due to the institutionalization of all prosecution functions to the Legal Service under Executive Order 724, the RATS GROUP is now rendered *functus officio* and thus ordered abolished and dissolved. All personnel previously assigned with the RATS Group are recalled to their mother units. All RATS cases shall be turned-over and continuously handled by the Legal Service. All criminal, civil and administrative pleadings shall not be filed without the review and approval of the Director, Legal Service. Folders, files and/or records shall be inventoried, docketed and cataloged preparatory to turn-over. Furthermore, all computer hardware, software, records, data, electronic or paper, office equipment, and other paraphernalia shall be turned-over to the Legal Service for proper disposition.
3. The total amount of Php 2,000,000.00 is initially allocated to the Legal Service, to be used as follows: PhP 1,000,000.00 for the inventory, cataloging and transfer of case folders, files and/or records, and PhP 1,000,000.00 for the docketing and purchase of the needed office supplies/complement of the Director of the Legal Service, subject to the usual accounting procedures. Thereafter, such funds as may be

Certified True Copy


Alexander C. Montemayor
Admin Officer V
CRMD - BOC

U.P. LAW CENTER	
OFFICE of the NATIONAL ADMINISTRATIVE REGISTER	
Administrative Rules and Regulations	
FEB 16 2017	
RECEIVED	
TIME: _____	BY: 

necessary for the effective operation of the Legal Service shall be included in the annual appropriations of the Bureau of Customs.

4. In the exigency of the service, additional members and/or technical and administrative support staff to be drawn from other BOC offices may be assigned to the Legal Service upon request of the Director subject to the approval of the Commissioner of Customs.

III. CREATION OF THE BUREAU'S ACTION TEAM AGAINST SMUGGLERS (BATAS)

To put the Legal Service in the forefront of the anti-smuggling campaign of the Bureau of Customs and due to the abolition of the RATS GROUP, there is hereby created a BUREAU'S ACTION TEAM AGAINST SMUGGLERS (BATAS) under the direct control and supervision of the Director, Legal Service, RCMG which shall be composed of the following units, to wit:

TEAM	FUNCTIONS
PROSECUTION/LITIGATION TEAM (PLT)	Evaluate, build a case and if warranted by evidence, initiate, file and prosecute cases before the Department of Justice (DOJ) and the regular courts.
CASE EVALUATION TEAM (CET)	Collect data and/or information relative to smuggling from the field, warehouses, and/or different offices of the BOC and other government agencies and monitor smuggling activities in all ports.
PROFILING TEAM (PT)	Conduct of investigation/profiling of importers, brokers, and other persons suspected to be involved in smuggling activities.

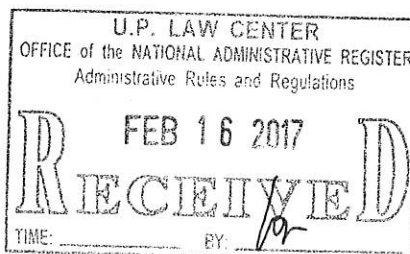
Recommend alert/hold orders, carry out alert/hold and/or mission orders or Letters of Authority issued by the Commissioner of Customs and such other functions as may be assigned by the Commissioner of Customs.

IV. CREATION OF INFORMATION SYSTEM MANAGEMENT OFFICE (ISMO)

In order to effectively monitor all incoming and outgoing communications, establish efficient record-keeping and preserve the integrity of evidence for use in the prosecution of cases, the Legal Service is hereby directed to establish a system of communications, record and evidence-

Certified True Copy

A. Montemayor
 Alexander C. Montemayor
 Admin Officer V
 CRMD - BOC



keeping through the creation of an Information System Management Office (ISMO), which shall be under the control and supervision of the Director, Legal Service.

The ISMO shall be accountable for and shall serve as the central receiving unit of all notices, letters, case records and official correspondence and all legal documents and/or issuances. For this purpose, the Records Division-IAG is hereby directed to thereafter provide the Legal Service with copies of all legal documents and other related issuances as may be necessary, for the pursuit of the mandate of the Legal Service.

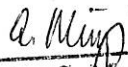
For this purpose, the Records Management and Evidence Custodian (RMEC) created pursuant to a Memorandum from the Commissioner dated July 19, 2006 is abolished and its functions transferred to the Office of the Director, Legal Service. All folders, evidence, software, hardware, and other equipment under the custody of the RMEC are hereby ordered to be turned over to the ISMO.

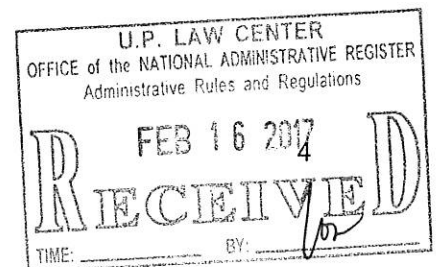
V. OPERATIONAL PROVISIONS

A. Seizure/Forfeiture/Administrative Cases

- i. All alerting units are required to furnish the Director, Legal Service a copy of the Alert Order, including its supporting documents, within forty eight (48) hours upon issuance thereof.
- ii. All District Collectors/Port Collectors shall, within forty eight (48) hours from their issuance of a Warrant of Seizure and Detention (WSD), furnish a copy thereof, including its supporting documents, to the Legal Service for the immediate and effective prosecution of seizure cases. Furthermore, in order for the Legal Service to monitor all existing cases in all the Ports, and to take appropriate steps to protect the interest of the government, all District Collectors are required to submit a status report of all pending cases in their respective jurisdiction to the Deputy Commissioner, RCMG, copy furnished the Director, Legal Service, within thirty (30) days from the effectivity of this Order.
- iii. All apprehending units shall be required to submit within forty eight (48) hours from the issuance of the WSD, their Apprehension Report/Officer-on-Case Report together with the supporting copies of Import Entry, Inward Foreign Manifest (IFM), Bill of Lading, Commercial Invoice, and other pertinent documents, to the Director, Legal Service for immediate prosecution of the seizure/forfeiture cases against the apprehended articles and for the initiation of appropriate criminal cases against all personalities involved therein.

Certified True Copy


Alexander C. Montemayor
Admin Officer V
CRMD - BOC




- iv. All concerned offices shall give the Director, Legal Service, free and unimpeded access to the 201 files of importers, brokers, warehouse operators, recordation of Intellectual Property Rights, and other records as may be needed in order to come up with a strong case build-up against suspected smugglers.
- v. Likewise, in order to monitor and prevent the smuggling of goods processed through warehousing entries, all District Collectors, Division Chiefs and all others concerned shall give the Director, Legal Service, free and easy access to records and/or documents such as, but not limited to, all supporting documents of liquidated warehousing entries and cancellation of bonds, Inward/Outward Foreign Manifests, import entries, and other shipping documents attached thereto.
- vi. All Decisions/Orders of the District Collectors in seizure, protest, and administrative cases shall be reviewed by the Office of the Director, Legal Service. Thereafter, the case shall be forwarded to the Deputy Commissioner, RCMG and to the Customs Commissioner, for his approval.
- vii. In the same manner, requests for opinions, rulings, and memoranda relating to customs laws, rules and regulations, as well as adjudication of claims for abatement and refunds shall be reviewed by the Director, Legal Service. Thereafter, the case shall be forwarded to the Deputy Commissioner, RCMG and to the Customs Commissioner for his approval.

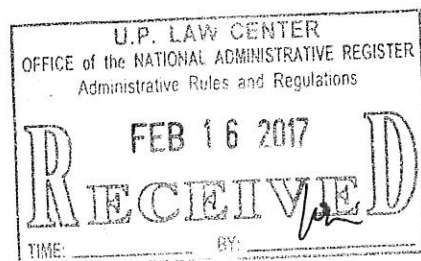
B. Cases Involving Brokers/Importers, etc.

- i. Administrative complaints filed against erring brokers in violation of the Customs Modernization and Tariff Act (CMTA) and Republic Act No.9280, otherwise known as the "Customs Brokers Act of 2004", and Customs Administrative Order No. 2-2006-A, shall be filed with the Office of the Director, Legal Service, and prosecuted by the BATAS.
- ii. If a *prima facie* case exists, the Legal Service shall prepare a Notice of Charge and/or Order of Preventive Suspension against the erring broker, to be forwarded to the Commissioner for his signature.
- iii. The case shall be docketed and heard by the PLD, which shall submit its findings for the consideration and approval of the Director, Legal Service. Thereafter, the disposition of the case shall be forwarded to the Commissioner for approval.

Certified True Copy



Alexander C. Montemayor
Admin Officer V
CRMD - BOC



- iv. Likewise, unless initiated by the Commissioner, Complaints for suspension/revocation of the importer's accreditation shall be subject to the review by the Director, Legal Service who shall make the appropriate recommendation to the Commissioner.
- v. The corresponding civil and/or criminal case against erring importers, brokers, freight forwarders, consolidators, including their agents and representatives, and all persons found to have violated of the Customs Modernization and Tariff Act (CMTA) and allied laws, if warranted, shall be filed with the proper courts under the authority of the Commissioner of Customs and prosecuted by the BATAS in collaboration with the proper agencies of the government. If necessary, the BATAS may likewise file and prosecute a separate administrative complaint with the Professional Regulation Commission (PRC).
- vi. Prosecution of criminal cases already filed and pending with the Department of Justice and/or various courts for violation of the Customs Modernization and Tariff Act (CMTA), including those previously filed under the RATS Program, shall be continued by the BATAS in coordination with the DOJ prosecutors.


C. Cases Involving Bureau of Customs Officials/Employees

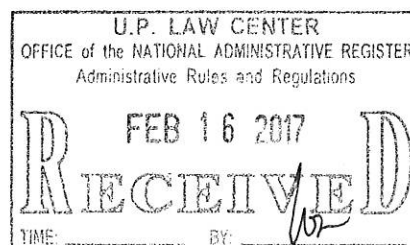
- i. Administrative complaints against customs officials and employees initiated by the IPD-CIIS, IIPD-CIIS and other investigating units of the Bureau shall be docketed and heard by the Prosecution and Litigation Division (PLD). Its resolutions/decisions shall be subject to the approval of the Director, Legal Service, before the disposition of the case is forwarded to the Commissioner for his approval.
- ii. The corresponding civil and/or criminal case, if warranted, shall be filed with the proper courts under the authority of the Commissioner of Customs and prosecuted by the BATAS in collaboration with the proper agencies of the government. To this end, the Legal Service shall coordinate with the Department of Finance under its Revenue Integrity Protection Service (RIPS), concerning administrative and criminal cases filed against erring officials and employees of the Bureau of Customs for the efficient and effective prosecution thereof.

D. Civil Cases

Civil cases already filed and pending with various courts, in collaboration with the lawyers from the Office of the Solicitor General (OSG), be prosecuted by the assigned Legal Service lawyers who shall be under the supervision and monitoring of the Director of the Legal

Certified True Copy


Alexander C. Montemayor
Admin Officer V
CRMD - BOC



Service. For this purpose, a Civil Cases Monitoring Team (CCMT) shall be created to help the latter in the performance of this function.

VI. ISSUANCE OF SUBPOENA *DUCES TECUM/AD TESTIFICANDUM*

The Director, Legal Service, pursuant to Section 1505 of the Customs Modernization and Tariff Act (CMTA), is hereby deputized and vested with authority to issue subpoena *duces tecum/ad testificandum* in connection with any case being investigated or pending before it. Any subpoena emanating from the Legal Service without the signature of the Director shall be without force and effect. For monitoring purposes, the ISMO is hereby required to maintain a logbook of all *subpoenae* issued by the Legal Service.

VII. FINAL PROVISIONS

A. Penalty Clause

Failure to comply with the directives of this Order may subject concerned officials to administrative sanctions pursuant to Section 7 of Executive Order No. 724 and other pertinent laws, rules and regulations. In addition, upon recommendation of the Director, Legal Service, any official or employee who violates any provision of this Order shall be relieved from his/her present designation or assignment and reassigned to a less sensitive position upon approval by the Commissioner.

B. Separability Clause

If any provision of this Order is declared invalid or unconstitutional, the provisions not affected thereby shall continue to be in full force and effect.

C. Repealing Clause

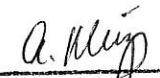
Customs Special Order Nos. 24-2005, 25-2005, and all Orders, Rules, Regulations and other Issuances which are inconsistent with the provisions of this Customs Memorandum Order are hereby revoked and/or modified accordingly.


D. Effectivity

This Order shall take effect immediately from the date of its signing/approval.


NICANOR E. FAELDON
Commissioner

Certified True Copy


Alexander C. Montemayor
Admin Officer V
CRMD - BOC

U.P. LAW CENTER	
OFFICE of the NATIONAL ADMINISTRATIVE REGISTER	
Administrative Rules and Regulations	
FEB 16 2017	
RECEIVED	FEB 10 2017
TIME: _____	BY: 

Bureau of Customs
NICANOR E. FAELDON
Commissioner
17-01086



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

INTERNAL ADMINISTRATION GROUP
CENTRAL RECORDS MANAGEMENT DIVISION

February 14, 2017

The Director

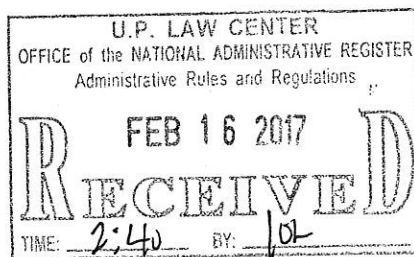
Office of the National Administrative Register (ONAR)
UP Law Center Diliman, Quezon City

Sir/ Ma'am:

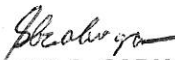
Transmitted are three (3) certified true copies and a soft copy (word format in compact disc rewritable) of the following Customs Memorandum Orders, to wit:

CMO 09-2017: STRENGTHENING THE LEGAL SERVICE BY CONSOLIDATING ITS FUNCTIONS UNDER E.O. 724 AND OTHER PERTINENT LAWS, RULES AND REGULATIONS AND CREATING UNITS UNDER THAT SERVICE TO INTENSIFY ITS ROLE IN THE ANTI-SMUGGLING EFFORTS OF THE BUREAU OF CUSTOMS

Thank you.



Very truly yours,


GLADYS C. CABUGAWAN
Chief, CRMD

UPD OR #3394227