



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF CUSTOMS**

**MEMORANDUM**

**TO :** ALL DEPUTY COMMISSIONERS  
ALL DISTRICT COLLECTORS  
ALL OTHERS CONCERNED

**SUBJECT :** Custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition

**DATE :** 5 September 2017

---

In connection to the above subject, the attention of your respective offices are invited to the attached Opinion No. 32, S. 2017, from Vitaliano N. Aguirre II, Secretary, Department of Justice, which states:

“It is clear from the above provisions in the CMTA that as a general rule, restricted goods, which includes dangerous drugs, should be physically turned-over immediately to the BoC. The law, however, provides for an exception when other existing laws, rules and regulations provide for the applicable rules or procedure on the disposition of certain seized goods. In the instant case, where it involves the seizure of dangerous drugs, the provision of Section 21 of R.A. 9165 will be applied.”

Section 21 of R.A. 9165 provides:

“Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – **The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:**

xxx.”

For information and strict compliance.

  
**ISIDRO S. LAPEÑA, PhD, CSEE**  
Commissioner



SEP 07 2017

2017-09-002 P.2

*P.2*  
MASTER COPY



Republic of the Philippines  
Office of the President

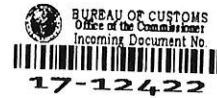
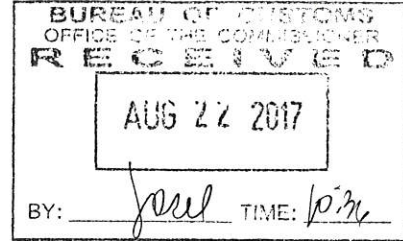
**PHILIPPINE DRUG ENFORCEMENT AGENCY**

PDEA Bldg. NIA Northside Road, National Government Center, Barangay Pinyahan,  
Quezon City 1100 | www.pdea.gov.ph | (02) 927-9702

August 7, 2017

**NICANOR E. FAELDON**  
Commissioner  
Bureau of Customs

Office of the Commissioner, G/F OCOM Building,  
16th Street, South Harbor, Port Area, Manila



**Dear Commissioner Faeldon:**

Please take notice that on July 27, 2017, the Department of Justice (DOJ) issued Opinion No. 32 s. 2017 which ultimately made clear that the custody and disposition of seized and/or surrendered dangerous drugs (DDs) and controlled precursors and essential chemicals (CPECs) belong to the authority of this Agency. Attached herewith is a copy of the said opinion for your immediate reference.

We earnestly expect that the said opinion be given weight and that our law enforcers be informed of the same and be guided accordingly.

Very truly yours,

**ISIDRO S. LAPEÑA, PhD, CSEE**  
Director General, PDEA / Chairman, ICAD

fw





2017-09-002 P.3

Dep. **MASTER COPY**

OPINION NO. 32 S. 2017



Republika ng Pilipinas  
**KAGAWARAN NG KATARUNGAN**  
Department of Justice  
Manila

VNA-L-556

JUL 27 2017

**ISIDRO S. LAPEÑA, Ph.D, CSEE**  
Director General  
Philippine Drug Enforcement Agency  
NIA Northside Road, Quezon City

Dear **Director General Lapeña:**

This refers to your request for legal opinion on the implementation of Section 21 of *Republic Act (R.A.) No. 9165*, as amended, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" by the Philippine Drug Enforcement Agency (PDEA), vis-à-vis Secs. 118(g), 119, 1113(f) of *Republic Act No. 10863*, otherwise known as the "Customs Modernization and Tariff Act" (CMTA) by the Bureau of Customs (BoC), relative to the custody and disposition of seized and/or surrendered dangerous drugs, herein referred to as "contrabands" for brevity.

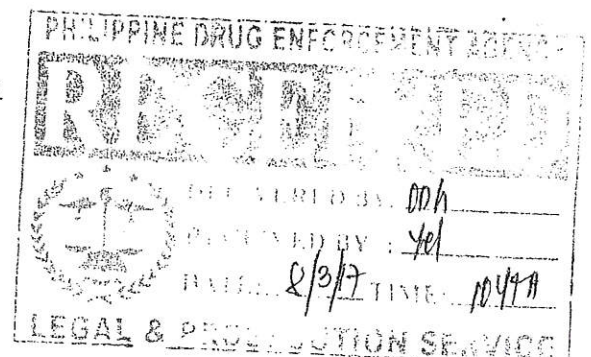
You state that there is a conflict of authority between the BoC and the PDEA relative to the taking of custody and disposition of contrabands; that the conflict proceeded from the refusal of the BoC personnel to turn-over seized contrabands to PDEA, albeit, the categorical command of Section 21 of R.A. 9165, or the BoC personnel's refusal to cooperate with investigations being conducted by PDEA; that you cited incidents where BoC asserted exclusive authority over the contrabands pursuant to its authority over importations of contrabands, as provided in the CMTA; that there has been an instance where instruments and equipment for the manufacture of dangerous drugs have been seized and disposed by the BoC according to its rules; and that due to this conflict of authority, the government is losing its opportunity to investigate, identify, apprehend and prosecute "big fishes" or criminal personalities.

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application.<sup>1</sup>

As we see it, there is no conflict between the above-mentioned provisions of R.A. 9165 and CMTA, respectively.

The legal provision applicable to the custody and disposition of dangerous drugs or "contrabands" is Section 21 of R.A. 9165, which pertinently provides as follows:

<sup>1</sup> Padua v. People, G.R. No. 168546, July 23, 2008, 559 SCRA 519, 531



"Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – **The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition** in the following manner: (emphasis supplied)

"x x x"

There is no question that, by virtue of R.A. 9165, PDEA is the lead agency tasked to enforce the provisions of R.A. 9165, specifically, on the taking of custody and disposition of contrabands.

In fact, the CMTA has confirmed and strengthened the authority of PDEA on seized contrabands when it states in Section 214 the following:

"Sec. 214. Persons Exercising Police Authority. - For the effective implementation of this Act, the following persons are authorized to effect search, seizure, and arrest:

"x x x

"Goods seized by deputized officers pursuant to this section **shall be physically turned-over immediately to the Bureau, UNLESS provided under existing laws, rules and regulations.**" (emphasis supplied)

Further, the CMTA provides in Section 1147 that the dangerous drugs shall be turned over to the Dangerous Drugs Board, to wit:

"Sec.1147. Disposition of Restricted Goods. – Restricted goods as described in Section 119 of this Act shall be disposed as follows:

"x x x

"(d) Marijuana, opium, poppies, coca leaves, heroin, or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, **shall be turned over to the Dangerous Drugs Board;** (emphasis supplied)

"(e) Opium pipes and parts thereof, of whatever material, **shall be turned over to the Dangerous Drugs Board.**" (emphasis supplied)

To note, PDEA serves as the implementing arm of the Dangerous Drugs Board, and is responsible for the efficient and effective law enforcement of all the provisions on



2017-09-009 P-5

OPINION NO.

MASTER COPY

32 S. 2017


any dangerous drug and/or controlled precursor and essential chemical as provided in R.A. 9165.<sup>2</sup>

Further, it is clear from the above provisions in the CMTA that as a general rule, restricted goods, which includes dangerous drugs, should be physically turned-over immediately to the BoC. The law, however, provides for an exception when other existing laws, rules and regulations provide for the applicable rules or procedure on the disposition of certain seized goods. In the instant case, where it involves the seizure and disposition of dangerous drugs, the provision of Section 21 of R.A. 9165 will be applied.

Again, since the subject statutes are clear and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or speech is the index of intention. Furthermore, there is the maxim *verba legis non est recedendum*, or from the words of a statute there should be no departure.<sup>3</sup>

Please be guided accordingly.

Very truly yours,

  
**VITALIANO N. AGUIRRE II**  
Secretary

Department of Justice  
CN : 0201707224



<sup>2</sup> Section 82, Article IX

<sup>3</sup> Padua v. People, G.R. No. 168546, July 23, 2008, 559 SCRA 519, 531, citing R. Agpalo, Statutory Construction 124 (5th ed., 2003).