



Republic of the Philippines
Department of Finance
BUREAU OF CUSTOMS
Port of _____

30 MAR 2006

CUSTOMS MEMORANDUM ORDER
NO. 10-2006

SUBJECT: SPECIAL RULES PRESCRIBING THE EXERCISE AND CONDUCT OF EXAMINATION, SEARCHES AND SEIZURES PURSUANT TO THE PROVISIONS OF SECTION 2536 OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS WELL AS THE CUSTODY OF AND RESPONSIBILITY OVER THE ARTICLES OR GOODS SEIZED AS INCIDENT THERETO

DATE: 29 MARCH 2006

PURSUANT TO Department Order No. 13-06 dated March 22, 2006, and the provision of Section 36(1), Chapter 6, Book IV, Title III of Executive Order No. 292, otherwise known as "The Administrative Code of 1987," in relation to the provision of Section 608 of the Tariff and Customs Code of the Philippines (TCCP), as amended, the following are hereby promulgated:

Section 1. Objectives. – This Order is issued to ensure the proper implementation of the "visitorial power" of the Bureau of Customs under Section 2536 of the TCCP, to prescribe guidelines in the exercise thereof and to define the manner of custody of, and responsibility over the articles or goods seized as an incident thereto.

Section 2. Scope. – These Rules shall apply only to the conduct of examination, searches and seizures of the articles pursuant to the provisions of Section 2536 of the Tariff and Customs Code, as well as the issues that may arise in connection with or directly related to the seizure, detention and disposition of the articles or goods seized under the said statutory provision.

Section 3. Who May Exercise. – The following may exercise or carry out the "visitorial power," thus:

1. The Commissioner of Customs;
2. The Collector of Customs; and
3. Any other Customs Officer with prior written authorization issued by the Commissioner of Customs.

Section 4. Place Where Visitorial Power May Be Exercised. – The visitorial power of the Commissioner/Collector of Customs may be exercised in:

1. Any place where foreign articles are *openly offered for sale*; or
2. Any place where foreign articles are *kept in storage*, provided, however, that in cases where these foreign articles are inside a dwelling house, the visitorial power shall be carried out only on the strength of a valid search warrant.

Section 5. Manner of the Conduct/Exercise of Visitorial Power.

To safeguard the integrity of the visitorial power and to prevent the possible abuse thereof, the following rules or guidelines shall be strictly observed:

1. A prior written authorization or a **Letter of Authority (LOA)** signed by the Commissioner himself, identifying the person/s authorized, the stores/stalls/exhibition places/warehouses/enclosures, where the foreign articles are openly offered for sale or kept in storage must be shown or exhibited whenever demanded by the person/s or representatives of the store or entity visited. The requirement shall not apply when the Commissioner of Customs himself exercises the visitorial power.
2. In the exercise of the visitorial power, the customs official or officer otherwise known as the "visiting officer," shall:
 - a. Enter the premises where smuggled goods are suspected to be stored in the presence of the lawful occupant or any person in possession of the premises or in their absence any two witnesses who are residents of the same locality, or barangay officials or any representative from the building or other responsible officers.
 - b. Conduct an inventory of the foreign articles if, upon demand, the owner, occupant or person in possession of the premises cannot show evidence of payment of duties and taxes.
 - c. Issue an Inventory Receipt, constituting a detailed receipt of the things and goods seized, to the lawful occupant, or in his absence, to the building administrator. The owner of the goods or his representatives shall execute a Certification as to the conduct of the inventory of his goods to show proof of ownership over the same.
 - d. Forward the inventory report to the Collector, through the Law Division for the issuance of Warrant of Seizure and Detention and for other appropriate actions, retaining a photocopy for the examiner/appraiser for the computation of duties and taxes and other charges and/or surcharge and penalties, if any.
3. The visiting officer shall witness the delivery, as the circumstances warrant, of the things seized into the custody of the Collector of Customs, which has jurisdiction over the place.
4. For goods where WSD is not issued, on account of the voluntary offer by the owner to pay duties and taxes therefor, the visiting officer shall compute the dutiable value of the goods and assess the duties and taxes payable thereon.



5. The visiting officer or head of the visiting team is duty bound to adopt all reasonable measures that he deems necessary to implement the LOA.

Section 6. Transport, Custody Of, And Responsibility Over the Goods/Articles Seized. – The Commissioner of Customs or any officer exercising visitatorial power may tap, harness or utilize transport facilities for the transport of the seized goods/articles and suitable warehouses or storage areas, constituting the same as virtual customs warehouses for this purpose. The remuneration and other charges appurtenant thereto shall constitute as liens over the goods when sold at public auction or disposed of in accordance with the provisions of the TCCP, as amended.

Section 7. Special Customs Area. – For reasons of security, safety, and economy, the Commissioner may constitute the premises upon which foreign goods/articles are openly offered for sale, or kept in storage, as a special customs area for the duration of the exercise of the visitatorial power or other proceedings related thereto. The Bureau of Customs may conduct the inventory, examination, appraisal, assessment and/or collection of duties and taxes due the foreign goods in such special customs area. The seized goods or articles are deemed, for all intents and purposes, in customs custody.

Section 8. One-Stop Shop. – The Commissioner may issue an Order establishing a **One-Stop Shop (OSS)** in the special customs area or premises where the visitatorial power is being exercised. The **OSS**, the composition of which shall be determined by the Commissioner, shall endeavor to resolve with finality all issues and matters thereat, including the payment of duties and taxes within the premises.

Section 9. –Summary Rules For Processing Goods/Articles Seized To expedite proceedings in accordance with law, the following summary rules shall be observed:

1. For goods where Warrant of Seizure and Detention has not been issued on account of the offer of the owner to pay duties and taxes thereon, the special/port Collector shall, upon receipt of the Inventory Report on the goods/articles seized or deemed in customs custody – when no evidence of payment of duties and taxes has been produced – cause the verification of the following facts:
 - i. Proof of payment of duties and taxes.
 - ii. Good faith of the claimant.
 - iii. Whether or not the goods were locally manufactured.
 - iv. Whether or not the goods were imported without violating the TCCP, other related laws, as well as relevant rules and regulations.

Upon verification of the foregoing facts and finding sufficient justification to release the goods to the claimant, the special/port Collector shall, subject to the approval of the Commissioner or his duly authorized representative, issue an Order allowing the payment of duties, taxes and/or fines, and forthwith release the goods



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2. In cases where WSD has been issued against the shipment, the seizure and forfeiture proceedings shall be held in accordance with law.
 - a. If the facts and circumstances so warrant, the District Collector, through the Law Division, shall issue an Order or Decision allowing the release upon payment of duties and taxes thereon by recalling the WSD duly issued, or settlement of the case pursuant to Section 2307, of the TCCP, as amended. For this purpose, the approval of settlement by the port/special collector shall carry with it the approval of the Commissioner unless otherwise directed or reprobated.
 - b. For compelling reasons as may be determined by the Commissioner, the resolution of the forfeiture proceedings at the **One-Stop Shop**, involving shipments that have already been transported to a customs special warehouse may still be allowed.

Section 10. Use of BC Form 177. – To facilitate the assessment and collection of duties and taxes, penalties and other charges accruing on the seized articles, **BC Form 177 (Informal Entry)** is hereby adopted, provided, that the normal documentary requirements such as bill of lading, commercial invoice and packing list, among others, are dispensed with. In lieu thereof, the said entry shall be supported by the LOA, WSD, Inventory Receipt, Summary Decision, and such other documents as may be deemed required. Provided further, that the cost of the aforesaid form is for the account of the owner, his/her representative or agent.

Section 11. Reportorial Requirements. – The Officer or head of the team conducting the visitatorial power shall render progress reports during and after the actual visit, and shall submit the same to the Commissioner within 24 hours from the conclusion thereof.


Section 12. Safeguards and Other Measures. – The following safeguards and other measures are ordered:

1. Only authorized customs officers shall participate or be allowed to participate in the implementation and/or execution of the visitatorial power;
2. In the implementation of the LOA and save in cases when violence is committed against the persons and property of the law enforcers, no physical arrests of persons found in custody of smuggled goods shall be made.

Section 13. Pro-forma documents. – To serve as guide in the implementation of this Order, the attached annexes shall form integral part hereof.

This *Order* shall take effect immediately.

NAPOLEON L. MORALES
Acting Commissioner






Republic of the Philippines
 Department of Finance
BUREAU OF CUSTOMS
 Port of _____

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ANNEX "A"

LETTER OF AUTHORITY
 Reference No. _____

Date _____

To: The Stall/Warehouse Owner or his Representative or
 Whosoever is in Possession of the Goods
 Stall Number _____
 Address _____

Sir/Madam:

This is to introduce the following members of the Bureau of Customs, to wit:

1. _____
2. _____
3. _____

to implement Section 2536 of the Tariff and Customs Code of the Philippines (TCCP) which is hereunder quoted for your information:

"Section 2536. Seizure of Other Articles - The Commissioner of Customs and Collector of Customs and/or any other customs officer, with the prior authorization in writing by the Commissioner, may demand evidence of payment of duties and taxes on foreign articles openly offered for sale or kept in storage, and if no such evidence can be produced, such articles may be seized and subjected to forfeiture proceedings. Provided, however, that during such proceedings the person or entity for whom such articles have been seized shall be given the opportunity to prove or show the source of such articles and the payment of duties and thereon"

This will serve as an Order to the authorized visiting officer/s to seize the goods if no evidence of payment of duties and taxes can be produced upon demand therefor.

Thank you for your cooperation.

Very truly yours,

NAPOLEON L. MORALES
 Commissioner

For verification/inquiry, please call:
 Office of the Commissioner - (02) 527-9453





Republic of the Philippines
 Department of Finance
BUREAU OF CUSTOMS
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LOA Ref No. _____ dated _____

ANNEX "B"

Date _____

INVENTORY/RECEIPT OF SEIZED ITEMS
 Pursuant to Section 2536 of the TCCP

(This form shall serve as an Official Receipt of the seized items for purposes of the seizure proceedings and identification of the rightful owner/s. A copy hereof shall be attached to the box/container and another shall be furnished to the owner of articles/goods, or his representative)

Name of establishment/ Stall Number: _____
 Operator/Proprietor/Lessee/Representative: _____

DESCRIPTION	QUANTITY

(Note: use another sheet if necessary)

Prepared by (full name and designation): _____

Witnesses: _____
 Name/Position _____ Name/Position _____

Proprietor/Lessee of Stall No. _____ or his/her Representative/Barangay Official:

Name: _____ Signature: _____
 Position: _____

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Republic of the Philippines
Department of Finance
BUREAU OF CUSTOMS

Port of _____

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ANNEX "C"

Republic of the Philippines

Seizure Identification
No.

- versus -

WARRANT OF SEIZURE AND DETENTION

TO:

GREETINGS:

WHEREAS, the above-described articles were seized for having been imported in violation of Section _____

WHEREAS, the article/s is/are at present stored at _____

WHEREFORE, by virtue of the authority vested in me by law, and in compliance with pertinent Customs laws, rules and regulations, you, together with the representative of this office, are hereby ordered to forthwith seize the aforementioned articles and turn them over to the custody of the Auction and Cargo Disposal Division of this Port, compliance with Customs Memorandum Order No. 8-84, particularly on the matter of making a return of service and the submission of the inventory report or list of the article/s seized is to be strictly observed and finally, you hereby ordered to return the aforesaid Warrant within ten (10) days from service, to the Law Division, this Port. Failure to do so, the Warrant shall ipso facto be considered null and void.

SO ORDERED

Port of _____, Philippines, _____

District Collector

Co:

- | | |
|---|-----------------------------|
| 1. Unit/Office in custody of the articles | 4. Apprehending Unit/Office |
| 2. Claimant/Consignee | 5. Resident Auditor/COA |
| 3. Chief, ACDD | |

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ANNEX "D"

VERIFICATION REPORT

Upon verification of the documents submitted and the information presented by the owner of stall/warehouse no. _____ located at _____, the following are the findings of the verifier/investigator:

- 1. Duties and taxes have not been paid thereon,
- 2. Owner claimed to have paid duties and taxes thereon, but/and upon consultation with the examiner/appraiser in concurrence with the team leader
 - There is a need to conduct further verification of the documents
 - There is no need to conduct further verification of the documents.
- 3. The owner submitted Affidavit of Good Faith, and that the material information contained therein have been verified as such,
- 4. The goods/articles are locally manufactured, but/and are
 - The materials used are of local origin
 - The materials used are imported
- 5. With attached documents, marked as Annexes " " to " "

Remarks:

Recommendation:

- Release the articles upon payment of duties and taxes, and fine.
- Conduct regular seizure proceedings to clearly evaluate the documents submitted
- Immediate forfeiture of the whole or part of the shipment consisting of boxes/pieces, for violation of _____

Investigator/Verifier

Recommending Approval:

Team Leader

APPROVED/DISAPPROVED

Overall Head, Verification Group

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Republic of the Philippines

ANNEX "E"

-VERSUS-

Seizure Identification No. _____

 Consignee/Claimant,

DECISION

These articles more particularly described as per Inventory Receipt No. _____ dated _____ were ordered seized by the Commissioner of Customs from stall/warehouse no. _____ located at _____ for failure of the owner to present evidence of payment of duties and taxes on all foreign articles openly displayed for sale or stored thereat, pursuant to Section 2536 of the Tariff and Customs Code of the Philippines, as amended.

In view however, of the voluntary offer of settlement by the claimant/owner by payment of duties and taxes plus penalty to facilitate the resolution of the case, upon confirmation of the veracity of the documents submitted by the owner, and finding the same to be meritorious, the shipment may now be released upon payment of duties and taxes thereon, plus 20% penalty on the landed cost thereof.

WHEREFORE, pursuant to Department Order No. 13-2006 dated March 22, 2006, as implemented by Customs Memorandum Order No. _____ dated _____, and Customs Special Order No. _____ dated _____, it is hereby **ORDERED** that the subject articles of _____ be **RELEASED** to the claimant, upon payment of duties and taxes in the amount of _____ plus 20% penalty in the amount of _____ or a total of _____, subject to proper identification of the shipments and its claimant/consignee, subject further to the condition that the said duties and taxes and fine be paid immediately from receipt of this Order.

For this purpose, the special collection unit is hereby directed to receive the payment of duties and taxes plus penalty in the total amount of _____

Applicable Not Applicable. However, _____ boxes/pieces of _____ are forfeited for violation of _____ and shall be disposed of in accordance with law.

 District/Port Collector

With enclosure.

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ANNEX "F"

CERTIFICATION

This is to certify that the following BUREAU OF CUSTOMS PERSONNEL
namely:

1. _____

2. _____

3. _____

had conducted an inventory at _____ with address at
_____ on _____ in an
orderly and courteous manner and that no damage to property was done, and that no
articles were stolen or missing and that all articles are accounted for.

Date

Owner/Representative

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REPUBLIC OF THE PHILIPPINES)
_____) S.S.

AFFIDAVIT OF UNDERTAKING

I, _____, of legal age, Filipino, with postal address at _____, after being sworn to in accordance with law, hereby depose and state that.

1. I am a retailer and a stall owner/warehouse owner of _____ located at _____;

2. I undertake to assume as the custodian of all goods and merchandise located in my above-stated stall/warehouse or in any portion of the premises of _____ before, during and after being inventoried and assessed or otherwise under the *custodia legis* of the Bureau of Customs,

3. As a protective custodian, I further undertake not to dispose, sell, destroy, alter, or diminish any and all goods or merchandise located, inventoried, or assessed in my stall/warehouse or in the designated premises at _____;

4. I am executing this affidavit of undertaking to attest to the truth of the foregoing and for the purpose of complying with the rules, guidelines, and order of the Bureau of Customs.

_____, Manila

AFFIANT FURTHER SAYETH NAUGHT.

Affiant

SUBSCRIBED AND SWORN TO before me this _____ of _____, affiant exhibiting to me his CTC/Passport No. _____ issued at _____ on _____

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REPUBLIC OF THE PHILIPPINES)
_____) S. S.

ANNEX "H"

AFFIDAVIT OF GOOD FAITH

I, _____ of legal age, with postal address at _____, after being sworn to in accordance with law, hereby depose and say:

1. I am the owner of a stall/ warehouse no _____ and some goods/merchandise located at _____

2. I buy my goods from various suppliers;

3. I buy my goods/merchandise from _____ as evidenced by my sales invoices which I may produce at anytime should I be required to do so;

4. I buy my goods in the ordinary course of commerce and in good faith that they are sold to me a by persons in open and arms-length transactions who represented themselves as legitimate suppliers/importers;

5. I am executing this affidavit to attest to the truth of the foregoing and in order to manifest and signify my being a buyer in good faith of all goods and merchandise which I have been selling prior to the recent raid and seizure conducted by the Bureau of Customs.

Affiant

SUBSCRIBED AND SWORN TO before me this _____ day of _____
affiant exhibiting to me his CTC/Passport No. _____ issued at _____
on _____

Doc No. _____
Page No. _____
Book No. _____
Series of 200 _____



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REPUBLIC OF THE PHILIPPINES)
CITY OF _____) S. S.

ANNEX "P"

AFFIDAVIT OF UNDERTAKING

I, _____, of legal age, Filipino, and with postal address at _____, after being sworn to in accordance with law, hereby depose and state that

1. I am the President of 168 Shopping Mall;
2. Pursuant to Board Resolution No. _____ dated _____ I was authorized by the management of _____ to execute any and all undertakings relative and necessary to the setting up of a one-stop-shop to be provided to all warehouses and stalls in the said _____;
3. The management of _____ undertakes to cooperate with the Bureau of Customs in the enforcement of its rules and guidelines relative to the conduct of a one-stop-shop in the premises of _____ to facilitate a prompt disposition and resolution in the inventory and assessment of all goods/merchandise and the corresponding payments of the duties and taxes that may be due thereon, if any, under the protective custody of the warehouse and stall owners;
4. The management of _____ undertakes to allow the Bureau of Customs to conduct inventory, assessment, examination, and appraisal of foreign or imported goods, and the corresponding payments of duties or taxes that may be due thereon, if any, right in the premises of _____;
5. The management of _____ has designated some areas in the premises of the said mall as special Bureau of Customs place/area for the latter to exercise its visitatorial powers;
6. I am executing this affidavit to attest to the truth of the foregoing and in order to assist the Bureau of Customs in the prompt and orderly exercise of its powers

_____, Philippines

AFFIANT FURTHER SAYETH NAUGHT.

Affiant

SUBSCRIBED AND SWORN TO before me this _____ day of _____, affiant exhibiting to me his Comm Tax Cert No. _____, issued at _____ on _____

Doc No. _____
Page No. _____
Book No. _____
Series of 200 _____

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PRESCHI (G. R.) FOR THE EXERCISE OF THE
VISITORIAL POWER OF THE BUREAU OF CUSTOMS UNDER
SECTION 2536 OF THE TARIFF AND CUSTOMS CODE OF THE
PHILIPPINES, AS AMENDED

Pursuant to Section 7(d), Chapter 6, Book IV, Title III of Executive Order No. 292, otherwise known as "The Administrative Code of 1987," in relation to Section 608 of the Tariff and Customs Code of the Philippines (TCCP), as amended, the following rules are hereby prescribed for the proper exercise of the visitorial power of the Bureau of Customs.

SECTION 1. Scope. This Order shall apply to the exercise and conduct of the visitorial power of the Commissioner of Customs, Collectors of Customs, and/or customs officials with prior written authorization from the Commissioner, under Section 2536 of the TCCP, as amended.

SECTION 2. Objectives. This Order is issued to effectively implement Section 2536 of the TCCP, as amended, or what is more popularly known as the "visitorial power" of the Bureau of Customs and to facilitate the resolution of issues and disputes arising from the exercise of such power.

SECTION 3. General Guidelines. In the exercise of the visitorial power, the Commissioner of Customs, Collectors of Customs and/or customs officials with prior written authorization from the Commissioner of Customs shall, as circumstances warrant, perform the following acts, to wit:

1. To authorize the examination, appraisal, assessment and/or collection of duties and taxes due the foreign goods/articles right in the premises where they have been found openly offered for sale, or kept in storage if no evidence of payment of duties and taxes on the foreign articles can be produced.



and after payment of the duties and other charges thereon has been made, release the same to the claimant, regardless of whether a Warrant of Seizure and Detention (WSD) may have been issued or not, or


- 2. To conduct inventory, seize, transport and to take custody of said goods, if no evidence of payment of duties and taxes can be shown, by placing the goods under the control and supervision of the Bureau of Customs (BOC), subject to existing rules and regulations, or in any other place that it may deem secure, safe and economical considering the same as special customs area strictly for this purpose.
- 3. To perform such acts as may be proper and necessary to carry out the objectives of this Order.

SECTION 4. - Nature of Proceedings. All proceedings emanating from the exercise of the visitatorial power under Section 2536 of the TCCP, as amended, shall be summary in nature, without prejudice to the filing of criminal and administrative charges in accordance with existing law.

SECTION 5. - Other Seizure Cases. All seizures of foreign articles which do not arise from the exercise of the visitatorial power under Section 2536 shall continue to be governed by Section 2343 of the TCCP, as amended.

SECTION 6. - Implementing Rules and Regulations. The Commissioner of Customs may issue such implementing rules or issuances necessary to carry out or clarify any part of this Order.

SECTION 7. - Effectivity. This Order shall take effect immediately.


MARGARITO L. TEJERO
Secretary
10/14/76

RECEIVED
CUSTOMS DIVISION
10-14-76
10-14-76

Certified-True Copy
10-14-76

