



CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. 03-2019

**SUBJECT: CUSTOMS JURISDICTION AND EXERCISE OF POLICE
AUTHORITY**

INTRODUCTION. This Customs Administrative Order (CAO) implements Title II, Chapter 3; Title III, Chapter 1; Title III, Chapter 2, Sections 301, 303, 305, and 306 in relation to Section 1800; and other related provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), and all other laws, rules and regulations related to customs administration.

Section 1. Scope. This CAO covers the exercise of customs jurisdiction and control over the following:

- 1.1** All importations, whether for consumption, warehousing, transit, or for admission to Free Zones as defined in Section 102 (w) of the CMTA, and all export shipments, which are suspected to be violative of the CMTA and related laws;
- 1.2** Suspected smuggled goods and prohibited importation and goods intended for exportation, found anywhere in the Philippines; and
- 1.3** Carriers and persons suspected to be in possession of smuggled goods and prohibited importation and exportation.

Section 2. Objectives.

- 2.1.** To clarify the extent and limits of the exercise of customs jurisdiction and police authority, including border protection and the prevention and suppression of smuggling and other customs fraud.
- 2.2.** To implement a clear and effective system in the exercise of customs jurisdictional control from the moment the imported goods enter customs jurisdiction and after release from customs custody, including the exportation of goods.
- 2.3.** To establish transparent procedures in the deputization of members of National Law Enforcement Agencies (NLEAs) and regulate their exercise of police authority.

J

- 2.4. To provide conditions for the exercise of police authority by Customs Officers or deputized officers in the apprehension of smuggled or prohibited goods, including those in the Free Zones.

Section 3. Definition of Terms. For purposes of this CAO, the following terms are hereby defined:

- 3.1. **Agents** – shall refer to Customs Officers under the Customs Intelligence and Investigation Service (CIIS).
- 3.2. **Bureau** – shall refer to the Bureau of Customs.¹
- 3.3. **Completion of Mission** – shall refer to the accomplishment of the Mission Order in accordance with the Execution Plan.
- 3.4. **Controlled Delivery** – shall refer to the investigative technique of allowing an unlawful or suspect consignment of any prohibited or regulated articles defined under the CMTA and other laws enforced by the Bureau, or property believed to be derived directly or indirectly from any customs-related offense, to enter into, pass through or exit out of the country under the supervision of an authorized officer, with a view to gather evidence aimed at identifying any person involved in smuggling-related offenses, and to facilitate the prosecution of the offender.²
- 3.5. **Constructive Customs Custody** – refers to the situation where, falling short of physical seizure or possession, the Customs Officers and the owner of the goods enter into a written agreement after the inventory to the effect that the goods, subject of a Letter of Authority (LOA), shall not be removed or disposed of pending disposition or resolution on the issue of whether proper payment of duties and taxes has been made.
- 3.6. **Customs Control** – shall refer to the measures applied to ensure compliance with the laws and regulation which Customs are responsible for enforcing.³
- 3.7. **Customs Jurisdiction** – shall refer to Bureau's exercise of jurisdiction over all seas within Philippine territory and all lands, coasts, ports, airports, harbors, bays, rivers and inland waters whether navigable or not from the sea and any means of conveyance.⁴

¹ CMTA, Title I, Chapter 2, Section 102 (i).

² cf Section 3 (g) RA 9165

³ WCO Glossary of Customs terms.

⁴ CMTA, Title III, Chapter 2, Section 300

- 3.8. Customs Officer** – as distinguished from clerk or employee, shall refer to a person whose duty, not being clerical or manual in nature, involves the exercise of discretion in performing the functions of the Bureau. It may also refer to an employee authorized to perform a specific function of the Bureau.⁵
- 3.9. Customs Premises** – shall include customs offices, facilities, warehouses, ports, airports, wharves, infrastructures and other areas within the customs districts over which the Bureau shall have exclusive control, direction and management for customs purposes.⁶
- 3.10. Customs Territory** – shall refer to areas in the Philippines where customs and tariff laws may be enforced.⁷
- 3.11. Deputization Order** – shall refer to the written order signed by the Commissioner of Customs authorizing named officers or members of the Armed Forces of the Philippines or other selected national law enforcement agencies, to assist in the exercise of customs police authority particularly the power to search, seize, and arrest in specified areas outside of customs premises.
- 3.12. Diversion of Goods** – shall refer to an act of bringing bonded articles to some place other than its intended destination without prior authority from the Bureau. It also covers imported goods for admission into Free Zones and other similar schemes such as goods under local transit for immediate exportation, which are illegally introduced into domestic market without compliance with customs formalities or without payment of duties and taxes.
- 3.13. Dwelling House** – shall refer to any building or structure exclusively devoted to rest and comfort, as distinguished from places devoted to business or offices.⁸
- 3.14. Execution Plan (EXEPLAN)** – shall refer to a definite target-specific activity, usually short-term, conducted in relation to an intelligence project.
- 3.15. Free Zones** – shall refer to special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 7916, as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone; Poro Point Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by

⁵ CMTA, Title I, Chapter 2, Section 102 (p).

⁶ CMTA, Title III, Chapter 2, Section 303.

⁷ CMTA, Title I, Chapter 2, Section 102 (q).

⁸ People vs. Inventor, 07695-Cr, May 19, 1971.



Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No. 9490, as amended; the Cagayan Special Economic Zone and Freeport under Republic Act No. 7922; the Zamboanga City Special Economic Zone under Republic Act No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law.⁹

- 3.16. Guards** – shall refer to Customs Officers under the District Collector which include guards on board vessel or aircraft, guards discharging conduction duties and guards assigned in customs bonded warehouses, customs facility warehouses, and in other customs facilities.
- 3.17. Inspectors** – shall refer to Customs Officers under the District Collector who conduct inspection of vessels or aircrafts upon landing and prior to departure.
- 3.18. Letter of Authority (LOA)** – shall refer to a written authorization signed by the Commissioner of Customs in the exercise of the power to visit and inspect premises and goods, identifying the Customs Officers authorized to demand evidence of payment of duties and taxes on imported goods openly offered for sale or kept in storage.¹⁰
- 3.19. Mission Order (MO)** – shall refer to the written directive or order issued by the Commissioner of Customs or other Customs Officer authorized in writing by the Commissioner, to carry out specific instructions given to any Customs Officer, or any deputized officer who must be a government employee holding regular plantilla position.
- 3.20. National Law Enforcement Agencies (NLEAs)** – shall refer to agencies responsible for enforcing the law, particularly the activities of prevention, detection, and investigation of crimes and the apprehension of the criminals or offenders.
- 3.21. Officials of the Bureau** – shall refer to the Commissioner, Deputy Commissioners, and Service Directors of the Bureau of Customs exercising police authority other than those specifically mentioned in Section 214 (a) of the CMTA.
- 3.22. Philippine Territory** – comprises the Philippine Archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and

⁹ CMTA, Title I, Chapter 2, Section 102 (w).

¹⁰ cf CMTA, Title II, Chapter 3, Section 224.

other submarine areas. The waters around, between and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.¹¹

- 3.23. Police Authority** – shall refer to the authority granted to specific regular government employees, to effect search, seizure, and arrest in places where the authority may be exercised arising from the implementation of the CMTA and other related laws.¹²
- 3.24. Police Officers** – shall refer to customs officers under the Enforcement and Security Service (ESS).
- 3.25. Probable Cause** – shall refer to the reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that the person accused is guilty of the offense with which he is charged. It may also refer to the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and the items or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.¹³
- 3.26. Prohibited Importation and Exportation** – the importation and exportation of the following goods are prohibited:
- a. Written or printed goods in any form containing any matter advocating or inciting treason, rebellion, insurrection, sedition against the government of the Philippines, or forcible resistance to any law of the Philippines, or written or printed goods containing any threat to take the life of, or inflict bodily harm upon any person in the Philippines;
 - b. Goods, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises, describes or gives direct or indirect information where, how or by whom unlawful abortion is committed;
 - c. Written or printed goods, negatives or cinematographic films, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character;
 - d. Any goods manufactured in whole or in part of gold, silver, or

¹¹ 1987 Constitution, Article I.

¹² cf CMTA, Title II, Chapter 3, Section 214.

¹³ People vs. Valdez, G.R. No. 127801. March 3, 1999.



other precious metals or alloys and the stamp, brand or mark does not indicate the actual fineness of quality of the metals or alloys;

- e. Any adulterated or misbranded food or goods for human consumption or any adulterated or misbranded drug in violation of relevant laws and regulations;
- f. Infringing goods as defined under the Intellectual Property Code and related laws; and
- g. All other goods or parts thereof which importation and exportation are explicitly prohibited by law or rules and regulations issued by the competent authority.¹⁴

3.27. Reasonable Cause – shall refer to that which an ordinary person of average intelligence and sound mind would believe.¹⁵

3.28. Regulated Importation and Exportation – shall refer to goods which are subject to regulation and are imported or exported only after securing the necessary goods declaration or export declaration, clearances, licenses, and any other requirements, prior to importation or exportation. In case of importation, submission of requirements after arrival of the goods but prior to release from customs custody shall be allowed but only in cases provided for by governing laws or regulations.¹⁶

3.29. Restricted Importation and Exportation – except when authorized by law or regulation, the importation and exportation of the following restricted goods are prohibited:

- a. Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, or parts thereof;
- b. Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus, or mechanical devices used in gambling or the distribution of money, cigars, cigarettes or other goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof;
- c. Lottery and sweepstakes tickets, except advertisements thereof and lists of drawings therein;
- d. Marijuana, opium, poppies, coca leaves, heroin or other

¹⁴ CMTA, Title I, Chapter 3, Section 118.

¹⁵ Black's Law Dictionary.

¹⁶ CMTA, Title I, Chapter 3, Section 117.

A

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, except when imported by the government of the Philippines or any person duly authorized by the Dangerous Drugs Board, for medicinal purposes;

- e. Opium pipes or parts thereof, of whatever material; and
- f. Any other goods whose importation and exportation are restricted.

The restriction to import or export the above stated goods shall include the restriction on their transit.¹⁷

3.30. Search Warrant – shall refer to an order in writing, issued in the name of the People of the Philippines, signed by a judge of a competent court and directed to a peace officer, commanding him to search for certain personal property and bring it before the Court.¹⁸

3.31. Seizure – shall refer to the act of taking possession of property for violations of the CMTA and other related laws. It implies taking or removal of something from the possession, actual or constructive, of another person or persons.¹⁹

3.32. Smuggling – shall refer to the fraudulent act of importing goods into the Philippines, or the act of assisting in receiving, concealing, buying, selling, disposing or transporting such goods, with full knowledge that the same has been fraudulently imported, or the fraudulent exportation of goods.²⁰

3.33. Warrant of Seizure and Detention (WSD) – shall refer to an order in writing, issued in the name of the Republic of the Philippines and signed by the Collector of Customs, directing a Customs Officer to seize and detain any vessel, aircraft, cargo, goods, animal or any other movable property when the same is subject to forfeiture pursuant to Section 1113, Chapter 4, Title XI of the CMTA.

Section 4. General Provisions.

4.1. Persons Authorized to Exercise Police Authority. The following are authorized to exercise Police Authority²¹ for the

¹⁷ CMTA, Title I, Chapter 3, Section 119.

¹⁸ Rules of Court, Rule 126, Section 1.

¹⁹ cf Black's Law Dictionary, 5th ed.

²⁰ cf CMTA, Title I, Chapter 2, Section 102 (nn).

²¹ cf CMTA, Title II, Chapter 3, Section 214.



purpose of enforcing anti-smuggling laws:

- 4.1.1. Officials of the Bureau, District Collectors, Deputy District Collectors, Police Officers, Agents, Inspectors and Guards of the Bureau;
 - 4.1.2. Upon authorization of the Commissioner, specifically named organic officers and members of the Armed Forces of the Philippines (AFP) and National Law Enforcement Agencies (NLEAs); and
 - 4.1.3. Officials of the Bureau of Internal Revenue (BIR) on all cases falling within the regular performance of their duties, when payment of internal revenue taxes is involved.
- 4.2. **Places Where Authority may be Exercised.** Police authority shall be exercised by customs officers over the following:
- 4.2.1. All premises used for customs purposes, including customs offices, facilities, warehouses, ports, airports, wharves, infrastructure and other premises in the Customs Districts, within the limits of the authority granted by the Commissioner, without prejudice to the general police powers of the local government units (LGUs), the Philippine Coast Guard and of law enforcement agencies in the exercise of their respective functions,²² pursuant to their governing laws.
 - 4.2.2. All lands, seas, and air within Philippine Territory, including bays, coasts, harbors, rivers and inland waters whether navigable or not from the sea and any means of conveyance.

The Bureau shall pursue imported goods subject to seizure during its transport by land, water and air and shall exercise jurisdiction as may be necessary for the effective enforcement of the CMTA and other customs related laws. When a vessel or aircraft becomes subject to seizure for violation of the CMTA, a pursuit of such vessel or aircraft which began within the territorial waters or airspace may continue beyond the same, and the vessel or aircraft may be seized in the high seas or international air space;²³

- 4.2.3. Free Zones, *provided*, proper coordination with the zone authorities shall be observed at all times.

Considering the peculiar structure and organization of airports, free zones, postal facilities and seaports, the Bureau shall enter into

²² cf CMTA, Title III, Chapter 2, Section 303 and Title II, Chapter 3, Section 215.

²³ CMTA, Title III, Chapter 1, Section 300.

appropriate memoranda of agreement (MOA) with the agencies concerned for the effective performance of their respective mandates, including unhampered access to the premises given to authorized Customs Officers.²⁴

4.3. Extent of Police Authority Exercised by Customs Officers and Deputized Officers, When Duly Authorized.

4.3.1. Exercise of Power of Seizure. Any person exercising Police Authority under the CMTA has the power and duty to seize any vessel, aircraft, cargo, goods, animal or any other movable property when the same is subject to forfeiture or when they are subject of a fine imposed under the CMTA.²⁵

4.3.2. Authority to Require Assistance and Information. Any person exercising Police Authority may demand the assistance of and request information from the Philippine National Police (PNP), the AFP and other NLEAs, when necessary, to effect any search, seizure or arrest. It shall be the duty of any police officer and other national law enforcers to give such lawful assistance.²⁶

The Bureau shall establish a system for the receipt, processing and dissemination of all information relative to the entry, movement or exit of smuggled and prohibited goods into and out of the country.

4.3.3. Authority to Enter Properties. Any person exercising Police Authority may, at any time, enter, pass through, and search any land, enclosure, warehouse, store, building or other structures not principally used as a Dwelling House.²⁷

For the proper exercise of Police Authority, any authorized person shall disclose the nature of the authority immediately at the start of the exercise thereof and shall exhibit the corresponding written authority issued by the Commissioner.²⁸

The persons exercising Police Authority are allowed to use means as may be necessary to open the gate or entrance under any of the following circumstances:²⁹

²⁴ cf CMTA, Title II, Chapter 3, Section 215.

²⁵ CMTA, Title II, Chapter 3, Section 216.

²⁶ CMTA, Title II, Chapter 3, Section 218.

²⁷ CMTA, Title II, Chapter 3, Section 219.

²⁸ cf CMTA, Title II, Chapter 3, Section 217.

²⁹ People vs. Salangit, G.R. No. 133254-55, April 19, 2001.

- a. The owner or person in-charge of the premises is missing or cannot be located within a reasonable time;³⁰
- b. The person in charge of the premises refuses entry of Customs Officers or deputized officers; and
- c. Customs Officers are of the firm belief that the persons inside the premises are engaged in activities aimed at removing any evidence regarding the presence of goods violative of the CMTA, and execution of their mission would be frustrated unless they do so.³¹

In all instances, the use of necessary means to open the gate or entrance shall be made in the presence of the Barangay Chairman or his authorized representative, and the police unit having jurisdiction over the area.

4.3.4. Authority to Search Dwelling House. A Dwelling House may be entered and searched only upon warrant issued by the Judge of a competent court, the sworn application thereon showing probable cause and particularly describing the place to be searched and the goods to be seized.³²

For this purpose, the Bureau shall prescribe the procedures governing the application for the issuance of judicial warrant and the implementation thereof.

4.3.5. Authority to Search Vessels or Aircrafts and Persons or Goods Conveyed Therein. Any person exercising Police Authority under the CMTA may board, inspect, search and examine a vessel or aircraft and any container, trunk, package, box or envelope found on board, and physically search and examine any person thereon. In case of any probable violation of the CMTA, the person exercising Police Authority may seize the goods, vessel, aircraft, or any part thereof.

Such power to search includes removal of any false bottom, partition, bulkhead, or any other obstruction for the purpose of uncovering any concealed dutiable or forfeitable goods.³³

4.3.6. Non-Liability for Damages. The duly authorized search

³⁰ cf Rule 126.7, Rules of Court.

³¹ cf Rule 126.7, Rules of Court.

³² CMTA, Title II, Chapter 3, Section 220.

³³ CMTA, Title II, Chapter 3, Section 221.



of vessels or aircrafts and persons or goods conveyed therein shall not give rise to any claim for damage caused to the goods, vessel or aircraft, unless there is gross negligence or abuse of authority in the exercise thereof.³⁴

4.3.7. Authority to Search Vehicles, Other Carriers, Persons and Animals. Upon reasonable cause based on profiling or derogatory information received, any person exercising Police Authority may open and examine any box, trunk, envelope, or other container for purposes of determining the presence of dutiable or prohibited goods. This authority includes the search of receptacles used for the transport of human remains and dead animals. Such authority likewise includes the power to stop, search, and examine any vehicle or carrier, person or animal suspected of holding or conveying dutiable or prohibited goods.³⁵

4.3.8. Authority to Search Persons Arriving from Foreign Countries. Upon reasonable cause based on profiling or derogatory information received, travelers arriving from foreign countries may be subjected to search and detention by the Customs Officers. The dignity of the person under search and detention shall be respected at all times. Female Inspectors may be employed for the examination and search of persons of their own sex.³⁶

4.3.9. Customs Control Over Goods. All goods, including means of transport, entering or leaving the Customs Territory, regardless of whether they are liable to duties and taxes, shall be subject to Customs Control to ensure compliance with the CMTA.

In the application of Customs Control, the Bureau shall employ audit-based controls and risk management systems, use automation to the fullest extent possible, and adopt a compliance measurement strategy to support risk management.

The Bureau shall seek to cooperate and conclude mutual administrative assistance agreements with other customs administrations to enhance Customs Control. The Bureau shall consult, coordinate, and cooperate with other government regulatory agencies, and the customs stakeholders, in general, to enhance Customs Control.³⁷

³⁴ cf CMTA, Title II, Chapter 3, Section 221.

³⁵ cf CMTA, Title II, Chapter 3, Section 222.

³⁶ CMTA, Title II, Chapter 3, Section 223.

³⁷ cf CMTA, Title III, Chapter 1, Section 301.



4.3.10. Control Over Premises Used for Customs Purposes.

The Bureau shall, for customs purposes, have exclusive control, direction and management of customs offices, facilities, warehouses and customs facilities and warehouses, including ports, airports, wharves, infrastructure and other premises in the Customs Districts, in all cases without prejudice to the general police powers of the local government units (LGUs), the Philippine Coast Guard and of law enforcement agencies in the exercise of their respective functions.³⁸

4.3.11. Special Surveillance for Protection of Customs Revenue and Prevention of Smuggling.

The Bureau shall conduct surveillance on vessels or aircrafts entering Philippine territory and on imported goods entering the customs office: *Provided*, That the function of the Philippine Coast Guard to prevent and suppress the illegal entry of these goods, smuggling and other forms of customs fraud and violations of maritime law and its proper surveillance of vessels entering and/or leaving Philippine territory as provided in Republic Act No. 9993, otherwise known as the "Philippine Coast Guard Law of 2009", shall continue to be in force.³⁹

The Bureau's authority to conduct surveillance over imported goods shall extend to transshipments and other foreign goods passing through customs jurisdiction.

The Bureau shall likewise ensure that proper coordination is made with the National Coast Watch Center (NCWC) created under Executive Order No. 57 s. 2011 on matters dealing with maritime activities.

4.3.12. Trespass or Obstruction of Customs Premises. No person shall enter or obstruct a customs office, warehouse, port, airport, wharf, or other premises under the control of the Bureau without prior authority, including the streets or alleys where these facilities are located.⁴⁰**4.4. Deputization Order****4.4.2. Who may Issue.** A Deputization Order may be issued only by the Commissioner of Customs.

³⁸ CMTA, Title III, Chapter 1, Section 303.

³⁹ CMTA, Title III, Chapter 1, Section 306.

⁴⁰ CMTA, Title III, Chapter 1, Section 305.

4.4.3. Purpose of the Deputization Order. A Deputization Order authorizes specific officers or members of NLEAs to assist Customs Officers operating outside of the Customs Premises in the exercise of Police Authority.

4.4.4. Who may be Deputized. Officers and members of the following NLEAs, when necessary, may be deputized to assist the Bureau in the exercise of its Police Authority:

- a. Armed Forces of the Philippines (AFP);
- b. Bureau of Fisheries and Aquatic Resources (BFAR);
- c. National Bureau of Investigation (NBI);
- d. Philippine Coast Guard (PCG);
- e. Philippine Drug Enforcement Agency (PDEA);
- f. Philippine National Police (PNP); and
- g. Any other law enforcement agency which the Commissioner may hereafter deputize.

4.4.5. Duties and Responsibilities of Deputized Officers. The deputized officers shall have the following duties and responsibilities:

- a. To report to the Bureau suspicious movements of sea crafts and aircrafts into the Philippine Territory gathered through their operational resources;
- b. To report immediately to the Bureau any apprehension of suspected smuggled goods through the fastest means of communication available, e.g., by phone or short messaging system (SMS);
- c. To submit an Affidavit of Apprehension upon turn-over of the confiscated goods to the Collector or his duly authorized representative;
- d. All goods seized by deputized officers shall be physically turned-over immediately to the Bureau, unless otherwise provided under existing laws, rules and regulations;⁴¹ and
- e. Any other duties and responsibilities specified by the

⁴¹ CMTA, Title II, Chapter 3, Section 214



Mission Order as may be issued by the Commissioner of Customs.

4.4.6. **Conditions and Requirements for Deputization.**

- a. **Validity Period.** The Deputization Order shall specify the period for its validity, which shall not exceed one (1) year from issuance, unless earlier revoked. When the purpose for which it was issued has ceased to exist or when the deputized officers are recalled by the head of his agency, the deputization is deemed automatically revoked. The renewal of the Deputization Order shall take effect only on the date of issuance, and shall not retroact to the date of expiration of the original or earlier Deputization Order.
- b. **Basis and Grounds for the Issuance of a Deputization Order.**
 - i. When there is lack of sufficient manpower, expertise and logistical resources on the part of the Bureau; and
 - ii. When the risk of security and safety is high in the area of operation.
- c. **Customs Orientation.** No officer or member of any national law enforcement agency shall be deputized without first undergoing at least a one (1) day orientation seminar by the Bureau on relevant provisions of the CMTA.

4.4.7. **Limitations on the Exercise of Police Authority for Customs Control by Deputized Officers.** The exercise of Police Authority for Customs Control by deputized officers shall be subject to the following limitations:

- a. The Deputization Order shall be valid for not more than one (1) year, unless sooner revoked, or renewed accordingly;
- b. It shall only be exercised in areas outside the customs premises;
- c. In all cases, it shall be covered by a Mission Order clearly indicating the specific names of the deputized officers, the tasks to be carried out, and the particular area covered.



mm

Any anti-smuggling operation outside customs premises not covered by a Mission Order shall be deemed illegal.

- d. It shall not include the exercise of the power to visit and inspect, as provided under Section 224 of the CMTA, unless their assistance is expressly requested by the Bureau; and
- e. Before any operation is initiated, deputized officers shall see to it that proper coordination is done with the District Collector having jurisdiction over the area of operation.

4.5. Issuance of Mission Order

4.5.1. Who may Issue. A Mission Order, as used in this CAO, shall be issued by the Commissioner of Customs, or other Customs Officer authorized in writing by the Commissioner, and shall bear the Commissioner's original signature or that of the authorized Customs Officer as the case may be, and the official seal of the Bureau.

4.5.2. Purpose of the Issuance of Mission Order. A Mission Order is issued to ensure that the operation is duly authorized by the Bureau and that the Customs Officers or deputized officers tasked to assist in carrying it out are properly identified.

4.5.3. Basis and Conditions for the Issuance of a Mission Order.

- a. When there is a need to operate outside the Customs Premises;
- b. When there is need for a coordinated effort to avoid duplication and ensure the success of an anti-smuggling operation outside Customs Premises; and
- c. Every request for issuance of Mission Order must be accompanied by a corresponding EXEPLAN (Execution Plan) emanating from the requesting agency other than the Bureau, on the basis of a verified intelligence report.

4.5.4. Duration. The Mission Order shall be valid for not more than thirty (30) calendar days from the date of its issuance. The date of expiration shall be likewise specified in the Mission Order.



4.5.5. Termination of Mission Order. The accomplishment or completion of the operation automatically terminates the Mission Order.

4.5.6. Grounds for Revocation. The Mission Order may be revoked by the issuing authority even before its implementation or completion on the following grounds:

- a. When the mission becomes legally or physically impossible to achieve, as determined by the issuing authority;
- b. Inaction, ineffective execution, or abuse of authority in the implementation of the Mission Order, as determined by the issuing authority;
- c. In cases where the Mission Order is issued to deputized officers and the Bureau being the lead agency in anti-smuggling operations takes over the operation from the deputized officers; or

In any other instance where the Commissioner or issuing authority deems it necessary to revoke the Mission Order.

4.5.7. Requirement of Submission of After-Mission Report. The Customs Officers or deputized officers implementing the Mission Order shall, within twenty-four (24) hours from the completion of the mission, submit the corresponding return and after-mission/operation report, accompanied by a detailed inventory of the goods seized, to the Commissioner of Customs or other authorized Customs Officer who issued the Mission Order.

A Customs Examiner shall be designated as member of the team, who shall be in charge of the inventory of the goods.

4.6. Letter of Authority (LOA)

4.6.1. Who may Issue. The Commissioner shall issue a LOA pursuant to the exercise of the power to visit and inspect under Section 224, Chapter 3, Title II of the CMTA.

4.6.2. Purpose of the Issuance of a Letter of Authority. The Commissioner of Customs may issue a LOA to authorize Customs Officers to inspect, visit, and when necessary, demand evidence of payment of duties and taxes on



imported goods openly offered for sale or kept in storage.⁴²

4.6.3. Who may Implement the Letter of Authority. Only Customs Officers authorized in writing by the Commissioner may implement the LOA, without prejudice to the authority of the Commissioner to require the assistance of deputized officers in the implementation of the LOA.

4.6.4. Duration and Termination. The validity of a LOA shall commence upon issuance and shall be deemed terminated upon completion of the mission.

4.6.5. Manner of Implementation.⁴³ To safeguard the integrity of the power to visit and inspect, and to prevent the possible abuse thereof, the following rules shall be strictly observed:

- a. A Mission Order must be issued authorizing the implementation of the LOA.
- b. A LOA signed by the Commissioner shall identify the Customs Officers authorized to implement the same, the stores, stalls, exhibition places, warehouses, and enclosures where the imported articles are openly offered for sale or kept in storage, to be visited and inspected. The LOA must be shown or exhibited immediately at the start of the exercise thereof.
- c. Pursuant to a Letter of Authority, the duly authorized Customs Officer shall:
 - i. Enter the premises where the smuggled goods are suspected to be stored in the presence of the lawful occupant or any person in possession of the goods, or in their absence, any two (2) witnesses who are residents of the same locality, or barangay officials or any representative from the building management or other responsible officers;
 - ii. Conduct an inventory of the foreign goods if upon demand no evidence of payment is produced. The inventory shall be conducted in the presence of the owner, occupant or person in possession of the goods, as witnessed by any Customs Officer authorized to implement the LOA;
 - iii. Prepare and sign the Inventory Report reflecting in

⁴² cf CMTA, Title II, Chapter 3, Section 224.

⁴³ cf CMO 10-2006, Sections 5,6,7,8 & 9.



detail the description and quantity of the goods. Except in cases of prohibited, restricted or regulated goods, the Inventory Report must also be signed by the owner, occupant or person in possession of the goods. In all cases, the witnesses must sign the Inventory Report;

- iv.** Furnish a copy of the Inventory Report to the owner, occupant or person in possession of the goods who must acknowledge the receipt thereof. In case the owner, occupant or person in possession of the goods refuses to receive and acknowledge the Report, a copy thereof shall be posted in any conspicuous space in the building or premises.

Upon failure of the interested party to produce evidence of payment of duties and taxes within fifteen (15) days, the goods may be seized and subjected to forfeiture proceedings. In such event the provisions of the CAO on Seizure and Forfeiture Proceedings shall apply.

- v.** In cases of restricted or regulated goods wanting in government regulatory permits and clearances, immediately conduct inventory and recommend the issuance of WSD.⁴⁴
- vi.** If during the service of the LOA prohibited articles are discovered, the same shall be confiscated under the "plain view doctrine".⁴⁵
- d.** The owner of the goods or his representative shall execute an Undertaking stating that the goods will not be removed, sold, or disposed of without prior authority from the Bureau. In cases where the owner, occupant or person in possession of the goods refuses to cooperate, the premises where the goods are stored shall be padlocked or sealed by the duly authorized Customs Officer and continuously guarded by the Bureau.
- e.** Pending presentation of proof of payment of duties and taxes, the goods shall be deemed to be under constructive customs custody.
- f.** In case of seizure, the duly authorized Customs Officer

⁴⁴ cf CMTA, Title II, Chapter 3, Section 224.

⁴⁵ cf G.R. Nos. 133254-55, April 19, 2001



shall witness the delivery of the things seized into the custody of the Collector of Customs which has jurisdiction over the area within twenty-four (24) hours from service of WSD.

- g.** The duly authorized Customs Officer is duty-bound to adopt all other reasonable measures deemed necessary to effectively implement the LOA.
- h.** The Commissioner of Customs or any Customs Officer exercising the power to visit and inspect shall tap or utilize transport facilities for the transfer of the seized goods, and suitable warehouses or storage areas, constituting the same as virtual customs warehouses for this purpose. The expenses shall be for the account of the Bureau taken from the Forfeiture Fund.⁴⁶

4.6.6. Special Customs Area. For reasons of security, safety and economy, the Commissioner may constitute the premises upon which foreign goods are openly offered for sale, or kept in storage, as a special customs area for the duration of the exercise of the power to visit and inspect or other proceedings related thereto.

- a.** The Bureau may conduct the inventory, examination, appraisal, assessment and/or collection of duties and taxes due on the foreign goods in such special customs area.
- b.** The goods are deemed, for all intents and purposes, in customs custody.

In all instances, a Customs Operations Officer III (COO III) shall be designated in the Special Customs Area for purposes of valuation and computation of duties and taxes.

4.6.7. Submission of Report Including Assessment of Implementation, Observations and Recommendations. The Customs Officer exercising the power to visit and inspect shall render progress reports during and after the actual visit, and shall submit the final report, including the inventory report signed by the COO III, to the Commissioner within twenty-four (24) hours after the conclusion of the proceedings.

4.6.8. Accountability. For the purpose of transparency, all LOAs issued shall be recorded and include the following:

⁴⁶ cf CMTA, Title XI, Chapter 10, Section 1151 (b.)



- a. Date issued;
- b. Date filed;
- c. Date served to addressee;
- d. Reference or serial number; and
- e. Official Seal of the Commissioner.

4.7. Application for Search Warrant.

4.7.1. Who may Apply. For purposes of this CAO, only Customs Officers authorized in writing by the Commissioner may apply for a judicial warrant.

4.7.2. Implementation of Search Warrant. A duly issued warrant to search a Dwelling House may be implemented by Customs Officers and deputized officers.

In the service of a duly issued Search Warrant, the Customs Officers and deputized officers implementing the same shall present their Deputization and Mission Orders, as applicable.

Service of the duly issued warrant shall be made in the daytime, unless the affidavit asserts that the property is on the person or in the place ordered to be searched, in which case a direction may be inserted that it be served at any time of the day or night.⁴⁷ If for any reason the warrant cannot be served during night time, perimeter guarding shall be conducted until such time that service can be effected.

4.7.3. Turnover of Apprehended Goods by Virtue of Search Warrant. In an application for Search Warrant, the Bureau shall inform the Court through a manifestation that such is for the purpose of taking physical possession of the goods preparatory to the institution of seizure proceedings for violation of the CMTA, and other related customs laws.

4.7.4. Return of Service of Warrant. The Customs Officers and deputized officers tasked to prepare and submit to the court the return of the service of warrant shall always furnish the Bureau a copy thereof within twenty-four (24) hours from submission of return of service to the court.

4.8. Controlled Delivery.

4.8.1. Nature and Purpose. An investigative technique of allowing an unlawful or suspect consignment of any prohibited or regulated articles defined under the CMTA and

⁴⁷ Rules of Court, Rule 126, Section 9.



other laws enforced by the Bureau, or property believed to be derived directly or indirectly from any offense, to enter into, pass through or exit out of the country under the supervision of an authorized officer, for the purpose of gathering evidence to identify the person involved in smuggling-related offenses, preparatory to the prosecution of the offender.

4.8.2. Who may participate. Customs Officers and Deputized Officers covered by duly-issued Mission Order.

4.8.3. When conducted. Controlled delivery may be allowed by the Commissioner for the following:

- a. Importation of dangerous drugs, controlled precursors and essential chemicals as well as instruments, paraphernalia and laboratory equipment used for the manufacture of dangerous drugs;
- b. Importation of firearms, parts, ammunition, and explosives, without the necessary permits or clearances from the Philippine National Police; and
- c. Importation or exportation of other articles which the Commissioner may deem necessary for Controlled Delivery.

The Bureau shall enter into agreement with the other government agencies concerned to ensure the accomplishment of the purpose for which the controlled delivery is being undertaken.

Section 5. Enhancement of Border Protection Capability. The Bureau shall endeavor to acquire and upgrade its own equipment and resources and coordinate with other government agencies to enhance its maritime law enforcement capabilities.

Section 6. Use or Utilization of Forfeiture Fund. As provided under Section 1151 of the CMTA, expenses for customs intelligence and enforcement and other related activities shall be sourced from the Forfeiture Fund, including those incurred for the provision of legal assistance to Customs Officers subject of criminal actions arising from the proper exercise of their Police Authority.

The Department of Finance (DOF) and the Department of Budget and Management (DBM) shall, upon the recommendation of the Bureau, issue a joint regulation to implement the provisions of this section pursuant to Section 1151 of the CMTA.

Section 7. Authority of the Commissioner to Promulgate Implementing Rules and Regulations in a Customs Memorandum Order. The Commissioner of Customs may issue supplementary rules and regulations, including entering into

Memoranda of Agreement (MOA) or Understanding (MOU) with other law enforcement agencies to effectively implement the provisions of this CAO.

Section 8. Reporting and Monitoring System. The Bureau shall develop an ICT-based system to validate all deputizations and issued Mission Orders and generate periodic management reports for purposes of monitoring progress and evaluation on the success or status of the mission.

The collection, recording, storage maintenance, processing, sharing of data and information; and maintenance of data information shall be secured and consistent with the principles and policy of Republic Act No. 10173, also known as The Data Privacy Act.

Section 9. Periodic Review. Unless otherwise provided, this CAO shall be reviewed not later than every three (3) years, and be amended or revised, if necessary.

Section 10. Repealing Clause. This CAO repeals and/or modifies CMO 10-2006, CMO 13-1994, CMO 52-1993, CMO 79-1991 and all other rules and regulations or parts thereof which are inconsistent herewith.

Section 11. Separability Clause. If any part of this Order is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 12. Effectivity. This CAO shall take effect thirty (30) days after its publication at the Official Gazette or a newspaper of national circulation.

The Office of National Administrative Registrar (ONAR) of the UP Law Center shall be provided three (3) certified copies of this CAO.

REY LEONARDO B. GUERRERO

Commissioner of Customs

APR 01 2019



BOC-02-00089

APPROVED:

CARLOS G DOMINGUEZ

Secretary of Finance

APR 08 2019



Informational Section. As the title denotes this only provide information and does not give rise to any substantive or formal rights or obligations.

1. History. This is the first CAO dealing exclusively on Customs Jurisdiction and Exercise of Police Authority.

2. Related Policies.

- 1987 Philippine Constitution.
- CAO 5-2003 – Summary Seizure proceedings for Tax Deficient Imported Motor Vehicles Offered for Voluntary Payment.
- CMO 10-2006 – 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.
- CMO 13-1994 – Guidelines in the Conduct of and Participation in Law Enforcement Activities Outside Customs Zone by Customs Personnel and in the Issuance of Mission Orders Pertaining thereto.
- DO 13-2006. Prescribing Rules for the Exercise of the Visitorial Power of the Bureau of Customs under Section 2530 of the TCCP, as amended.
- Executive Order No. 292, Book IV, Title VII, Subtitle, Chapter 8 – Major Services.
- IRR of RA 10591, otherwise known as "Comprehensive Firearms and Ammunition Regulation Act."
- People vs. Inventor, 07695-Cr, May 19, 1971.
- People vs. Salanguit, G.R. Nos. 133254-55, April 19, 2001.
- People vs. Valdez, G.R. No. 127801. March 3, 1999.
- Philippine National Police, *Revised Criminal Procedure Manual* (Quezon City: DIDM, 2011).
- Republic Act 10173, also known as The Data Privacy Act.
- Republic Act 10863 otherwise known as "An Act Modernizing the Customs and Tariff Administration".
- Republic Act 157, otherwise known as an "Act Creating a Bureau of Investigation, Providing Funds therefor, and for Other Purposes".
- Republic Act 10175, otherwise known as an "An Act Defining Cybercrime, Providing for The Prevention, Investigation, Suppression and The Imposition of Penalties Therefor and For Other Purposes".
- Republic Act No. 4653, otherwise known as an "An Act to Safeguard the Health of the People and Maintain the Dignity of The Nation by Declaring It a National Policy to Prohibit the Commercial Importation of Textile Articles Commonly Known as Used Clothing and Rags".
- Republic Act 5173 otherwise known as an "Act Creating a Philippine Coast Guard, Prescribing Its Powers and Functions, Appropriating the Necessary Funds therefor, and for their Purposes".
- Republic Act 9165 otherwise known as an "An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise known as the Dangerous Drugs Act of 1972, as amended, Providing Funds therefor, and for Other Purposes".
- Republic Act 9775 otherwise known as an "An Act Defining the Crime of

- Child Pornography, Prescribing Penalties therefor and for Other Purposes".
- Rules of Court otherwise known as "An Act Defining the Crime of Child Pornography, Prescribing Penalties Therefor and For Other Purposes".
- Rules of Court, The Revised Rules of Criminal Procedure.
- United Nations Convention against Transnational Organized Crime and the Protocols Thereto.

3. Webpage, Forms, Handbooks and other References.

- Malacañang Administrative Order No. 219, s. 1995 – Delineating the Functions, Powers and Jurisdiction of the Presidential Anti-Crime Commission, the National Peace and Order Council, the National Law Enforcement Coordinating Committee and their Implementing Agencies.
- Malacañang Memorandum Order No. 225, s. 1989 – Intensification of Anti-Smuggling Operations and Delineating Responsibilities therefor.