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08 February 2019

**CUSTOMS MEMORANDUM CIRCULAR**  
NO. 42-2019

To: All Deputy Commissioners  
All Directors and Division Chiefs  
All District/Port Collectors  
And Others Concerned

**Subject: Memorandum of Agreement between BOC and PDEA**

Attached is the Memorandum of Agreement entered by and between the Bureau of Customs (BOC) and the Philippine Drug Enforcement Agency (PDEA) declaring their steadfast and impermeable coordination and cooperation in putting an end to the smuggling, importation, exportation, or transshipment of dangerous drugs or controlled precursors and essential chemicals – as well as instruments, paraphernalia, apparatuses, and equipment used in the administration and manufacture of the same, without authority of law.

For your information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt hereof.

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**REY LEONARDO B. GUERRERO**

Commissioner

FEB 13 2019



**MEMORANDUM OF AGREEMENT**

**Parties:**

31 JAN 2019

This Memorandum of Agreement made and entered into this \_\_\_\_\_ of \_\_\_\_\_, 2019 in the City of QUEZON CITY, Philippines by and between the following parties:

1. The **Philippine Drug Enforcement Agency**<sup>1</sup>, a civilian law enforcement agency duly established by authority of REPUBLIC ACT NO. 9165, as amended, otherwise known as the COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, with principal office at PDEA Building, NIA Northside Road, National Government Center, Barangay Pinyahan, Quezon City, hereinafter referred to as "PDEA."

It is represented by its Director General, **AARON N. AQUINO**

- and -

2. The **Bureau of Customs**<sup>2</sup>, a governmental entity duly organized and existing under Philippine laws, with principal office address at POM Building, Gate 3, South Harbor Port Area, Manila, hereinafter referred to as "BOC".

It is represented by its Commissioner, **REY LEONARDO B GUERRERO**.

**Purpose:**

In view of the Republic of the Philippines<sup>3</sup> unwavering crusade against the proliferation and abuse of dangerous drugs, taking into consideration the use of country's vast and strategic coastline to smuggle, import export, transport, or transship dangerous drugs or controlled precursors and essential chemicals, a more resilient dexterity between and among all the stakeholders assumes more significance.

The endeavor to rid the society of the menace the dangerous drugs problem presents may be realized through, among others, the steadfast and impermeable coordination and cooperation between BOC and PDEA in putting an end to the smuggling, importation, exportation, or transshipment of dangerous drugs or controlled precursors and essential chemicals—as well as instruments, paraphernalia, apparatuses, and equipment used in the administration and manufacture of the same, without authority of law.

**Statement of Policies:**

**WHEREAS**, the COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002 established PDEA to serve as the lead agency in the investigation of violations of the said Act and to "...serve as the implementing arm of the (Dangerous Drugs) Board, and shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in [the said] Act."<sup>4</sup>



<sup>1</sup> Hereinafter referred to as "PDEA" for brevity.

<sup>2</sup> Hereinafter referred to as "BOC" for brevity.

<sup>3</sup> Hereinafter referred to as Philippines for brevity.

<sup>4</sup> REPUBLIC ACT NO. 9165, as amended by REPUBLIC ACT NO. 10640, sec. 82.

**WHEREAS**, the Philippines has long recognized the necessity “to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation.”<sup>5</sup>

**WHEREAS**, under the REPUBLIC ACT NO. 10863, otherwise known as the CUSTOMS MODERNIZATION AND TARIFF ACT (CMTA), the BOC exercises border control to prevent entry of smuggled goods; as well as prevention and suppression of smuggling and other customs fraud, the BOC exercises supervision and control over a) the entrance and clearance of vessels and aircraft engaged in foreign commerce; b) on all import and export cargoes, landed or stored in piers, airport, terminal facilities, including container yards and freight stations for the protection of government revenue and prevention of contraband and c) the handling of foreign mails arriving in the Philippines for the purpose of collecting revenue and preventing the entry of the contraband, pursuant to Republic Act No. 10863 also known as the “Customs Modernization and Tariff Act”.

**WHEREAS**, the parties recognize the problems and issues relative to the interdiction of dangerous drugs or controlled precursors and essential chemicals smuggled, imported, exported from, or transshipped into the Philippine territory.

**WHEREAS**, the parties, likewise, recognize the expertise and competence of each other in their respective jurisdiction, fields of specialization, and proficiency.

**WHEREAS**, to appropriately address the problems and issues confronting the parties in the performance of their respective functions and to enhance the efficiency of the parties in suppressing the smuggling, importation, exportation, and transshipment of dangerous drugs or controlled precursors and essential chemicals, including instruments, paraphernalia, apparatuses, and equipment used in the administration and manufacture of the same.

**WHEREAS**, the parties have previously entered into an agreement dated 10 September 2010; and

**WHEREAS**, the Parties agreed to amend the original Memorandum of Agreement in certain respects, as described herein.

**Terms & Conditions:**

**NOW, THEREFORE**, in light of the foregoing, the parties hereby agree and jointly undertake to closely coordinate and render mutual assistance to the fullest extent with each other in the continuation and further enhancement of the organized and systematic implementation of their respective mandates, as follows:

**CHAPTER I.  
GENERAL PROVISIONS**

1. The parties shall ensure effective and efficient implementation of the COMPREHENSIVE DANGEROUS ACT OF 2002, as amended and the CUSTOMS MODERNIZATION AND TARIFF ACT, as amended, taking note of their respective implementing rules and regulations, operational guidelines, and protocols and the same, shall be considered in resolving any ambiguity or doubt that may arise in the interpretation of the provisions or statements in this Memorandum of Agreement.

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<sup>5</sup> *Id.*, sec. 2.

The interpretation that would work to benefit the legitimate interests of both parties shall be considered and used.

2. The parties shall hold a monthly regular meeting, for the purpose of discussing operational matters, the current status of the programs relative to the objectives of this Memorandum of Agreement, the formulation of necessary strategies to facilitate the accomplishment of the said objectives.

The parties may, however, hold special meetings at any time and day of the week for the purpose of addressing urgent matters or those that need immediate attention.

3. The parties shall adhere to the utmost degree of transparency when dealing with each other on matters falling within the ambit of this Memorandum of Agreement.

Nonetheless, any information obtained pursuant to this Memorandum of Agreement shall be treated with utmost confidentiality, such shall be inviolable, and shall not be disclosed to persons not privy to this instrument.

4. The PDEA and BOC shall undertake to create a drug interdiction Task Group with the purpose of a closer working relationship between the parties;

5. The parties shall undertake to exchange best practices, knowledge, and other matters relative to the smuggling, importation, transportation, and transshipment of dangerous drugs or controlled precursors and essential chemicals, including instruments, paraphernalia, apparatuses, and equipment used in the administration and manufacture of the same.

The same shall be accomplished through seminar-workshops, which shall integrate, among others, the following matters:

- a. Risk profiling and assessment;
- b. Identification of dangerous drugs or controlled precursors and essential chemicals, including instruments, paraphernalia, apparatuses, and equipment used in the administration and manufacture of the same;
- c. Interdiction methods and techniques;
- d. Inspection methods and principles;
- e. Salient penal provisions of the COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, as amended, and its Implementing Rules and Regulations;
- f. Proper handling of seized contrabands, taking into consideration the principles on chain of custody;
- g. Controlled delivery operations;
- h. Intelligence and investigation methods and principles;
- i. The preparation of cases for filing and prosecution;
- j. Tactical matters;
- k. Narcotics investigation management;
- l. Pertinent DDB Regulations and/or issuances; and
- m. Other matters analogous to the foregoing.

6. The members of the BOC CAIDTF shall be selected by the Commissioner of Customs and shall be under his direct control and supervision. The PDEA Director General may recommend the removal/replacement of any member for just causes, and after observance of due process.

The operational control should be with the Commissioner, while the operational supervision should be shared by the PDEA Director General and BOC Commissioner.

## CHAPTER II. DUTIES AND OBLIGATIONS

1. **PDEA** undertakes to comply and deliver the following:
  - a. Establish a comprehensive information collection plan that shall enable both parties to obtain information on illegal drug activities from sources at all levels;
  - b. To provide a database system which shall be the repository of all drug-related information of drug activities from all sources at all levels;
  - c. Take the lead role in the conduct of anti-illegal drugs operations and narcotics investigation and to immediately provide the BOC with any intelligence information regarding any shipment suspected to contain any dangerous drugs or controlled precursors and essential chemicals, subject to existing rules and regulations.
  - d. Take charge and custody of all dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and laboratory equipment confiscated, seized and or surrendered;
  - e. Assist BOC in processing and analyzing available information regarding all shipments suspected to contain any dangerous drugs or controlled precursors and essential chemicals or any shipment involving drug-related activities.
  - f. Support the BOC in enforcing tariff and customs laws *vis-à-vis* the COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002;
  - g. Provide the BOC with resource speakers or subject matter experts on the COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002 relative to special seminars or workshops that do not fall within the ambit of paragraph 5(m) of the preceding chapter;
  - h. Provide logistical support whenever practicable and whenever the circumstances warrant, including the use of their respective personnel, facilities, and resources

for a more resolute detection and investigation of drug-related crimes and prosecution of the drug traffickers;

- i. Deputize selected members of the BOC Customs Anti-Illegal Drug Task Force (CAIDTF) in the conduct of anti-illegal drug operations;
  - j. When requested, conduct testing of suspected drugs and CPECS through the use of its laboratories and testing facilities; and
  - k. Provide other matters intimately related to the foregoing.
2. **BOC** undertakes to comply and deliver the following:
- a. To immediately provide the PDEA with any intelligence information regarding any shipment suspected to contain dangerous drugs or controlled precursors and essential chemicals;
  - b. To provide access to the authorized members of the PDEA during the conduct of physical examination on shipments with derogatory information;
  - c. Refer to or inform PDEA of any importation (arrival) / or exportation (departure) of controlled substances without the appropriate corresponding permit issued by the PDEA;
  - d. Grant access to the authorized members of the PDEA to conduct random inspection of shipments/cargoes of pure CPECS covered with a PDEA permit;
  - e. Assist PDEA in gathering information, monitoring, and identification of suspected smuggling and landing sites to prevent the entry of dangerous drugs or controlled precursors and essential chemicals, including instruments, paraphernalia, apparatuses, and equipment used in the administration and manufacture of the same;
  - f. Promptly turn-over to PDEA any person apprehended, *in flagrante delicto*, for violation of the COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002 and the confiscated or seized dangerous drugs or controlled precursors and essential chemicals, including instruments, paraphernalia, apparatuses, and equipment used in the administration and manufacture of the same after a proper inventory has been conducted pursuant to existing laws, regulations, and policies;
  - g. Cooperate with and assist PDEA in narcotics investigation and the conduct of anti-illegal drugs operations;



- h. The BOC CAIDTF shall submit pre-operation report or coordination letter to the PDEA prior to the conduct project-based anti-drug operation in compliance with RA 9165, as amended. After the conduct operation, it shall submit a post-operation report to the PDEA. Provided further, that, if prior coordination was not made, the reason(s) thereof must be stated in the after-operations report.
- i. Provide the PDEA with resource speakers or subject matter experts on pertinent provisions of Tariff and Customs Code, as amended and procedure relative to special seminars or workshops that do not fall within the ambit of paragraph 5(m) of the preceding chapter;
- j. Provide logistical support whenever practicable and whenever the circumstances warrant, including the use of their respective personnel, facilities, and resources for a more resolute detection and investigation of drug-related crimes and prosecution of the drug traffickers;
- k. Deputize PDEA personnel to participate and, within the limits provided by the CMTA, assist the BOC in enforcement inspections of suspicious shipments and cargoes identified by PDEA;
- l. Shall promote "Drug Free Workplace"; and
- m. Provide other matters intimately related to the foregoing.

**CHAPTER III.  
MISCELLANEOUS PROVISIONS**

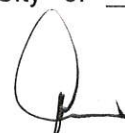
1. This Memorandum of Agreement shall be binding and effective upon the parties immediately upon signing hereof.
2. In the event any of the provisions in this Memorandum of Agreement is declared invalid, the remaining provisions not declared as invalid shall continue to be in full force and effect.
3. The parties shall undertake to make the necessary repeal, amendment, or revision of their issuances in the event the same runs counter or frustrates the implementation of this Memorandum of Agreement.

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**IN VIEW OF THE FOREGOING**, the parties, through their representatives, hereby affix their signature this \_\_\_ day of \_\_\_\_\_ 2019 in the City of \_\_\_\_\_, Philippines.



**AARON N. AQUINO**  
*Director General, PDEA*



**REY LEONARDO B. GUERRERO**  
*Commissioner, BOC*

Witnesses:

*[Signature]*  
\_\_\_\_\_

*[Signature]*  
\_\_\_\_\_

**Acknowledgement**

BEFORE ME, a Notary Public for and in the City of ~~QUEZON CITY~~ QUEZON CITY personally appeared this JAN 31 2019 day of \_\_\_\_\_ 2019 at the PDEA National Headquarters **Director General Aaron N. Aquino, PDEA** and **REY LEONARD B GUERRERO, BOC** who exhibited their government-issued identification cards PDEA 2017-0009 and LTD 009-87-017582, respectively, known to me and to me known to be the same persons who executed the foregoing instrument, which they acknowledged to me as their free and voluntary act and deed, consisting of only seven (7) pages, duly signed by them and their instrumental witnesses on each and every page hereof.

**WITNESS MY HAND AND SEAL** on the date and place written above.

Doc. No. 204  
Page No. 4  
Book No. XIX  
Series of 2018.

*[Signature]*  
**MICHAEL DARWIN M. BAYOTAS**  
Notary Public  
Commission No. NP-074 (2019-2020)  
Expires on December 31, 2020  
Unit 204, Tony Galvez Centrum, 124, 9th Avenue,  
Araneta Cubao, Quezon City  
PTR No. 7323651/Quezon City/Jan. 03, 2019  
IBP Lifetime No. 011221/Pasig City/Nov. 07, 2012  
MCLE Compliance No. VI-0002500/May 29, 2017  
Attorney's Roll No. 56180

*[Signature]*