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CUSTOMS MEMORANDUM ORDER (CMO)
NO. 05-2022

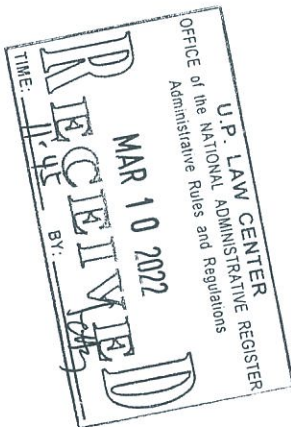
SUBJECT: IMPLEMENTATION OF THE OFFENSE MANAGEMENT SYSTEM (OMS) OF THE BUREAU OF CUSTOMS

Introduction. This Order is issued pursuant to the mandate of Executive Order No. 836 series of 2009, as implemented by Customs Administrative Order (CAO) No. 6-2009 and CMO No. 51-2009, to implement the OMS which collects information, including Inspection Acts, and tracks or monitors the status of seized and/or forfeited goods to enhance the risk assessment and risk profiling of the Bureau and to support the risk management system thereof.

Section 1. Scope. This Order covers goods which manifests were electronically submitted in advance or processed under the Electronic to Mobile (E2M) system and are subject to seizure and forfeiture proceedings, for monitoring and risk analysis.

Section 2. Objectives.

- 2.1. To establish a comprehensive and viable database on the status of goods subject to seizure and forfeiture proceedings;
- 2.2. To maintain a database of all smuggling cases and related data;
- 2.3. To enhance the application of risk assessment and to increase the effectivity of threat analysis;
- 2.4. To establish the guidelines in the utilization of the OMS to automate the listing of risk profiles for seized and forfeited shipments for an improved risk management; and
- 2.5. To establish the roles of concerned offices of the Bureau in the maintenance and processing of the OMS.



Section 3. Definition of Terms.

3.1. **Air Waybill (AWB)** — shall refer to a transport document for airfreight used by airlines and international freight forwarders which specifies the holder or consignee of the bill who has the right to claim delivery of the goods when they arrive at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In

addition, it contains transport instructions to airlines and carriers, a description of the goods, and applicable transportation charges.¹

- 3.2. Bill of Lading (BL)** – shall refer to a transport document issued by shipping lines, carriers and international freight forwarders or non-vessel operating common carrier for water-borne freight. The holder or consignee of the bill has the right to claim delivery of the goods at the port of destination. It is a contract of carriage that includes carrier conditions, such as limits of liability and claims procedures. In addition, it contains transport instructions to shipping lines and carriers, a description of the goods, and applicable transportation charges.²
- 3.3. Bureau** – shall refer to the Bureau of Customs.³
- 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 Customs Modernization and Tariff Act (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.⁴
- 3.5. Forfeiture** – shall refer to the acquisition of ownership by the government for an established violation of CMTA as a result of the forfeiture proceedings.⁵
- 3.6. Fraud** – shall refer to acts knowingly, voluntarily and intentionally committed or omitted which prejudice the interest of the government, e.g., submitting of fake or spurious document, making material of untruthful statement(s) or committing any other analogous act(s) or omission(s).⁶
- 3.7. Risk Codes** – shall refer to a unique identification of risk types indicated in the Inspection Act tab of the E2M system as utilized

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

² CMTA, Title I, Chapter 2, Section 102 (h).

³ CMTA, Title I, Chapter 2, Section 102 (i).

⁴ CAO No. 3-2019, Section 3.4.

⁵ CAO No. 10-2020, Section 3.11.

⁶ CAO No. 10-2020, Section 3.12.

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by the Customs Examiners to report discrepancies in examination findings that may lead to suspicion, or actual detection, of fraud.

Risk Codes shall be utilized for risk profiling as conducted by the Risk Management Office (RMO).

- 3.8. Goods Declaration** – shall refer to a statement made in the manner prescribed by the Bureau and other appropriate agencies, by which the persons concerned indicate the procedure to be observed in the application for the entry or admission of imported goods and the particulars of which the customs administration shall require.⁷
- 3.9. Inspection Act** – shall refer to the tab of the E2M system utilized by the Customs Examiners/Appraisers in encoding reports/findings on Goods Declaration. This is also referred to as the Risk Assessment form of the declaration.⁸
- 3.10. Offense Management System** – shall refer to the system that collects information, including Inspection Acts, and tracks or monitors the status of seized and/or forfeited goods to enhance the risk assessment and risk profiling of the Bureau and to support the risk management system thereof.
- 3.11. Seizure** – shall refer to the actual or constructive taking or bringing into custody the goods, things, or chattels by virtue of a Warrant of Seizure and Detention issued by the Collector of Customs for violation of the CMTA.⁹
- 3.12. Single Administrative Document (SAD)** – shall refer to an internationally used form as customs declaration or goods declaration, designed to standardize customs documents, harmonize codification, and simplify procedures in international trade exchanges.¹⁰
- 3.13. Warrant of Seizure and Detention (WSD)** – shall refer to an order in writing issued in the name of the Republic of the Philippines, signed by the District Collector of Customs directed to the Enforcement and Security Service, or any Deputized Officer of a national law enforcement agency, commanding him to seize

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

⁸ Webb Fontaine's Customs Universal Risk Management Module – Foundation, II, Sec. No. B4.

⁹ CAO No. 10-2020, Section 3.22.

¹⁰ CAO No. 9-2020, Section 3.44.

any properties subject to Forfeiture pursuant to Section 1113, Chapter 4, Title XI of the CMTA.¹¹

Section 4. Operational Provisions.

- 4.1. Opening of OMS.** Within twenty-four (24) hours from the issuance of the WSD, except those under Controlled Delivery operation, the District Collector shall access the E2M system and search the particular Goods Declaration reference number, or BL/AWB number if the Goods Declaration is not yet lodged, for the tagging of the goods in the E2M system.
- 4.2. Tagging of Goods Declaration, or BL/AWB.** The District Collector shall right-click the Goods Declaration reference number, or BL/AWB number, and tag the same as "SEIZED".
- 4.3. Creation of Offense Document.** Once the Goods Declaration or BL/AWB is tagged, a corresponding Offense Document is automatically created in the OMS.

The Offense Document contains the following:

- a. Necessary information extracted from the Goods Declaration or BL/AWB for risk assessment purposes;
 - b. Risk Code/s list including comments made by the Examiners in the Inspection Act; and
 - c. Selectivity Criteria List.
- 4.4. Action on the Goods under "SEIZED" Status.**

- 4.4.1.** If the goods are released in favor of the importer/claimant, the District Collector shall tag the Offense Document as "LIFT SEIZED" status.

The decision to release the goods shall include corresponding clearance or approval from the Commissioner and/or Secretary of Finance, as may be applicable.

- 4.4.2.** If the goods are forfeited, the District Collector shall tag the Offense Document as "FORFEITED" status.

¹¹ CAO No. 10-2020, Section 3.25.

- 4.5. If the forfeited goods are eventually released in favor of the importer/claimant, the District Collector shall tag the Offense Document as "LIFT FORFEITED" status.

The decision to release the goods shall include corresponding clearance or approval from the Commissioner and/or Secretary of Finance, as may be applicable, or upon lawful order of a competent court.

- 4.6. The lifting of seized or forfeited status in the Goods Declaration or BL/AWB shall be automatically reflected in the OMS.

Section 5. Inspection Act. To generate risk-based information in the OMS relative to the goods subject to seizure or forfeiture, the Customs Examiners and/or Appraisers shall, during the assessment process, determine whether the packages for examination and their contents are in accordance with the Goods Declaration, invoice, and other pertinent documents, and report whether the goods have been correctly declared as to value, quantity, measurement, weight, tariff classification and not imported contrary to law¹² through the Inspection Act.

After evaluation or assessment of Goods Declaration, Customs Examiners must determine the offense or possible risk, if any, using the "Risk Code" dropdown list. Multiple Risk Codes can be selected on a single Goods Declaration based on their examination findings.

The following are the Risk Codes available for selection:

- 5.1. **Incomplete Description (INCDES)** – shall be selected for items of general description, or if changes were made to the actual description of the item/s in box no. 31 of the SAD upon assessment.
- 5.2. **Packaging Issues (PACKISSUE)** – shall be selected for discrepancies/errors discovered in the declaration of packaging used either in box no. 31 or box no. 41 of the SAD.
- 5.3. **Discrepancy in Quantity (DISQ)** – shall be selected when there is a difference in the quantity of goods declared in the Goods Declaration against the quantity as found after physical examination of goods.¹³
- 5.4. **Discrepancy in Weight (DISW)** – shall be selected when there is a difference in the gross or net weight after assessment of the

¹² CMTA, Title IV, Chapter 2, Sec. No. 421.

¹³ Par. 2, Section 3.10, CAO 01-2020.

Goods Declaration, regardless of whether an increase or decrease as to the declared weight was recorded.

- 5.5. Discrepancy in Measurement (DISM)** – shall be selected when there is a difference in the size, length, width, height, or volume of the goods as declared in the Goods Declaration against the measurement as found after physical examination thereof.¹⁴
- 5.6. Discrepancy in HSCODE (DISHS)** – shall be selected when the declared 8-digit Harmonized System subheading was corrected/replaced by another 8-digit subheading, regardless of whether the change resulted in the deficiency between the duty and tax that should have been paid against the duty and tax as actually paid.
- 5.7. Permit/Clearance Issue (REGISSUE)** – shall be selected when issues on permit for regulated items were found, including but not limited to, non-submission of required permit/clearance, presentation of fake/expired regulatory permits, or if the permit/clearance does not match the goods declared in the customs declaration. Provided, that in case of provisional goods declaration, the selection of this risk code shall only be done after the lapse of the period allowed to submit the required documents or information.
- 5.8. Undeclared (UNDEC)** – shall be selected if undeclared items were discovered after inspection.
- 5.9. Cost/FOB¹⁵ Increase (FOB+)** – shall be selected for an increase in value on the cost or FOB value of the goods after assessment of the Goods Declaration.
- 5.10. Cost/FOB Decrease (FOB-)** – shall be selected for a decrease in value on the cost or FOB value of the goods after assessment of the Goods Declaration.
- 5.11. Insurance Increase (INS+)** – shall be selected for an increase in value on the insurance of the goods after assessment of the Goods Declaration.
- 5.12. Insurance Decrease (INS-)** – shall be selected for a decrease in value of the insurance of the goods after assessment of the Goods Declaration.

¹⁴ Par. 6, Section 3.10, CAO 01-2020.

¹⁵ Free on Board (FOB)

- 5.13. Freight Increase (FRT+)** – shall be selected for an increase in value on the freight charges of the shipment after assessment of the Goods Declaration.
- 5.14. Freight Decrease (FRT-)** – shall be selected for a decrease in the value of the freight charges of the shipment after assessment of the Goods Declaration.
- 5.15. Value Below Reference (VALBE)** – shall be selected whenever the declared value is below the reference value and no proof of payment was presented, or when an adjustment as to the value of the goods was made based on the reference value.
- 5.16. Excise Tax (ET)** – shall be selected whenever an adjustment to the applied specific or ad-valorem tax was exercised, which resulted to an increase in duties and taxes.
- 5.17. Marking Duty (MD)** – shall be selected for the imposition of marking duty.
- 5.18. Safeguard Duty (SD)** – shall be selected for the imposition of safeguard duty.
- 5.19. Dumping Duty (DD)** – shall be selected for the imposition of dumping duty.
- 5.20. Value-added Tax (VAT)** – shall be selected when there is an increase in the VAT imposed for failure to submit the VAT Exemption Certificate.
- 5.21. Free Trade Agreement Issues (FTAISSUE)** – shall be selected when issue as to the certificate of origin or other related documents were found which resulted to an imposition of a higher rate of duty.
- 5.22. Tariff Rate Quota (TRQ)** – shall be selected for the changes in Tariff Rate Quota for imports outside of the minimum access volume which resulted to a higher rate of duty.
- 5.23. Fines/Surcharges (FS)** – shall be selected when a fine or surcharge was imposed due to the implementation of CAO No. 01-2020¹⁶ and/or other related customs rules and regulations.

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¹⁶ "Fined and Surcharges for Clerical Errors, Misdeclaration, Misclassification and Undervaluation."

5.24. Others – for other changes found after inspection not falling in the above-mentioned circumstances which shall be elaborated in the "Remarks" portion of the Inspection Act.

Section 6. Processing of OMS by the RMO. The RMO shall utilize the information in the OMS once the Goods Declaration or BL/AWB is tagged "SEIZED" by the District Collector.

Specifically, the RMO shall utilize the data in the Offense Document, such as the Risk Codes list, selectivity criteria list, and other information for generation of risk scores and other indicators from the reported findings, and analysis of the recorded Offense in aid of improving the measures for fraud detection.

The RMO shall also recommend measures to improve the OMS as a fundamental tool in Customs risk management.

Section 7. Maintenance of the OMS. The Management Information System and Technology Group shall be responsible in providing the technical and development support to ensure that the OMS is fully functional and integrated with the automated processing system/s of the Bureau.

Section 8. Confidentiality of Data. The confidentiality of information in the OMS and the Selectivity Criteria List shall be maintained, and access thereof shall be strictly limited to authorized personnel from the RMO unless otherwise directed by the Commissioner or the Deputy Commissioner, Intelligence Group.

Section 9. Repealing Clause. All orders, memoranda, circulars, or parts thereof which are inconsistent with this Order are deemed revoked, amended, or modified accordingly.

Section 10. Separability Clause. If any part of this Order is declared by the Courts as unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force.

Section 11. Effectivity. This Order shall take effect on MAR 15 2022

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REY LEONARDO B. GUERRERO
Commissioner



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