



**MEMORANDUM**

**TO :** **KARREN APRIL A. NOROÑO-GABION**  
Officer-in-Charge  
Public Information and Assistance Division (PIAD)

**THRU :** **ATTY. MARIA YASMIN M. OBILLOS-MAPA**  
Acting District Collector, Port of NAIA

**FROM :** **ATTY. WALLY ANN D. YUMUL**  
Acting Chief, Law Division, Port of NAIA

**SUBJECT :** **PUBLICATION IN THE BOC WEBSITE OF THE ISSUED DECISION**

**DATE :** **14 JULY 2023**

This refers to the herein attached Decision of Forfeiture relative to **SEIZURE IDENTIFICATION NO. 061-2023 (NAIA)**: Shipment of Two Hundred Eleven (211) packs of Assorted Medicines and Food Supplements brought in by **NGUYEN THI LINH** who arrived on 03 March 2023 on board Philippine Airlines Flight PR 598, and held in bond at the In Bond Room, Baggage Assistance Division under Held Baggage Receipt No. 001000002238.

As the aforementioned passenger/claimant have indicated insufficient address in the Philippines, the Decision must be served by posting in the bulletin board of this Port and by electronic posting in the BOC website for fifteen days, as provided under Section 6.5.2 of CAO No. 10-2020, to wit:

**6.5.2.** To the owner of the goods or his authorized representative.

For the purpose of serving the WSD, the importer, consignee, named in the bill of lading or airway bill, or possessor shall be deemed the owner of the goods.

If the owner is unknown, with insufficient address, or a foreign entity or individual, service shall be effected by posting of the WSD by the ESS in the bulletin board of the concerned collection district office, and by electronic posting through the BOC website, or printed publication, for fifteen (15) days.

In view of the foregoing, this Office respectfully requests that the copy of the Decision on Seizure Identification No. 061-2023 (NAIA) be electronically posted with the BOC website for fifteen (15) days. A copy of said warrant is herein attached. Furthermore, scanned copies thereof were also forwarded to [Piad@customs.gov.ph](mailto:Piad@customs.gov.ph) and [Jessil.garlando@customs.gov.ph](mailto:Jessil.garlando@customs.gov.ph).



REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION  
NO. 061-2023(NAIA)

-versus-

Two Hundred Eleven (211) packs of Assorted Medicines and Food Supplements brought in by **NGUYEN THI LINH** who arrived on 03 March 2023 on board Philippine Airlines Flight PR 598, and held in bond at the In Bond Room, Baggage Assistance Division under Held Baggage Receipt No. 00100002238.

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## DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-described Two Hundred Eleven (211) packs of Assorted Medicines and Food Supplements for violation of Section 118 (g) and 1113 (f) of the Customs Modernization and Tariff Act (CMTA), in relation to Republic Act No. 9711 or the Food and Drug Administration (FDA) Act of 2009 and Article I (Licensing of Establishments and Registration of Health Products), Book II of The Rules and Regulations Implementing Republic Act No. 9711.

A cursory review of the entire records of the instant seizure and forfeiture case reveals the following antecedents, to wit:

1. On 03 March 2023, passenger Nguyen Thi Linh, a Vietnamese national and holder of Passport No. C8130459, arrived at the Ninoy Aquino International Airport Terminal 2 on 03 March 2023 on board Philippine Airlines Flight PR598 from Ho Chi Minh, Vietnam.
2. His baggage was marked "X" by XIP Operator Jerome Elloses during a routine x-ray inspection and was assigned to Acting Customs Examiner Sybil Charmaine M. Bacyan.
3. Before conducting the physical examination, Customs Examiner Bacyan asked passenger Nguyen if she accomplished a Customs Baggage Declaration Form and if she has anything to declare to which the passenger replied in the negative. Thereafter, the latter handed her Passport and accomplished CBDF to Customs Examiner Bacyan who then proceeded to conduct an actual examination of her check-in baggage.
4. Thereafter, Examiner Bacyan conducted the actual examination of the subject baggage and yielded two hundred eleven packs of assorted medicines and food supplements with an estimated value amounting Two Hundred US Dollars (USD200.00).
5. For failure to present Import Clearance from the Food and Drug Administration (FDA), the subject items were held in-bond for safekeeping and passenger Linh was issued Held Baggage Receipt No. 00100002238. The subject items were received by the In-Bond Section, Baggage Assistance Division, this Port.
6. In a Memorandum dated 07 March 2023, Customs Examiner Sybil Charmaine M. Bacyan and Acting Flight Supervisor Marlyn O. Edillor reported their findings to the District Collector, this Port, thru Mr. Roberto A. Quintana, Chief, Arrival Operations Division, and Atty. Ma. Lourdes V. Mangaoang, JD, CSEE, CEO

VI, Deputy Collector for Passenger Service, and recommended the presentation of FDA Permit by passenger Nguyen Thi Linh.

7. In a Memorandum dated 22 June 20223, the Chief, Baggage Assistance Division, thru Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, recommended for the issuance of Warrant of Seizure and Detention against the subject articles for lack of Import Permit/Clearance.

## DISCUSSION:

As culled from the records of the instant case, passenger Nguyen Thi Linh brought into the country the Two Hundred Eleven (211) packs of Assorted Medicines and Food Supplements without license, permit/clearance nor authorization from the FDA as required in Section 10 of RA No. 9711 or the Food and Drug Administration (FDA) Act of 2009 which states that:

“Section 10. Section 11, subsections (a), (b), (d), (g), (j), (k) and (l) of Republic Act No. 3720, as amended, are hereby further amended to read as follows:

“SEC. 11. The following acts and the causing thereof are hereby **prohibited**:

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- (k) The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, or retail of any drug, device or in-vitro diagnostic reagent; the manufacture, importation, exportation, transfer or distribution of any food, cosmetic or household/urban hazardous substance; or the operation of a radiation or pest control establishment by any natural or juridical person **without the license to operate from the FDA required under this Act.**”

Relatively, Article I (Licensing of Establishments and Registration of Health Products), Book II of The Rules and Regulations Implementing Republic Act No. 9711 - The Food and Drug Administration Act of 2009 expressly prohibits such importation, to wit:

“Section 1. General Provisions.

1. The manufacture, **importation**, exportation, sale, offering for sale, distribution, transfer, non-consumer use, promotion, advertising, or sponsorship **of any health product without the proper authorization from the FDA is prohibited.**
2. The manufacture, **importation**, exportation sale, offering for sale, distribution transfer, or retail of any drug or device; the manufacture, importation, exportation transfer or distribution of any food, cosmetics, household hazardous substances or urban pesticides; or the operation of a radiation facility or pest control establishment **without the appropriate authorization from the FDA is prohibited.**”

On this score, Paragraph 9.3 of Customs Administrative Order No. 10-2020 in relation to Section 118 (g) of the Customs Modernization and Tariff Act (CMTA), are instructive and authoritative, to wit:

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"9.3 If the subject shipment involved has been sufficiently established to be **prohibited**, the same shall be **ipso facto forfeited** in favor of the government."

"**Section 118. Prohibited Importation and Exportation.** – The importation and exportation of the following goods are prohibited:

- (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.

WHEREAS, Section 1113 of the Customs Modernization and Tariff Act (CMTA) provides that:

"**SECTION 1113. Property Subject to Seizure and Forfeiture.** – Property that shall be subject to seizure and forfeiture include:

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- (f) Goods, the importation or exportation of which are effected or attempted contrary to law, or any goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;" (Underline for emphasis)

**WHEREFORE**, the Two Hundred Eleven (211) packs of Assorted Medicines and Food Supplements brought in by Passenger **NGUYEN THI LINH** are hereby declared *ipso facto* **FORFEITED** for violation of Section 118 (g) and Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA), in relation to Section 10 of Republic Act No. 9711 or the Food and Drug Administration (FDA) Act of 2009 and Article I (Licensing of Establishments and Registration of Health Products), Book II of The Rules and Regulations Implementing Republic Act No. 9711 or The Food and Drug Administration Act of 2009, to be turned over the same to the Auction and Cargo Disposal Division (ACDD) for custody and safekeeping and for final disposition thereof CAO No. 10-2020 bearing the subject "Seizure and Forfeiture and Appeals Process".

Let copies of this Decision be furnished to all offices and parties concerned for their information, and a copy thereof to be posted in the Bulletin Board of the Law Division and the arrival Operations Division, this Port, for information of all concerned.

**SO ORDERED.**

BOC-NAIA, Pasay City, \_\_\_\_\_ July 2023.

  
ATTY. MARIA YASHIN M. OBILLOS-MAPA  
Acting District Collector

Wdy/law/ham