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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

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

SUBJECT : **PUBLICATION IN THE BOC WEBSITE OF THE ISSUED DECISION AND WARRANT OF SEIZURE AND DETENTION (WSD)**

DATE : **11 AUGUST 2023**

This refers to the herein attached Decision of Forfeiture:

- 1. SEIZURE IDENTIFICATION NO. 073-2023 (NAIA):** Five Thousand Seven Hundred Twenty point Eighty Nine (5,720.89) grams of Methamphetamine Hydrochloride intercepted from passenger **WENDY JANE MARAIS**;
- 2. SEIZURE IDENTIFICATION NO. 076-2023 (NAIA):** Twenty (20) boxes of Ant Removal Gel and Sixty (60) bottles of Ant Killer brought in by incoming passenger **YEN-TING LEE**;
- 3. SEIZURE IDENTIFICATION NO. 077-2023 (NAIA):** Six (6) plastic canister containing Six (6) Dead Tarantulas and Six (6) pieces pieces of dried fish shipped by **JACK PAUNALAN**.

As the aforementioned passengers/claimants have indicated insufficient addresses in the Philippines, the WSDs 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 request that the copies of the Warrant of Seizure and Detention 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 and Jessil.garlando@customs.gov.ph.



REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION
NO. 073-2023 (NAIA)

-versus-

Five Thousand Seven Hundred Twenty point Eighty Nine (5,720.89) grams of Methamphetamine Hydrochloride with an estimated value of Thirty Eight Million Nine Hundred Two Thousand and Fifty Two Pesos (Php38,902,052.00), which was intercepted from passenger **WENDY JANE MARAIS** who arrived on 29 June 2023.

X-----X

D E C I S I O N

This resolves the seizure and forfeiture proceedings instituted against the above-described shipment which was found to 5,720.89 grams of Methamphetamine Hydrochloride otherwise known as "Shabu", a dangerous drug, for violation of Section 4 of Republic Act 9165 or the Comprehensive Dangerous Drugs Act of 2002, and Section 118 (g) in relation to Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA).

The records of the instant case show the following antecedent facts, viz:

1. On 29 June 2023, passenger **WENDY JANE MARAIS**, a Canadian national and holder of Passport with Serial Number AM844414, arrived at the Ninoy Aquino International Airport Terminal 3 on board Japan Airlines Flight JL 741 from Mexico via Narita, Japan.
2. Her luggage was marked "X" by the on-duty XIP Personnel. Thus, Customs Examiner Edward Carlo L. Velasco called the attention of SA I Alejandro F. Trespeces III of the NAIA-IADITG who was with the other operatives conducting K9 inspection and profiling of incoming passengers.
3. When the passenger approached the Customs Examination Lane, Customs Examiner Velasco requested her to submit the accomplished Customs Baggage Declaration Form (CBDF) and her passport then asked her if she has anything to declare, to which the passenger replied in the negative. Thereafter, Customs Examiner Velasco asked if she owns the luggage which was marked with "X" bearing the name MARAIS WENDY J, to which she affirmatively responded.
4. In the presence of passenger Marais, PDEA Agent Ediex D. Liwanag instructed PDEA K9 Handler Roden Briones to conduct K9 inspection of the subject luggage and the PDEA Narcotic Detection Dog showed positive indication for the presence of dangerous drug inside.
5. Customs Examiner Velasco conducted an actual physical examination of the subject luggage in the presence of passenger Marais and the NAIA-IADITG operatives, wherein he found inside two (2) plastic bags containing seven (7) pouches labelled "Truffle" which contained foil packs of chocolates, and after rigorous scrutiny of the foil packs, Customs Examiner Velasco discovered

transparent plastic sachets containing white crystalline substance. After conducting an immediate field test gave positive result for the presence of dangerous drug.

6. Immediately thereafter, SA I Alejandro F. Trespeces III, introduced himself as NAIA-AIDITG operative and informed passenger Marais that the entire proceedings are being recorded and that she is being arrested for violation of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. She apprised passenger Marais of her Constitutional rights in a language or dialect known and understood by her to which she acknowledged.
7. The pieces of evidence subject to seizure were then inventoried, marked and photographed in the presence of passenger Marais, Barangay Kagawad Nelson B. Garcia of Barangay 197, Zone 20, Pasay City, and Media Representative Antonino Gildo from the Information Media Affairs, NAIA. Thereafter, they were personally turned over by Customs Examiner Velasco to the PDEA Laboratory Service, PDEA National Headquarters, Quezon City, for testing and evaluation. The arrested passenger Wendy Jane Marais was then turned over to the NAIA-IADITG Office at NAIA Terminal 3 for investigation and documentation.
8. The physical examination of the subject luggage yielded, among others, 5,720.89 grams of Methamphetamine Hydrochloride with an estimated value of Thirty Eight Million Nine Hundred Two Thousand and Fifty Two Pesos (Php38,902,052.00).
9. Forming part of the records of the instant case is PDEA Chemistry Report No. PDEA-NCR-23-0104 which was issued on 30 June 2023 with the following findings: "Qualitative examination of all the specimens, (except specimens A-3-a and A-3-b), gave **POSITIVE** result for the presence of **Methamphetamine**".
10. In a Memorandum dated 29 June 2023, Mr. Edward Carlo L. Velasco, Customs Examiner, and Mr. Ramon S. Calleja, Jr., Flight Supervisor, thru Atty. Danilo M. Campos, Chief, Arrival Operations Division, and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, reported to the District Collector, this Port, their findings that the subject luggage of Wendy Jane Marais contained, among others, white crystalline substance which was found positive for the presence of Methamphetamine, a dangerous drug, and recommended for the issuance of Warrant of Seizure and Detention against the same for violation of Section 4 of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and Section 119 (d) in relation to Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA).

DISCUSSION:

On the basis of the records on file, it is indubitable that the subject baggage contained, among others, to 5,720.89 grams of Methamphetamine Hydrochloride otherwise known as "Shabu". The laboratory analysis and evaluation revealed that the same is positive for the presence of Methamphetamine Hydrochloride or "Shabu", a dangerous drug under Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is prohibited under paragraph (g) of Section 118 (Prohibited Importation and Exportation) of the Customs Modernization and Tariff Act (CMTA).

Section 4 of the Comprehensive Dangerous Drugs Act of 2002 expressly states that:

**ARTICLE II
Unlawful Acts and Penalties**

Section 4. Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.- .The penalty of life imprisonment to death and a ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed **upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved**, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes. (Emphasis and underscoring supplied)

x x x x x x

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

“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.” (Emphasis and underscoring supplied)

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

x x x

(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.”

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

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

x x x x x x

(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)

x x x x x x

WHEREFORE, the subject luggage which contained 5,720.89 grams of Methamphetamine Hydrochloride, a dangerous drug, is hereby declared *ipso facto* **FORFEITED** for violation of Section 1113 (f) and Section 118 (g) of the Customs Modernization and Tariff Act (CMTA), in relation to Section 4 of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002, to be turned over to the Philippine Drug Enforcement Agency (PDEA) for final disposition thereof pursuant to Customs Administrative Order (CAO) No. 10-2020 bearing the subject "Seizure and Forfeiture Proceedings 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 on 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, AUG 08 2023 August 2023.


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

Law/wady/moz



REPUBLIC OF THE PHILIPPINES

**SEIZURE IDENTIFICATION
NO. 076-2023 (NAIA)**

-versus-

Twenty (20) boxes of Ant Removal Gel and sixty (60) bottles of Ant Killer brought in by incoming passenger **YEN-TING LEE**, who arrived on 03 November 2022 and was held in bond under Held Baggage Receipt No. 00100000494 for lack of FDA Import Clearance.

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned shipment for violation of Section 118 (g) and 1113 (f) of the Customs Modernization and Tariff Act (CMTA) and Paragraph 9.3 of Customs Administrative Order No. 10-2020, 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 careful review of the records of the instant case reveals the following antecedents:

1. On 03 November 2022, the above-described Ant Removal Gel and Ant Killer were brought in by passenger Yen-Ting Lee, a Taiwanese national and holder of Passport No. 351150087 upon his arrival at the Ninoy Aquino International Airport Terminal 2 on board Philippine Airlines Flight PR 891 from Taiwan.
2. His baggage was marked "X" by XIP Inspector on duty and was referred to the Acting Customs Examiner on duty for physical examination of his baggage.
3. Before conducting the physical examination, Acting Customs Examiner Asi asked passenger Lee to submit his duly filled-out Customs Baggage Declaration Form (CBDF). The passenger was further asked if he has anything to declare to which he replied in the negative. Thereafter, passenger Lee handed over his Passport and his accomplished CBDF and Acting Customs Examiner Asi found that the passenger answered "No" to all the questions in the CBDF.
4. Thereafter, examiner Asi conducted an actual examination of passenger Lee's check-in baggage which yielded twenty (20) boxes of Ant Removal Gel and sixty (60) bottles of Ant Killer with an estimated value of Three Hundred Twenty US Dollars (\$320.00). However, no Import Clearance from the Food and Drug Administration (FDA), Certificate of Product Registration (CPR) and License to Operate (LTO) from the FDA can be presented.
5. Held Baggage Receipt (HBR) No. 00100000494 was then issued to passenger Lee and the Ant Removal Gel and Ant Killer were turned over to the In Bond Room for custody and safekeeping.

6. In a Memorandum dated 04 November 2022, Acting Customs Examiner Christine Joy D. Asi and Mr. Ronald P. Arzadon, then Acting Flight Supervisor reported their findings to the District Collector, this Port, thru the then Chief, Arrival Operations Division, and the then Deputy Collector for Passenger Service, and recommended that the subject commodities be held in custody at the In Bond Room pending the submission/presentation of the corresponding Import Permit from the FDA.
7. As of this date, passenger Yen-ting Lee nor his duly authorized representative failed to submit the required FDA Clearance for the release of the Ant Removal Gel and Ant Killer products.
8. In his Memorandum dated 13 June 2023, Mr. Roberto A. Quintana and Mr. Norsalem Raymond M. Mama-o, Acting Deputy Collector for Passenger Service, recommended for the issuance of Warrant of Seizure and Detention (WSD) against the twenty (20) boxes of Ant Removal Gel and sixty (60) bottles of Ant Killer which were held in custody under Held Baggage Receipt No. 0010000494 for violation of Republic Act 9711 or the Food and Drug Administration (FDA) Act of 2009.

DISCUSSION:

As culled from the records of the instant case, passenger Lee brought into the country the subject Twenty (20) boxes of Ant Removal Gel and sixty (60) bottles of Ant Killer without license, permit/clearance nor authorization from the FDA as required under Section 10 of RA No. 9711 or the Food and Drug Administration (FDA) Act of 2009, as amended:

“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:

XXX

- (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:

“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:

X X X X X X

- (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 subject Twenty (20) boxes of Ant Removal Gel and sixty (60) bottles of Ant Killer brought in by incoming passenger **YEN-TING LEE**, is 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 - 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 on 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, AUG 11 2023 August 2023.


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

Law/wady/moz



REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION
NO. 077-2023 (NAIA)

- versus -

Six (6) plastic canisters containing
Six (6) Dead Tarantulas and six (6)
pieces of dried fish shipped by
JACK PAUNALAN

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned outbound parcel which involved six (6) plastic canisters containing six (6) dead tarantulas and six (6) dried fish, for violation of Sections 11, 26 and 28 (b) of Republic Act No. 9147 otherwise known as the Wildlife Resources Conservation and Protection Act, and Section 119 (f) in relation to Section 1113 (i and l) of the Customs Modernization and Tariff Act (CMTA).

The records of the instant case show the following facts, viz:

1. The subject parcel is outbound for Korea thru the Express Mail System (EMS), sent by Mr. Jack Paunalan, with address at Production St., Project 8, Quezon City, Metro Manila and consigned to Seoungwon Kim with delivery address at Café 24, 3rd floor, 265, Wharang-ro Seongbuk-gu, Seoul, Republic of Korea.
2. The subject parcel was marked "X" by the XIP Inspector on duty, Mr. Helario Fadri, after generating suspicious images. The assigned customs examiner, Christian Angelo M. Lambino, found in the export documents that the subject parcel was declared as "Sweet Dillis with Dried fish Snacks", with an actual weight of 0.940 kilogram and with no declared value.
3. Customs Examiner Lambino went over the x-ray images of the subject parcel and thereafter immediately notified SAI Joselito Custodio and SAI Mariel M. Lopera from the Environmental Protection and Compliance Division, ESS-NAIA, and the latter then coordinated with the DENR-Wildlife Traffic Monitoring Unit for verification of the contents of said parcel.
4. In the presence of the DENR representative, Customs Examiner Lambino conducted an actual examination of the subject parcel where he found inside six (6) canisters containing six (6) dead tarantulas and two (2) plastic containers of six (6) dried fish. Immediately, the DENR representative recommended the confiscation and turnover of the "Dead Tarantulas" for violation of Section 27 (i) of Republic Act 9147, otherwise known as the "Wildlife Resources Conservation and Protection Act".
5. After the actual examination, the subject parcel was turned over to the Department of Environment and Natural Resources (DENR) thru Mr. Theodore Rodrigo N. Agir of the Wildlife Traffic Monitoring Unit.
6. In a Disposition Form dated 27 July 2023 for the District Collector, Customs Examiner Lambino, with concurrence of Atty. Vincent James V. Fajardo, Acting Sub-Port Collector, CMEC, recommended for the issuance of Warrant of Seizure and Detention against the subject outbound parcel which contained six (6) Dead

Tarantulas and six (6) pieces of Dried Fish for violation of Section 27 (i) of Republic Act 9147, also known as the Wildlife Resources Conservation and Protection Act, and Sections 119 and Section 1400 in relation to Section 1113 (i and l) of Republic Act 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

DISCUSSION:

At this juncture, it bears stressing that the exportation of the subject Tarantulas, not being supported by the corresponding clearances required by the Department of Environment and Natural Resources (DENR), violates Sections 11 and 27 (i) of Republic Act No. 9147, otherwise known as the Wildlife Resources Conservation and Protection Act.

Sections 11 and 27 (i) of RA 9147 provides:

“Section 11. Exportation and/or importation of Wildlife. **Wildlife species may be exported to or imported from another country as may be authorized by the Secretary or the designated representative, subject to strict compliance with the provisions of this Act and rules and regulations promulgated pursuant thereto.** Provided, that the recipient of the wildlife is technically and financially capable to maintain it.

Section 27. Illegal acts. – Unless otherwise allowed in accordance with this Act, **it shall be unlawful for any person to willfully or knowingly exploit wildlife resources and their habitats, or undertake the following acts:**

x x x x x x

(i) **Transporting of wildlife.**

x x x x x x

All wildlife, its derivatives or by-products, and all paraphernalia, toots and conveyances used in connection with violations of this Act, **shall be ipso facto forfeited in favor of the government x x x.** The apprehending agency shall immediately cause the transfer of all wildlife that have been seized or recovered to the nearest Wildlife Rescue Center of the Department in the area.” (Underscoring and emphasis supplied)

On this score, Paragraph 9.3 of Customs Administrative Order No. 10-2020 in relation to Section 119 of the Customs Modernization and Tariff Act (CMTA), are instructive and authoritative, to wit:

“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 119. Restricted importation and exportation. – Except when authorized by law or regulation, the importation or exportation of the following restricted goods are **prohibited**:

- (f) **Any other goods whose importation and exportation are restricted.**”

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

“Section 1113. Property subject to Seizure and Forfeiture. –

xxx

(i) Any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the Invoice or goods declaration to be the contents of the misdeclared package; xxx

(l) Goods sought to be imported or exported:

x x x

(3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such, goods;

x x x

(5) Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.

WHEREFORE, the subject parcel involving six (6) plastic canisters containing six (6) Dead Tarantulas and six (6) pieces of dried fish are hereby declared *ipso facto* **FORFEITED** for violation of Section 1113 (i and l) and Section 119 (f) of the Customs Modernization and Tariff Act (CMTA), in relation to Sections 11, 27 (i) and 28 of Republic Act No. 9147, otherwise known as the “Wildlife Resources Conservation and Protection Act of 2001”, and were already turned-over to the Department of Environment and Natural Resources (DENR) Wildlife Traffic Monitoring Unit for custody pursuant to Section 8 (Custody of Seized Goods requiring immediate turn-over to Regulating Agencies) of Customs Administrative Order (CAO) No. 10-2020 bearing the subject: “Seizure and Forfeiture Proceedings 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 on the Bulletin Board of the Law Division, this Port, for information of all concerned.

SO ORDERED.

BOC-NAIA, Pasay City, AUG 11 2023 2023.

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

Law/wady/eyllv