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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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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**
District Collector, BOC-NAIA

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 : **16 NOVEMBER 2023**

This refers to the herein attached Decision of Forfeiture and Warrant of Seizure and Detention (WSD):

- 1. SEIZURE IDENTIFICATION NO. 124-2023 (NAIA):** Shipment of Two Thousand Four Hundred (2,400) boxes of DIANE-35 Pills brought in by **BASHER GUTOC BARAOCOR**;
- 2. SEIZURE IDENTIFICATION NO. 125-2023 (NAIA):** Shipment of Eleven (11) Units ASUS NVIDIA GeForce GTX (TUF Gaming) brought in by incoming passenger **BRYAN MAYORGA LEDESMA**;

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 requests that the copy of the Decision on Seizure Identification Nos. 124-2023 (NAIA) and 125-2023 (NAIA), respectively, 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.



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REPUBLIC OF THE PHILIPPINES

SEIZURE IDENTIFICATION
NO. 124-2023 (NAIA)

-versus-

Two Thousand Four Hundred
(2,400) boxes of DIANE-35 Pills
brought in by **BASHER GUTOC
BARAOCOR** on 09 July 2023, and
covered by Held Baggage Receipt
No. 00100003644.

X-----X

DECISION

This resolves the seizure and forfeiture proceedings instituted against the above-captioned articles which were found inside the check-in baggage of incoming passenger Mr. Basher Gutoc Baraocor, a Filipino, for violation of Section 118 and 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 09 July 2023, Passenger Basher Gutoc Baraocor, a Filipino and holder of Passport No. P8479827B, arrived at the Ninoy Aquino International Airport Passenger Terminal 3 on board Cebu Air Flight 5J930 from Bangkok, Thailand.
2. Passenger Baraocor's check-in baggage underwent the non-intrusive X-ray examination and was marked with "X" by XIP Operator Christopher Asuncion after finding a suspicious object inside. Thereafter, the said baggage was referred for physical examination to Customs Examiner Jireh Marielle E. Bautista.
3. Before conducting the said physical examination, Customs Examiner Bautista asked passenger Baraocor to submit his duly accomplished Customs Baggage Declaration Form (CBDF), where it was noted that he checked "NO" to all the items on page 3 except for Item No. 4, referring to "Medicines, etc. x x x ". He was likewise asked if he had anything to declare to which he readily replied in the affirmative.
4. Customs Examiner Bautista then conducted an actual examination of passenger Baraocor's baggage and the same yielded 2,400 boxes of Diane-35 pills. However, pursuant to existing FDA rules and regulations, no Import Permit or Clearance for the said Diane-35 pills could be provided. Thus, Held Baggage Receipt No. 00100003644 was issued, and the articles were turned over to the In Bond Section, Baggage Assistance Division, for safekeeping.
5. In a Memorandum dated 14 July 2023, Customs Examiner Jireh Marielle E. Bautista and Flight Supervisor Regina Santos, thru Atty. Danilo M. Campos, Jr., Chief, Arrival Operations Division, and Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, reported the incident to the District Collector, this Port. In a Memorandum dated 16 October 2023, Mr. Roberto A. Quintana, Chief, Baggage Assistance Division, thru Mr. Norsalem Raymond M. Mama-o, Deputy Collector for Passenger Service, recommended to the District Collector, this Port, for the issuance of Warrant of Seizure and Detention against



the subject Diane-35 pills for violation of Section 117 and Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA).

DISCUSSION:

As culled from the records of the instant case, passenger **BASHER GUTOC BARAOCOR** brought into the country two thousand four hundred (2,400) boxes of DIANE-35 Pills without any 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:

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)

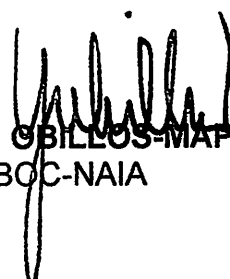
WHEREFORE, premised considered, the subject Two Thousand Four Hundred (2,400) boxes of DIANE-35 Pills brought in by **BASHER GUTOC BARAOCOR** is hereby declared *ipso facto* **FORFEITED**, for violation of Section 118 (g) and Section 1113 (f) of the Customs Modernization and Tariff Act (CMTA) in relation 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 pursuant to 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, 16 November 2023.

ATTY. MARIA YASMIN M. OBILLAS-MAPA
District Collector, BOC-NAIA



Law/wady/eyllv





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SEIZURE IDENTIFICATION
NO. 125-2023 (NAIA)

-versus-

Eleven (11) Units of ASUS NVIDIA GeForce GTX (TUF Gaming) brought in by incoming passenger **BRYAN MAYORGA LEDESMA** from South Korea who arrived on 15 May 2023 at NAIA Terminal 3.

X-----X

WARRANT OF SEIZURE AND DETENTION

TO: The District Commander
ESS-CPD, NAIA District Office

WHEREAS, the above-described articles were brought in by passenger Bryan Mayorga Ledesma with Passport No. P2209374B who arrived at the Ninoy Aquino International Airport 15 May 2023 on board Flight No. 5J187 from South Korea.

WHEREAS, his checked-in baggage underwent non-intrusive inspection and was marked "X" by XIP Operator Paul Joseph Lodea, and consequently referred to Customs Examiner Kimberly Sangalang for physical examination.

WHEREAS, before conducting physical examination, Customs Examiner Morales asked passenger Anuraksap to submit his filled-up Customs Baggage Declaration Form (CBDF). It was noted that the said passenger ticked "No" to all items pertaining to page 3 of the said form. Passenger was then asked if he had anything to declare to which he replied in the negative.

WHEREAS, Examiner Sangalang conducted the physical examination of the subject baggage and yielded to the discovery of eleven (11) units of ASUS NVIDIA GeForce GTX (TUF Gaming) with an estimated value of Five thousand One Hundred Twenty Three US Dollars (5,123.00 USD).

WHEREAS, for failure to present Permit/Clearance as required under the relevant rules, Held Baggage Receipt No. 00100002957 was issued to passenger Ledesma and the confiscated articles were turned-over to COO III Ritzton Ryan M. Mamisay of the In-bond Unit, Baggage Assistance Division for safekeeping.

WHEREAS, in a Memorandum dated 17 May 2023 for the District Collector, Customs Examiner Sangalang and Acting Flight Supervisor Asilo thru the Acting Deputy Collector for Passenger Service and Chief, Arrival Operations Division, submitted their Incident Report and recommended for the presentation of Optical Media Board (OMB) Permit.

WHEREAS, in a Memorandum dated 16 October 2023, Robert A. Quintana, Chief, Baggage Assistance Division, thru Acting Deputy Collector for Passenger Service, recommended for the issuance of Warrant of Seizure and Detention (WSD) against the subject articles for lack of OMB Permit.



WHEREAS, on this score, Section 19 (b) of RA No. 9239 or the Optical Media Act of 2003 provides:

“Section 19. Offenses and Penalties. – xxx

(b) Imprisonment of at least one year but not more than three years and a fine not less than one hundred thousand pesos, but not exceeding five hundred thousand pesos, at the discretion of the court, for the following offenses:

(1) Engaging in the **importation**, exportation, sale or distribution of, or possess or acquire in commercial quantities manufacturing materials used or intended for use in the mastering, manufacture or replication of **optical media without the necessary licenses from the OMB;**” (Emphasis ours)

WHEREAS, moreover, Section 1. Optical Media Board Memorandum Circular No. 2018-002 states:

“Section 1. Registration Requirement – Entities, establishments and **individuals engaged in the manufacturing, importation**, exportation, distribution, sale, rental, and other commercial activities involving **STORAGE DEVICES, for commercial purpose, are required to register and acquire the necessary license and/or permit with the Registration and Licensing Division (hereinafter referred to as “RDL”) of the Optical Media Board.**”(Emphasis ours)

WHEREFORE, by virtue of the authority vested by law in this Office, and in compliance with applicable customs laws, rules and regulations, you, together with the representatives of the concerned offices, are hereby ordered to seize the subject Eleven (11) Units of ASUS NVIDIA GeForce GTX (TUF Gaming) brought in by passenger **BRYAN MAYORGA LEDESMA** for violation of Section 117 in relation to Section 1113 of the Customs Modernization and Tariff Act, and Section 19 (b) of RA No. 9239 or the Optical Media Act of 2003, and Section 1 of Optical Media Board Memorandum Circular No. 2018-002 to be turned over to the Auction and Cargo Disposal Division (ACDD), this Port, for inventory, classification and valuation of goods pursuant to Section 1120 of the CMTA, custody and safekeeping pursuant to CAO No. 10-2020 pending resolution of the instant seizure and forfeiture case, or until ordered by the District Collector, this Port.

Strict compliance with Customs Administrative Order (CAO) No. 10-2020, particularly on the matter of making a return of service and the submission of the Inventory Report or list of the articles seized within the period indicated therein, is likewise directed. Failure to do so shall render this Warrant of Seizure and Detention *ipso facto* considered null and void and shall subject the defaulting officer to the appropriate administrative charges and penalties in accordance with existing laws, rules and regulations.

SO ORDERED.

BOC-NAIA, Pasay City, Metro Manila, 16 November 2023.

ATTY. MARIA YASMIN M. OBILLOS-MARAFIA
District Collector, BOC-NAIA

Wdy/law/ham





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16 November 2023

MR. BRYAN MAYORGA LEDESMA
Loma, Amadeo, Cavite

Subject : Seizure Identification No. 125-2023 (NAIA)
Republic of the Philippines vs Eleven (11) Units ASUS
NVIDIA GeForce GTX (TUF Gaming) brought in by
incoming passenger **BRYAN MAYORGA LEDESMA**
from South Korea who arrived on 15 May 2023 at NAIA
Terminal 3.

Dear **Mr. Ledesma**

This refers to the shipment which is covered by Seizure Identification No. 125-2023 (NAIA) issued on November 16, 2023 by the District Collector, this Port. A copy of the Warrant of Seizure and Detention is attached for reference.

As part of the on-going seizure and forfeiture proceedings for the aforementioned shipment, you are hereby directed to submit a Verified Position Paper **within seven (7) days** from receipt hereof, copy furnished the Government Prosecutor, Prosecution and Litigation Division, Legal Service, Bureau of Customs, Port Area, Manila, to discuss the following:

1. Issues of the Case;
2. Proposed Stipulation and Admission;
3. Arguments;
4. Exhibits; and
5. Possibility of settlement.

For inquiries, kindly contact us at Telephone No. (02) 8831-3421 or send your Verified Position Paper, with pertinent attachments to lawdivision.naia@gmail.com/naia-boc.cares@customs.gov.ph.

Very truly yours,


ATTY. HYACINTH A. MIRANDA
Officer-on-Case

