[DATE]

**CUSTOMS ADMINISTRATIVE ORDER (CAO)**

**NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SUBJECT: EXERCISE OF CUSTOMS CONTROL**

**Introduction.** This CAO implements primarily Sections 300, Chapter 1 of Title III, Section 301 Chapter 2 of Title III, Section 1111 and 1112, Chapter 3 of Title XI, Section 1116 and 1117, Chapter 4 of Title XI, of Republic Act (R.A.) No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA).

**Section 1. Scope.**

**1.1** This CAO shall apply to the issuance of Alert Orders, Pre-Lodgement Control Order, Post-Release Control Order and Controlled Delivery Order by the Bureau of Customs (BOC).

**1.2** This CAO shall apply to all importations, whether for consumption, warehousing or for admission to Free Zone as defined in Sec. 102(w) of the CMTA and whether dutiable, taxable or not.

**Section 2. Objectives.**

**2.1** To implement a transparent and efficient customs control system and jurisdictional control even before lodgement of goods declaration and after release of imported goods from customs custody.

**2.2** To strengthen jurisdictional and customs control of the Bureau of Customs (BOC) over imported goods.

**Section 3. Definition of Terms.**

**3.1 Alert Orders** – are written orders issued by authorized customs officers on the basis of derogatory information regarding possible non-compliance with the CMTA, after the lodgment of goods declaration and before their release from customs custody.

**3.2** **Customs Control** – Measures applied by the Bureau to ensure compliance with customs laws and regulations [[1]](#footnote-1)

**3.3 Pre-Lodgement Control Order** - An order issued by the Commissioner or the customs officer/s authorized by the former before the lodgement of goods declaration based on the grounds enumerated under Section 4.2 of this Order, such as the attempt to bring out imported goods from customs territory without lodgement of goods declaration which is a case of outright smuggling as defined in Section 102 (ff), Chapter 2 of Title I of the CMTA.

**3.4 Post-Release Control Order** - An order issued by the Commissioner or the customs officer/s authorized by the former to pursue goods even after their release from customs custody based on the grounds enumerated under Sec. 4.1 of this Order.

**3.5 Controlled Delivery Order** - A confidential order issued by the Commissioner or District Collector, in coordination with the concerned government agency, which is the investigative technique of allowing an unlawful or suspect consignment of any imported goods which may include dangerous drug and/or controlled precursor and essential chemical, equipment or paraphernalia, or property believed to be derived directly or indirectly from any offense, to pass into the country, under the supervision of an authorized officer, with a view to gathering evidence to identify any person involved in smuggling and other forms of customs fraud or violation of R.A. No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" and other penal statutes.

**3.6 Goods Declaration** – refers 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.

**3.7** **Jurisdictional Control** – refers to the power and rights of the Bureau in exercising supervision and police authority over all seas within the jurisdiction of the Philippine territory and over all coasts, ports, airports, harbors, bays, rivers and inland waters whether navigable or not from the sea.

**3.8 Lodgement** – refers to the registration of a goods declaration with the Bureau.

**3.9 Release of Goods** – refers to the action by the Bureau to permit goods undergoing clearance to be placed at the disposal of the party concerned and the goods have legally left of the jurisdiction of the Bureau.

**3.10 Perishable goods** – refers to goods liable to perish or goods that depreciate greatly in value while stored or which cannot be kept without great disproportionate expense, which may be proceeded to, advertised and sold at auction upon notice if deemed reasonable.

**3.11 Products of Illicit Trade** – involves money, goods, or value gained from illegal and otherwise unethical activity.

**3.12** **Prohibited importation and exportation** – The importation and exportation of the following goods are prohibited:

 3.12.1. Written or printed goods in any form containing any matter advocating or inciting treason, rebellion, insurrection, edition against the government of the Philippines, or forcible resistance to any law of the Philippines, or written or printed goods containing any threat to take the life of, or inflict bodily harm upon any person in the Philippines;

3.12.2. Goods, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises, describes or gives direct or indirect information where, how or by whom unlawful abortion is committed;

3.12.3. Written or printed goods, negatives or cinematograhic films, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character;

3.12.4. Any goods manufactured in whole or in part of gold, silver, or other precious metals or alloys and the stamp, brand or mark does not indicate the actual fineness of quality of the metals or alloys;

3.12.5. Any adulterated or misbranded food or goods for human consumption or any adulterated or misbranded drug in violation of relevant laws and regulations;

3.12.6.Infringing goods as defined under the Intellectual Property Code and related laws; and

3.13.7. All other goods or parts thereof which importation and exportation are explicitly prohibited by law or rules and regulations issued by the competent authority.

**3.13** **Regulated importation and exportation** – Goods which are subject to regulation shall be imported or exported only after securing the necessary goods declaration or export declaration, clearances, licenses, and any other requirements, prior to importation or exportation. In case of importation, submission of requirements after arrival of the goods but prior to release from customs custody shall be allowed but only in cases provided for by governing laws or regulations.

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

3.14.1 Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, or parts thereof;

3.14.2 Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus, or mechanical devices used in gambling or the distribution of money, cigars, cigarettes or other goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof;

3.14.3. Lottery and sweepstakes tickets, except advertisements thereof and lists of drawings therein;

3.14.4 Marijuana, opium, poppies, coca leaves, heroin or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, except when imported by the government of the Philippines or any person duly authorized by the Dangerous Drugs Board, for medicinal purposes;

3.14.5.Opium pipes or parts thereof, of whatever material; and

3.14.6 .Any other goods whose importation and exportation are restricted.

The restriction to import or export the above stated goods shall include the restriction on their transit.

**Section 4.General Provisions.**

**4.1** An Alert Order or Post-Release Control Order shall be issued on the basis of derogatory information regarding the following violations:

**4.1.1** Undervaluation, which shall not be general allegations of undervaluation but due to the submission to customs of forged or spurious invoice or other commercial documents;

**4.1.2** Misclassification, which shall not be general allegations of misclassification but providing appropriate tariff heading and duty of the shipment to be alerted;

**4.1.3** Over-quantity, which shall not be general allegations of over-quantity but indicating the source of information supporting the allegation;

**4.1.4** General allegations of misdeclaration, which shall not be general allegations of misdeclaration in the entry but indicating the suspected actual contents thereof; and

**4.1.5** Importations contrary to law, which shall not be general allegations of importations contrary to law but indicating the specific law or rule reported to be violated.

**4.2** Grounds for the issuance of Pre-Lodgment Control Order:

**4.2.1.** Report of unmanifested cargo

**4.2.2.** Outright smuggling as defined in Section 102 (ff), Chapter 2 of Title I of the CMTA

**4.2.3.** Prohibited, Restricted and Regulated Goods verified without permits

**4.2.4.** Consignee is verified and confirmed to be fictitious

**4.2.5.** The vessel contains products of illicit trade which poses danger to the environment and to public health, safety and security.

**4.3** Grounds for the issuance of Controlled Delivery Order:

**4.3.1.** Violations under R.A. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002” in coordination with Philippine Drug Enforcement Agency (PDEA).

**4.3.2** Violations of the CMTA and other penal statutes in coordination with the concerned government agency.

**4.4** The issuance of Alert Order shall suspend the processing of goods declaration and shall prevent the release of the goods until physical or non-intrusive inspection of the goods within forty eight (48) hours from the issuance of the Order is conducted, the proper duties, taxes and other charges including surcharges are paid, and the Bureau is certain that there is no legal ground to prevent the release of the goods from customs custody.

**4.5** The issuance of Pre-Lodgement Control Order shall not prevent the lodgement of goods declaration but only the release of the goods until the required examination is conducted and completed, the proper duties, taxes and other charges including surcharges are paid, and the Bureau is certain that there is no legal ground to prevent the release of the goods from customs custody.

**4.6**The issuance of Post-Release Control Order shall authorize the Bureau to conduct further physical examination of the goods or the containerized shipments, as the case may be, and effect their seizure if the results of said examination warrant.

**4.7** The issuance of Controlled Delivery Order shall authorize the Bureau in coordination with the other concerned government enforcement agencies to allow an unlawful or suspect consignment of any dangerous drug and/or controlled precursor and essential chemical, equipment or paraphernalia, or property believed to be derived directly or indirectly from any offense, to pass into, through or out of the country under the supervision of an authorized officer, with a view to gathering evidence to identify any person involved in any dangerous drugs related offense, or to facilitate prosecution of that offense.

**4.8** Alert orders shall be dated and assigned a unique reference number in series which shall be the basis for reporting to and monitoring by the Commissioner and the Secretary of Finance.

**4.9** The costs of the physical inspection shall be borne by the Bureau provided that such cost shall be reimbursed by the owner prior to the release of the goods if the physical inspection results in the assessment of additional duties or taxes or the issuance of a warrant of seizure.

**4.10** The alerting officer or any authorized customs officer shall make a recommendation to the concerned District Collector for lifting of Alert Order or issuance of a warrant of seizure and detention (WSD) within forty-eight (48) hours or in the case of perishable goods, within twenty-four (24) hours from inspection, furnishing the Commissioner with a copy of the recommendation.

**4.11** Upon recommendation of the alerting officer or any other authorized customs officer, the District Collector shall, within five (5) days or two (2) days in case of perishable goods, issue either (a) a lifting of the alert order and an order of release in case of non-existence of probable cause, or (b) a warrant of seizure upon determination of the existence of probable cause. The order of release is effected only after the lifting of the alert order is affirmed expressly by the Commissioner within the period of review of 48 hours, or 24 hours in case of perishable goods, from receipt of all the records transmitted by the District Collector, or immediately after the lapse of the period of review by the Commissioner, whichever is earlier.

The immediately preceding paragraph is not applicable in case the alerting officer is the Commissioner whose recommendation, action or decision on alert orders must be implemented as soon as possible by the District Collector.

The District Collector shall immediately make a report of such seizure or release to the Commissioner.

**4.12** The Bureau’s information system shall immediately reflect the imposition or lifting of an alert order.

**4.13** The Bureau shall create a central clearing house for alert orders and shall submit quarterly reports to DOF on the status thereof.

**4.14** The Bureau shall assign customs personnel at the exit gate of the port or terminal facility which has no OLRS capability and/or for manually issued gate pass.

**4.15** When the subject of the alert order are perishable goods, the alerting customs officer of the Bureau shall attach to his/her recommendation a certificate stating that the goods are perishable.

**Section 5. Risk Management.**

The results of the alert orders and other orders issued pursuant to this CAO shall be recorded and stored in a database to form part of the Bureau’s Risk Management System.

**Section 6. Penal Provision.**

Violations of this CAO committed by any person, officer or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provisions.

**Section 7.Additional Rules and Regulations.**

The Commissioner is authorized to promulgate additional rules and regulations.

**Section 8.Repealing Clause.**

This CAO amends or repeals previously issued CAOs and CMOs which are inconsistent with the provisions here stated.

**Section 9.Separability Clause.**

If any part of this Order is declared unconstitutional or contrary to laws, the other parts not so declared shall remain in full force and effect.

**Section 10. Review**

This CAO shall be reviewed every (five)5 years and be amended or revised, if necessary.

**Section 11.Effectivity.**

This Order shall take effect within 15 days from publication at the Official Gazette or a newspaper of national circulation.

**NICANOR E. FAELDON**

Commissioner

Approved:

**CARLOS G. DOMINGUEZ III**

Secretary

**Informational Section.** As the title denotes this section only provides information and does not give rise to any substantive or formal rights or obligations.

**1. History.** This is the first CAO dealing exclusively on the exercise of customs control.

**2. Related Policies.**

* CMO N0. 23-2016 dated 07 September of 2016 – Amendment of Customs Memorandum Order No. 35-2015 regarding the Authority to issue Alert Orders
* CMO No. 35-2015 dated 23 September 2015 – Revised Rules for the Electronic/Manual Issuance and Lifting of Alert Orders at all Ports of Entry
* CMO No. 24-2014 dated 04 November 2014 – Procedures for the Issuance and Lifting of Alert Orders for Shipments Which Arrive by Air and are Declared through the Formal Entry Process
* CMO No. 21-2014 dated 08 October 2014 – Procedures for the Issuance and Lifting of Alert Orders for Formal Entries Filed in the E2M System
* CMO No. 4-94 dated 03 February 1994 – Guidelines in the Lifting of Alert and Hold Orders Issued pursuant to CMO-104-92
* CMO No. 8.93 dated 24 February 1993 – Rules on the Issuance of Alert/Hold Orders
* CMO No. 104-92 dated 11 September 1992 – Rules on the Issuance of Alert/Hold Orders
* CMO No. 92-91 dated 13 November 1991 – Rules and Regulations Governing Alert Orders for 100% Examination and Spot-Checking of Shipments and the Issuance/Lifting of Hold Orders
* Tariff and Customs Code of the Philippines (TCCP), as amended
* Customs Modernization and Tariff Act (CMTA) of 2016
* Executive Order No. 127, s. 1987
* R.A. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002"
* WCO Fraud Prevention

**3. Webpage, Forms, Handbooks and other References.**

a.http://[www.customs.gov.ph](http://www.customs.gov.ph)

 b. Bureau of Customs Central Records and Management Division

1. *cf* RKC [↑](#footnote-ref-1)