



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099

CUSTOMS ADMINISTRATIVE ORDER (CAO)
NO. _____

**SUBJECT: CUSTOMS JURISDICTION AND EXERCISE OF POLICE
AUTHORITY**

INTRODUCTION. This Customs Administrative Order (CAO) implements Title II, Chapter 3; Title III, Chapter 1; Title III, Chapter 2, Sections 301, 303, 305, 306 in relation to Section 1800; and other related provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA).

Section 1. Scope. – This CAO covers the process, areas covered and conditions governing the exercise of customs jurisdiction and police authority over all importation, or all export shipments, suspected smuggled and prohibited goods found anywhere in the Philippines; and carriers and persons suspected to be in possession of smuggled and prohibited goods and all other matters which are suspected to be violative of the CMTA and related laws.

Section 2. Objectives.

- 2.1.** To clarify the extent and limits of the exercise of customs jurisdiction and police authority;
- 2.2.** To implement a clear and effective system in the exercise of Customs Jurisdictional Control from the moment the imported goods enter customs jurisdiction and even after release from customs custody as well as in the exportation of goods; and
- 2.3.** To establish transparent procedures in the deputization of members of law enforcement agencies and regulate their exercise of police authority for border protection and prevention and suppression of smuggling and other customs fraud.

Section 3. Definition of Terms.

- 3.1. Completion of Mission** – refers to the accomplishment of the mission order in accordance with the EXEPLAN.
- 3.2. Controlled Delivery** – The investigative technique of allowing 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.¹
- 3.3. Customs Jurisdictional Control** – refers to the power and rights of the Bureau in exercising jurisdiction², supervision and police authority over all seas within the Philippine territory and over all coasts, ports, airports, harbors, bays, rivers and inland waters whether navigable or not from the sea and any means of conveyance³, as well as over imported goods and goods for exportation which shall include pursuit of imported goods subject to seizure during its transport by land, water and air and shall exercise jurisdiction as may be necessary for the effective enforcement of the CMTA and other laws, rules and regulations enforced by Customs.

When a vessel or aircraft becomes subject to seizure in violation of the CMTA and other related laws, rules and regulations enforced by Customs, a pursuit of such vessel or aircraft which began within the territorial waters or air space of the country may continue beyond the same and may be seized in the high seas or international air space.

- 3.4. Customs Officer** – as distinguished from clerk or employee, refers to a person whose duty, not being clerical or manual in

¹ Republic Act No. 9165 otherwise known as An Act Instituting The Comprehensive Dangerous Drugs Act Of 2002, Repealing Republic Act No. 6425, Otherwise Known As The Dangerous Drugs Act of 1972, As Amended, Providing Funds Therefor, And For Other Purposes, Article 1, Section 3.g.

² cf CMTA, Title III, Chapter 1, Section 300.

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

nature, involves the exercise of discretion in performing the function of the Bureau. It may also refer to an employee authorized to perform a specific function of the Bureau.⁴

- 3.5. Customs Premises** – shall include customs offices, facilities, warehouses, airports, wharves, infrastructure and other areas within the customs districts over which the Bureau shall have exclusive control, direction and management for customs purposes.⁵
- 3.6. Deputization Order** – is the written order signed by the Commissioner of Customs authorizing named officers or members of Armed Forces of the Philippines and other selected law enforcement agencies to exercise customs police authority.
- 3.7. Diversion of Goods** – is an act of bringing bonded articles to some place other than its intended destination without prior authority from the Bureau. It also covers imported goods for admission into Free Ports and ECOZONES, and such other similar schemes, such as, goods under local transit for immediate exportation, which are illegally introduced into customs territory without compliance with customs formalities or without payment of duties and taxes.
- 3.8. Dwelling Place** – is any building or structure exclusively devoted for rest and comfort, as distinguished from places devoted to business or offices.⁶
- 3.9. Execution Plan (EXEPLAN)** – also known as implementation plan and refers to a definite target-specific activity, usually short-term, conducted in relation to intelligence project under which it is affected.⁷
- 3.10. Freeport Zones** – special economic zones registered with the Philippine Economic Zone Authority (PEZA) under Republic Act No. 7916, as amended, duly chartered or legislated special economic

⁴ CMTA, Title I, Chapter 2, Section 102 (p).

⁵ CMTA, Title III, Chapter 2, Section 303.

⁶ People vs. Inventor, 07695-Cr, May 19, 1971.

⁷ *cf* Philippine National Police, *Revised Criminal Procedure Manual* (Quezon City: DIDM, 2011), p. xxv.

zones and freeports such as Clark Freeport Zone; Poro Point Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under Republic Act No. 7227, as amended by Republic Act No. 9400; the Aurora Special Economic Zone under Republic Act No. 9490, as amended; the Cagayan Special Economic Zone and Freeport under Republic Act No. 7922; the Zamboanga City Special Economic Zone under Republic Act No. 7903; the Freeport Area of Bataan under Republic Act No. 9728; and such other freeports as established or may be created by law.⁸

3.11. Letter of Authority – A written authorization signed by the Commissioner, identifying the person/s authorized to demand evidence of payment of duties and taxes on imported goods openly offered for sale or kept in storage.⁹

3.12. Mission Order – written directive or order given to any customs officer or any deputized agent who must be a government employee with regular plantilla position, issued by the Commissioner of Customs, customs official authorized by the Commissioner in writing, or a customs officer exercising police authority, to carry out specific instructions.¹⁰

3.13. Outright Smuggling – refers to an act of importing goods into the country without passing through a customs office or complying with customs clearance formalities.¹¹

3.14. Philippine Territory – comprises the Philippine Archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the

⁸ CMTA, Title I, Chapter 2, Section 102 (w).

⁹ *cf* CMTA, Title II, Chapter 3, Section 224.

¹⁰ *cf* CMTA, Title II, Chapter 3, Section 214, 3rd Par.; See Also 3.39, IRR of Republic Act No. 10591, otherwise known as "Comprehensive Firearms and Ammunition Regulation Act."

¹¹ *cf* CMTA, Title I, Chapter 2, Sec. 102 (ff).

Philippines.¹²

3.15. Police Authority – pertains to the authority granted to certain persons to effect search, seizure, and arrest in places where the authority may be exercised arising from the implementation of the CMTA and other related laws.¹³

3.16. Probable Cause – signifies a reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that the person accused is guilty of the offense with which he is charged. The existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and the items or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.¹⁴

3.17. Prohibited Importation – the importation and exportation of the following goods are prohibited:

- a. 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;
- b. 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;
- c. Written or printed goods, negatives or cinematographic films, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character;

¹² 1987 Constitution, Article I.

¹³ *cf* CMTA, Title II, Chapter 3, Section 214.

¹⁴ *People vs. Valdez*, G.R. No. 127801. March 3, 1999.

- d.** 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;
- e.** Any adulterated or misbranded food or goods for human consumption or any adulterated or misbranded drug in violation of relevant laws and regulations;
- f.** Infringing goods as defined under the Intellectual Property Code and related laws; and
- 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.¹⁵

3.18. Reasonable Cause – is that which an ordinary person of average intelligence and sound mind would believe.¹⁶

3.19. Regulated Importation and Exportation – goods which are subject to regulation and are 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.¹⁷

3.20. Restricted Importation and Exportation – except when authorized by law or regulation, the importation and exportation of the following restricted goods are prohibited:

- a.** Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, or parts thereof;
- b.** Roulette wheels, gambling outfits, loaded dice, marked cards,

¹⁵ CMTA, Title I, Chapter 3, Section 118.

¹⁶ Black's Law Dictionary.

¹⁷ CMTA, Title I, Chapter 3, Section 117.

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;

- c. Lottery and sweepstakes tickets, except advertisements thereof and lists of drawings therein;
- d. Opium pipes or parts thereof, of whatever material; and
- e. 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.¹⁸

3.21. Search Warrant – is an order in writing, issued in the name of the **People** of the Philippines, signed by a judge of a competent court and directed to a peace officer, commanding him to search for certain personal property and bring it before the Court.¹⁹

3.22. Seizure – refers to the actual or constructive taking or bringing into custody the goods, things or chattels by virtue of a warrant issued by the Collector of Customs for violation of the tariff and customs laws.²⁰

3.23. Smuggling – refers to the fraudulent act of importing any goods into the Philippines, or the act of assisting in receiving, concealing, buying, selling, disposing or transporting such goods, with full knowledge that the same have been fraudulently imported or exported.²¹

3.24. Termination of Mission – refers to the discontinuance of a mission or when the same has become legally or physically

¹⁸ CMTA, Title I, Chapter 3, Section 119.

¹⁹ Rules of Court, Rule 126, Section 1.

²⁰ BOC Seizure Identification No. 2005-112 as cited in Romano, Joseph. *Principles and Remedies in the Customs Modernization and Tariff Act* (Quezon City: Central Book Supply Inc., 2016), 198-199.

²¹ cf CMTA, Title I, Chapter 2, Section 102 (nn).

impossible to accomplish as determined by the Commissioner based on the recommendation of the Team Leader.

3.25. Warrant of Arrest – is a command in formal writing issued against a person, to take him into the custody of law in order that he may be bound to answer for the commission of an offense.²²

3.26. Warrant of Seizure and Detention (WSD) – is an order in writing, issued in the name of the Republic of the Philippines, signed by the Collector of Customs directed to the customs law enforcement officer, commanding him to seize any vessel, aircraft, cargo, goods, animal or any other movable property when the same is subject to forfeiture pursuant to Section 1113, Chapter 4, Title XI of the CMTA.

Section 4. General Provisions.

4.1. Persons Authorized to Exercise Police Authority. The following are authorized to exercise customs police authority:²³

4.1.1. Officials of the Bureau, District Collectors, Deputy District Collectors, police officers, agents, inspectors and guards of the Bureau;

4.1.2. Upon authorization of the Commissioner, officers and members of the Armed Forces of the Philippines (AFP) and national law enforcement agencies; and

4.1.3. Officials of the BIR on all cases falling within the regular performance of their duties, when payment of internal revenue taxes is involved.

4.2. Places Where Authority may be Exercised. Customs jurisdiction and police authority may be exercised by deputized persons/officers over the following:

4.2.1. All premises used for Customs purposes, including customs offices, facilities, warehouses, ports, airports, wharves,

²² Rules of Court, Rule 113, Section 1.

²³ CMTA, Title II, Chapter 3, Section 214.

infrastructure and other premises in the Customs Districts, within the limits of the authority granted by the Commissioner, without prejudice to the general police powers of the local government units (LGUs), the Philippine Coast Guard and of law enforcement agencies in the exercise of their respective functions;²⁴

- 4.2.2.** All lands, seas, and air within Philippine territory, including bays, coasts, harbors, rivers and inland waters whether navigable or not from the sea and any means of conveyance.

The Bureau shall pursue imported goods subject to seizure during its transport by land, water and air and shall exercise jurisdiction as may be necessary for the effective enforcement of the CMTA. When a vessel or aircraft becomes subject to seizure for violation of the CMTA, a pursuit of such vessel or aircraft which began within the territorial waters or airspace may continue beyond the same, and the vessel or aircraft may be seized in the high seas or international air space;²⁵

- 4.2.3.** Freeport and Special Economic Zones: *Provided*, proper coordination with the zone authorities shall be observed at all times.

Considering the peculiar structure and organization of freeports, airports, seaports and postal facilities, the Bureau of Customs shall endeavor to enter into appropriate Memoranda of Agreement with the agencies concerned to establish good working relationships in the performance of their respective mandates. Such MOA shall, as far as practicable, emphasize on the access and use of facilities inside their respective premises.

4.3. Extent of Police Authority exercised by Customs Officers, and Deputized Officers, when duly authorized.

- 4.3.1. Exercise of Power of Seizure.** Any person exercising

²⁴ *cf.* CMTA, Title III, Chapter 2, Section 303 and Title II, Chapter 3, Section 215.

²⁵ CMTA, Title III, Chapter 1, Section 300.

police authority under the CMTA has the power and duty to seize any vessel, aircraft, cargo, goods, animal or any other movable property when the same is subject to forfeiture or when they are subject of a fine imposed under the CMTA.²⁶

4.3.2. Authority to Require Assistance and Information.

Any person exercising police authority may demand the assistance of and request information from the Philippine National Police (PNP), the AFP and other national law enforcement agencies, when necessary, to effect any search, seizure or arrest. It shall be the duty of any police officer and other national law enforcers to give such lawful assistance.²⁷

4.3.3. Authority to Enter Properties. Any person exercising police authority may, at any time, enter, pass through, and search any land, enclosure, warehouse, store, building or structure not principally used as a dwelling house.²⁸

4.3.4. Authority to Search Dwelling House. A dwelling house may be entered and searched only upon warrant issued by the Judge of a competent court, the sworn application thereon showing probable cause and particularly describing the place to be searched and the goods to be seized.²⁹

4.3.5. Authority to Search Vessels or Aircrafts and Persons or Goods Conveyed Therein. Any person exercising police authority under the CMTA may board, inspect, search and examine a vessel or aircraft and any container, trunk, package, box or envelope found on board, and physically search and examine any person thereon. In case of any probable violation of the CMTA, the person exercising police authority may seize the goods, vessel, aircraft, or any part thereof.

Such power to search includes removal of any false bottom, partition, bulkhead, or any other obstruction for

²⁶ CMTA, Title II, Chapter 3, Section 216.

²⁷ CMTA, Title II, Chapter 3, Section 218.

²⁸ CMTA, Title II, Chapter 3, Section 219.

²⁹ CMTA, Title II, Chapter 3, Section 220.

the purpose of uncovering any concealed dutiable or forfeitable goods.

The proceeding herein authorized shall not give rise to any claim for damage caused to the goods, vessel or aircraft, unless there is gross negligence or abuse of authority in the exercise thereof.³⁰

4.3.6. Authority to Search Vehicles, Other Carriers, Persons and Animals. Upon reasonable cause, any person exercising police authority may open and examine any box, trunk, envelope, or other container for purposes of determining the presence of dutiable or prohibited goods. This authority includes the search of receptacles used for the transport of human remains and dead animals. Such authority likewise includes the power to stop, search, and examine any vehicle or carrier, person or animal suspected of holding or conveying dutiable or prohibited goods.³¹

4.3.7. Authority to Search Persons Arriving from Foreign Countries. Upon reasonable cause, travelers arriving from foreign countries may be subjected to search and detention by the customs officers. The dignity of the person under search and detention shall be respected at all times. Female inspectors may be employed for the examination and search of persons of their own sex.³²

4.3.8. Customs Control Over Goods. All goods, including means of transport, entering or leaving the customs territory, regardless of whether they are liable to duties and taxes, shall be subject to customs control to ensure compliance with the CMTA.

In the application of customs control, the Bureau shall employ audit-based controls and risk management systems, use automation to the fullest extent possible, and adopt a compliance measurement strategy to support risk

³⁰ CMTA, Title II, Chapter 3, Section 221.

³¹ CMTA, Title II, Chapter 3, Section 222.

³² CMTA, Title II, Chapter 3, Section 223.

management.

The Bureau shall seek to cooperate and conclude mutual administrative assistance agreements with other customs administrations to enhance customs control. The Bureau shall consult, coordinate, and cooperate with other government regulatory agencies, free zone authorities, and the customs stakeholders, in general, to enhance customs control.³³

4.3.9. Control Over Premises Used for Customs Purposes.

The Bureau shall, for customs purposes, have exclusive control, direction and management of customs offices, facilities, warehouses, ports, airports, wharves, infrastructure and other premises in the Customs Districts, in all cases without prejudice to the general police powers of the local government units (LGUs), the Philippine Coast Guard and of law enforcement agencies in the exercise of their respective functions.³⁴

4.3.10. Special Surveillance for Protection of Customs Revenue and Prevention of Smuggling.

The Bureau shall conduct surveillance on vessels or aircrafts entering Philippine territory and on imported goods entering the customs office: *Provided*, That the function of the Philippine Coast Guard to prevent and suppress the illegal entry of these goods, smuggling and other forms of customs fraud and violations of maritime law and its proper surveillance of vessels entering anchor leaving Philippine territory as provided in Republic Act No. 9993, otherwise known as the "Philippine Coast Guard Law of 2009", shall continue to be in force.³⁵

4.3.11. Hot Pursuit.

The Bureau shall pursue imported goods subject to seizure during its transport by land, water and air and shall exercise jurisdiction as may be necessary for the effective enforcement of the CMTA. When a vessel or aircraft becomes subject to seizure for violation of the

³³ CMTA, Title III, Chapter 1, Section 301.

³⁴ CMTA, Title III, Chapter 1, Section 303.

³⁵ CMTA, Title III, Chapter 1, Section 306.

CMTA, a pursuit of such vessel or aircraft which began within the territorial waters or airspace may continue beyond the same, and the vessel or aircraft may be seized in the high seas or international air space;³⁶ and

4.3.12. Trespass or Obstruction of Customs Premises. No person shall enter or obstruct a customs office, warehouse, port, airport, wharf, or other premises under the control of the Bureau without prior authority, including the streets or alleys where these facilities are located.³⁷

4.4. Deputization Order

4.4.1. Who can issue. A Deputization Order may be issued only by the Commissioner of Customs.

4.4.2. Who can be deputized. Officers and members of the following government agencies exercising law enforcement functions may be deputized:

- a. Armed Forces of the Philippines (AFP)** – to exercise Customs police authority in instances of outright smuggling, diversion of prohibited articles or goods, importation or exportation, within Philippine Customs territory, whether on land, air, or sea;
- b. Bureau of Fisheries and Aquatic Resources (BFAR)** – to exercise Customs police authority in instances of smuggling and diversion of agricultural products, whether through importation or exportation;
- c. National Bureau of Investigation (NBI)** – to render assistance, whenever properly requested in the investigation or detection of crimes and other offenses; to make arrests, searches and seizures in accordance with existing laws and rules;³⁸

³⁶ CMTA, Title III, Chapter 1, Section 300, Par. 2.

³⁷ CMTA, Title III, Chapter 1, Section 305.

³⁸ RA 157, otherwise known as an "Act Creating a Bureau of Investigation, Providing Funds Therefor, and for other purposes," Sections 1(B) and Section 5.

- d. Philippine Coast Guard (PCG)** – to exercise Customs police authority in instances of outright smuggling, other customs frauds, illegal entry, violations of Philippine maritime laws committed within the waters subject to the jurisdiction of the Republic of the Philippines.³⁹
- e. Philippine Drug Enforcement Agency (PDEA)** – to exercise Customs police authority in instances of importation or exportation of dangerous drugs, controlled precursors and essential chemicals contrary to law and existing rules and regulations; and
- f. Philippine National Police (PNP)** – to exercise Customs police authority in instances of outright smuggling of prohibited articles or goods, importation or exportation, within Philippine Customs territory, whether on land, air, or sea.
- g.** Any other law enforcement agencies which the Commissioner may hereafter deputize.

4.5. Issuance of Mission Order

4.5.1. Who can issue. A Mission Order, as used in this CAO, may be issued by the Commissioner of Customs, his duly authorized customs official as his representative, or customs officers exercising police authority, and shall bear the Commissioner's original signature or that of his authorized representative, or customs officers exercising police authority, as the case may be, and the official seal of the offices of the Bureau where it emanates.

4.5.2. Purpose of Mission Order. A mission order is issued to ensure that the assignment is duly authorized by the Bureau and that the deputized officers tasked to carry it out are properly identified.

³⁹ *cf* RA 5173 otherwise known as an "Act Creating a Philippine Coast Guard, Prescribing Its Powers and Functions, Appropriating the Necessary Funds Therefor, and for Other Purposes," Section 3 (A).
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4.5.3. Basis and Conditions for the Issuance of a Mission Order.

- a.** When there is a need to operate outside the customs zone;
- b.** When there is need for a coordinated effort to avoid duplication and ensure the success of an anti-smuggling operation, especially outside customs zone; and
- c.** Every request for issuance of Mission Order must be accompanied by a corresponding EXEPLAN (Execution Plan) emanating from the requesting agency on a basis of a verified intelligence report.

4.5.4. Duration. The Mission Order shall be valid for not more than thirty (30) days from the date of its issuance.

4.5.5. Grounds for Revocation.

- a.** When the mission becomes legally or physically impossible to achieve, as determined by the Commissioner based on the recommendation of the Team Leader;
- b.** Inaction and ineffective execution or abuse of authority in the implementation of the Mission Order; or
- c.** Being the lead agency, when the Bureau of Customs, at any time, takes over the operation.

4.5.6. Requirement of Submission of After-Mission Report.

The officers or persons who were issued and implementing the Mission Order shall, within twenty-four (24) hours from the completion of the mission, submit the corresponding return, accompanied by a detailed inventory of the goods seized, to the Commissioner of Customs, which shall be prepared by a Customs Operations Officer III, particularly Customs Examiner whenever possible, and all other relevant documents.

4.6. Letter of Authority

4.6.1. Who can issue. The Commissioner may issue a Letter of Authority pursuant to the exercise of his visitorial power under Section 224, Chapter 3, Title II of the CMTA.

4.6.2. When issued. The Commissioner of Customs may issue a Letter of Authority to demand evidence of payment of duties and taxes on imported goods openly offered for sale or kept in storage, or in cases of regulated or restricted articles wanting in import permits and/or clearances.⁴⁰

4.6.3. Who may implement Letter of Authority. The Commissioner or any customs officer authorized in writing by the Commissioner may implement a Letter of Authority. For this purpose, the following offices, upon issuance of a written authority shall implement a letter of authority:

- a.** EG;
- b.** IG; and
- c.** Deputized law enforcement agencies.

4.6.4. Duration and Termination. Letter of Authority shall commence upon issuance and deemed terminated after payment of the assessed duties and taxes and other charges, or recall of the Warrant of Seizure and Detention (WSD), or the forfeiture of the goods seized as the case may be.

4.6.5. Manner.⁴¹ To safeguard the integrity of the visitorial power and to prevent the possible abuse thereof, the following rules or guidelines shall be strictly observed:

- a.** A prior written authorization or a Letter of Authority (LOA) signed by the Commissioner himself, identifying the person/s authorized, the stores/ stalls/ exhibition/ places/ warehouses/ enclosures, where the foreign articles are openly offered for sale or kept in storage must be shown or exhibited whenever demanded by the person/s or representative of the store or entity

⁴⁰ *cf* CMTA, Title II, Chapter 3, Section 224.

⁴¹ *cf* CMO 10-2006, Sections 5,6,7,8 & 9.

visited. The requirement shall not apply when the Commissioner of Customs himself exercises the visitorial power.

b. In the exercise of the visitorial power, the customs official or officer otherwise known as the "visiting officer", shall:

- i.** enter the premises where the smuggled goods are suspected to be stored in the presence of the lawful occupant or any person in possession of the premises or in their absence any two witnesses who are residents of the same locality, or barangay officials or any representative from the building or other responsible officers;
- ii.** conduct an inventory of the foreign articles if, upon demand, the owner, occupant, person in possession of the premises cannot show the evidence of payment of duties and taxes;
- iii.** Issue an Inventory Receipt, constituting a detailed receipt of the things and goods, to the lawful occupant, or in his absence, to the building administrator. The owner of the goods or his representative shall execute a Certification as to the conduct of the inventory of his goods to show proof of ownership over the same time. In the meantime, the holder of the imported article shall not remove, sell, or dispose of the said articles without prior authority from the Bureau.
- iv.** Upon failure of the interested party to produce evidence of payment of duties and taxes within fifteen (15) days, the goods may be seized and subjected to forfeiture proceedings. Thenceforth, provisions of Customs Administrative Order (CAO) on Seizure and Forfeiture Proceedings shall apply.

c. The visiting officer shall witness the delivery, as the circumstances warrant, of the things seized into the

custody of the Collector of Customs, which has jurisdiction over the place.

- d. The visiting officer or head of the visiting team is duty-bound to adopt all reasonable measures that he deems necessary to implement the LOA.
- e. The Commissioner of Customs or any officer exercising visitorial power may tap, harness or utilize transport facilities for the transport of the seized goods/articles and suitable warehouses or storage areas, constituting the same as virtual customs warehouses for this purpose. The remuneration and other charges appurtenant thereto shall constitute as liens over the goods when sold at public auctions or disposed of in accordance with the provisions of the CMTA, as amended. Otherwise, the expenses shall be for the account of the Bureau of Customs.

4.6.6. Special Customs Area – for reasons of security, safety and economy, the Commissioner may constitute the premises upon which foreign goods/articles are openly offered for sale, or kept in storage, as a special customs area for the duration of the exercise of the visitorial power or other proceedings related thereto. The Bureau of Customs may conduct the inventory, examination, appraisal, assessment and/or collection of duties and taxes due the foreign goods in such special customs area. The seized goods or articles are deemed, for all intents and purposes, in customs custody.

4.6.7. One-Stop Shop – the Commissioner may issue an Order establishing a **One-Stop-Shop (OSS)** in the special customs area or premises where the visitorial power is being exercised. The **OSS**, the composition of which shall be determined by the Commissioner, shall endeavor to resolve with finality all issues and matters thereat, including the payment of duties and taxes within the premises.

A Customs Operations Officer III, particularly Customs

Examiner, shall always be included in the implementing team for the purpose of valuation and computation of duties and taxes.

4.6.8. Submission of report including assessment of implementation, observations and recommendations. The Officer or head of the team conducting the visitorial power shall render progress reports during and after the actual visit, and shall submit the final report to the Commissioner within twenty-four (24) hours after the conclusion of the proceedings.

4.7. Application for Search Warrant

4.7.1. Who can apply. For Customs purposes, only customs officers may apply for a judicial warrant, upon express authority of the Commissioner of Customs.

4.7.2. Implementation of Search Warrant. A duly issued warrant to search a dwelling place may be implemented by customs officers and/or deputized agencies or personnel.

In the service of a duly issued search warrant, the deputized officer or person implementing the same shall also present both Deputization and Mission Orders.

Service of the duly issued warrant shall be made in the daytime, unless the affidavit asserts that the property is on the person or in the place ordered to be searched, in which case a direction may be inserted that it be served at any time of the day or night.⁴²

The proper surveillance of the premises should first be conducted so that if implementation thereof is impractical during nighttime perimeter guarding may first be observed before service the following day.

4.7.3. Turnover of apprehended goods by virtue of Search Warrant. In an application for Search Warrant, the Bureau

⁴² Rules of Court, Rule 126, Section 9.

of Customs shall inform the Court through a manifestation that such is for the purpose of taking physical possession of the goods preparatory to the institution of seizure proceedings for violation of the CMTA.

4.7.4. Return of Service of Warrant. The implementing officers tasked to prepare and submit to the court the return of the service of warrant shall always furnish the Bureau of Customs a copy thereof.

4.8. Controlled Delivery. Instances When the Commissioner may allow Controlled Delivery:

- a. Importation of dangerous drugs, controlled precursors and essential chemicals, plant sources and laboratory equipment used for the manufacture of dangerous drugs;
- b. Importation of firearms, parts and ammunitions without the necessary permits or clearances from the Philippine National Police; and
- c. Importations of other prohibited articles.

Section 5. Authority of the Commissioner to Promulgate Implementing Rules and Regulations in a Customs Memorandum Order. The Commissioner of Customs may issue supplementary rules and regulations to effectively implement the provisions of this CAO.

Section 6. Reporting and Monitoring System – The Bureau of Customs shall establish and maintain an ICT based system to validate all deputizations and issued mission orders and generate periodic management reports for purposes of monitoring progress and evaluation on the success or status of the mission.

The collection, recording, storage maintenance, processing, sharing of data and information; and maintenance of data information in the CAO shall be secured and consistent with the principles and policy of Republic Act 10173, also known as The Data Privacy Act

Section 7. Periodic Review. Unless otherwise provided, this CAO shall be reviewed at least every three (3) years and be amended or revised, if necessary.

Section 8. Repealing Clause. All previously issued Customs Administrative Orders, Customs Memorandum Orders, and other customs rules and regulations which are inconsistent with this Order are hereby repealed and/or modified accordingly.

Section 9. Separability Clause. If any part of this Order is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 10. Effectivity. This Order shall take effect fifteen (15) days after its complete publication in the Official Gazette or a newspaper of general circulation.

NICANOR E. FAELDON
Commissioner

APPROVED:

CARLOS G. DOMINGUEZ III
Secretary of Finance

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

1. History. This is the first CAO dealing exclusively on Deputization of Police Authority.

2. Related Policies.

- 1987 Constitution
- CMO 10-2006 – Special Rules Prescribing the Exercise and Conduct of Examination, Searches and Seizures Pursuant to the Provisions of Section 2536 of the Tariff and Customs Code of the Philippines, as well as the

Custody of and Responsibility over the Articles or Goods Seized as Incident thereto.

- CMO 13-1994 – Guidelines in the Conduct of and Participation in Law Enforcement Activities Outside Customs Zone by Customs Personnel and in the Issuance of Mission Orders Pertaining thereto.
- DO 13-2006. Prescribing Rules for the Exercise of the Visitorial Power of the Bureau of Customs under Section 2530 of the TCCP, as amended.
- IRR of RA 10591, otherwise known as "Comprehensive Firearms and Ammunition Regulation Act."
- People vs. Inventor, 07695-Cr, May 19, 1971
- People vs. Valdez, G.R. No. 127801. March 3, 1999.
- Philippine National Police, *Revised Criminal Procedure Manual* (Quezon City: DIDM, 2011)
- RA 10863 – An Act Modernizing the Customs and Tariff Administration
- RA 157, otherwise known as an "Act Creating a Bureau of Investigation, Providing Funds Therefor, and for other purposes,"
- RA 5173 otherwise known as an "Act Creating a Philippine Coast Guard, Prescribing Its Powers and Functions, Appropriating the Necessary Funds therefor, and for their Purposes,"
- RA 9165 – An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise known as the Dangerous Drugs Act of 1972, as amended, Providing Funds therefor, and for Other Purposes.
- Rules of Court

3. Webpage, Forms, Handbooks and other References.

- Malacañang Administrative Order No. 219, s. 1995 – Delineating the Functions, Powers and Jurisdiction of the Presidential Anti-Crime Commission, the National Peace and Order Council, the National Law Enforcement Coordinating Committee and their Implementing Agencies.
- Malacañang Memorandum Order No. 225, s. 1989 – Intensification of Anti-Smuggling Operations and Delineating Responsibilities therefor.