



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

**CUSTOMS ADMINISTRATIVE ORDER (CAO)**  
**NO. \_\_\_\_\_**

**SUBJECT: REQUEST FOR NON-CONFIDENTIAL, UNPUBLISHED  
INFORMATION**

---

**Introduction.** This CAO implements Sections 111 and 112, Chapter 2, Title 1; Sections 1500 and 1502, Chapter 2, Title 6; and other related provisions of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA) in relation to Articles II and III of the 1987 Constitution, RA No. 10173, otherwise known as the Data Privacy Act of 2012, RA No. 10667, otherwise known as the Philippine Competition Act, Executive Order (EO) No. 02 Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor, and other pertinent laws, rules and regulations.

**Section 1. Scope.** This CAO covers any request for non-confidential, unpublished information in accordance with the state policies of full public disclosure and transparency in the public service. This shall likewise cover the procedure to be taken relative to the request.

**Section 2. Objectives**

- 2.1.** To reinforce and give further effect to certain fundamental principles underlying the system of constitutional democracy, namely – governmental accountability, transparency, and public participation in national decision-making, by granting to the public a general right of access to non-confidential, unpublished information held by the Bureau, subject to exemptions which balance that right against the public interest in exempting from disclosure governmental, commercial or personal information of a sensitive nature.<sup>1</sup>
- 2.2.** To provide guidelines on procedures for manual and online requests for information from the Bureau; and
- 2.3.** To establish an ICT-enabled monitoring and control system for online requests of information.

---

<sup>1</sup> Civil Code, Article III, Section 7

**Section 3. Definition of Terms.** For purposes of this CAO, the following terms are defined as follows:

- 3.1. Bureau** – shall refer to the Bureau of Customs.<sup>2</sup>
- 3.2. Confidential Business Information** – shall refer to information which concerns or relates to the operations, production, sales, shipments, purchases, transfers, identification of customers, inventories, or amount or source of any income, profits, losses, expenditures.<sup>3</sup>
- 3.3. Confidential Matter** – shall refer to information and material (matter) the unauthorized disclosure of which, while not endangering the national security, would be prejudicial to the interest or prestige of the nation or any government activity, or would cause administrative embarrassment or unwarranted injury to an individual or would be of advantage to a foreign nation.<sup>4</sup>
- 3.4. Executive Privilege** – shall refer to information the confidential nature of which is crucial to the fulfillment of the unique role and responsibilities of the executive branch, or in those instances where exemption from disclosure is necessary to the discharge of highly important executive responsibilities. The doctrine of executive privilege is thus premised on the fact that certain information must, as a matter of necessity, be kept confidential in pursuit of the public interest. The privilege being, by definition, an exemption from the obligation to disclose information, the necessity must be of such high degree as to outweigh the public interest in enforcing that obligation in a particular case.<sup>5</sup>
- 3.5. Information** – shall refer to any records, documents, papers, reports, letters, contracts, minutes, and transcripts of official meetings, maps, books, photograph, data, research materials, films, sound and video recordings, magnetic or other tapes, electronic data, computer-stored data, or any other like or similar data or material recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection

---

<sup>2</sup> CMTA, Title 1, Chapter 2, Section 102 (i)

<sup>3</sup> Republic Act No. 10667 otherwise known as "Philippine Competition Act", Chapter 1, Section 4 (e)

<sup>4</sup> Office of the President of the Philippines, Memorandum Circular No. 78, s. 1964, Section IV

<sup>5</sup> Senate v. Ermita, G.R. No. 169777, 20 April 2006

with the performance or transaction of official business by any government office.<sup>6</sup>

**3.6. Non-confidential Information** – shall refer to matters which are not included in the enumeration in Section 6 of this Order.

**3.7. Personal Information** – shall refer to any information whether recorded in material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.<sup>7</sup>

**3.8. Requesting Party** – shall refer to persons exercising the right of access to information by requesting any information, official record or public record from the BOC.<sup>8</sup>

**3.9. Trade Secret** – shall refer to a plan or process, tool, mechanism or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having a commercial value.<sup>9</sup>

**3.10. Unpublished Information** – shall refer to non-confidential information which were not published in a newspaper of general circulation, or registered with Office of the National Administrative Register (ONAR), or posted in the Bureau's website, or circularized within the Bureau.

#### **Section 4. General Provisions.**

**4.1.** The Bureau shall ensure that all non-confidential, unpublished information shall, for legitimate use, be available to the public in an expeditious manner.<sup>10</sup>

**4.2.** Requests for non-confidential, unpublished information shall be processed under a simplified system to be established and administered by the Ruling and Research Division, Legal Service of the Revenue Collection and Monitoring Group (RCMG) in

---

<sup>6</sup> Executive Order No. 02 s. 2016, otherwise known as "Operationalizing in the Executive Branch The People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines", Section 1 (a)

<sup>7</sup> RA 10173 otherwise known as "Data Privacy Act of 2012", Section 3 (g)

<sup>8</sup> PPA Freedom of Information Agency Manual

<sup>9</sup> cf. Air Philippines Corp v. Pennswell, Inc., G.R. No. 172835, December 13, 2007

<sup>10</sup> cf. CMTA Title 1, Chapter 2, Section 112, Par. 1

coordination with the Central Records Management Division, Administration Office of the Internal Administration Group (IAG).

- 4.3.** Except in the context of judicial proceedings, any disclosure of confidential information shall not be made except upon the written consent of the party concerned.<sup>11</sup>
- 4.4.** Subject to existing laws, rules and regulations, the CRMD, utilizing ICT-enabled system, shall create and maintain accurate and reasonably complete customs records and information in appropriate formats, and implement a records management system that facilitates easy identification, retrieval and communication of information to the public.

## **Section 5. Operational Provisions.**

- 5.1.** Written applications or requests for information, public records and documents, stating clearly and distinctly the purpose therefor, shall be filed before the Central Records and Management Division (CRMD) or to an Administrative Officer in the various collection districts designated for this purpose, the format of which shall be provided for in the corresponding Customs Memorandum Order (CMO).
- 5.2.** Thereafter, the CRMD or the designated Administrative Officer in the district shall perform a preliminary assessment of the request on whether or not the same involves non-confidential, unpublished information in accordance with applicable laws, rules and regulations.
- 5.3.** The designated Administrative Officer may, on his own, act on the request or endorse the same to the Ruling and Research Division, Legal Service should there be a need for further evaluation. In all cases, action taken by the Administrative Officer on any request is recommendatory and subject to the approval of the District Collector.
- 5.4.** Consequently, the Chief, RRD, shall resolve the same in accordance with applicable laws, rules and regulations subject to the approval of the Director, Legal Service and concurrence of the Deputy Commissioner, RCMG.
- 5.5.** The offices concerned shall act on the request as soon as practicable within fifteen (15) working days following receipt thereof by the CRMD or designated Administrative Officer in the

---

<sup>11</sup> cf. CMTA Title 6, Chapter 2, Section 1502

district, which may be extended to twenty (20) working days for justifiable reason.<sup>12</sup>

- 5.6.** If favorable to the requesting party, the CRMD or designated Administrative Officer in the district shall implement the resolution of the Legal Service by notifying the requesting party thereof, with directive to pay reasonable fees to cover for administrative costs. Upon submission of the official receipt, the requested document shall be released thereto.
- 5.7.** In case of denial of the request, the requesting party may appeal such action to the Commissioner within fifteen (15) days from the receipt of the denial. The appeal shall be decided by the Commissioner within thirty (30) days from the receipt of such appeal.

**Section 6. Exclusions.** Access to information shall be allowed except when information falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence<sup>13</sup>, including but are not limited to the following:

- 6.1.** Information covered by Executive Privilege;
- 6.2.** Privileged information, confidential matters relating to national security, defense or international relations;
- 6.3.** Information concerning law enforcement and protection of public and personal safety;
- 6.4.** Personal Information deemed confidential for the protection of the privacy of persons and certain individuals as minors, victims of crimes, or the accused;<sup>14</sup>
- 6.5.** Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative regulatory or quasi-judicial powers;
- 6.6.** Prejudicial Premature Disclosure;

---

<sup>12</sup> cf. EO 2 o s. 2016, Section 9 (c) and (d)

<sup>13</sup> EO 2 s. 2016, Section 4, Par. 1

<sup>14</sup> cf. Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (S. 2016)", November 24, 2016

- 6.7. Records of proceedings or information from proceeding which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
- 6.8. Matters considered confidential under banking and finance laws, and their amendatory laws<sup>15</sup>; and
- 6.9. Trade Secrets, intellectual property, Confidential Business Information, commercial, financial and other proprietary information.<sup>16</sup>
- 6.10. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.<sup>17</sup>

**Section 7. Administrative Liability.** Failure to comply with the provisions of this Order may be a ground for administrative and disciplinary sanctions against any erring public officer or employee as provided under existing laws and regulations.<sup>18</sup>

**Section 8. Additional Regulations.** A CMO shall be issued prescribing the detailed procedures in the processing of request for non-confidential and unpublished information.

**Section 9. Periodic Review.** Unless otherwise provided, this CAO shall be reviewed every three (3) years and be amended or revised, if necessary.

**Section 10. Repealing Clause.** This CAO specifically amends or repeals previously issued CAOs and CMOs which are inconsistent with the provisions herein stated.

**Section 11. Separability Clause.** If any part of this CAO is declared unconstitutional or contrary to existing laws, the other parts not so declared and shall remain in full force and effect.

**Section 12. Effectivity.** This CAO shall take effect fifteen (15) days after its complete publication in the Official Gazette or a newspaper of general circulation.

The Office of the National Administrative Register (ONAR) of the UP Law Center shall be provided three (3) certified copies of this CAO.

---

<sup>15</sup> Office of the President of the Philippines, Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (S. 2016)", November 24, 2016, p.2; cf. Republic Act 1405 otherwise known as "Bank Secrecy Law"

<sup>16</sup> cf. Office of the President of the Philippines, Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (S. 2016)", November 24, 2016, p.6

<sup>17</sup> Office of the President of the Philippines, Memorandum from the Executive Secretary "Inventory of Exceptions to Executive Order 2 (S. 2016)", November 24, 2016, p.2

<sup>18</sup> EO 2, Section 15, page 6

**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.

**History.** This is the first CAO dealing with Request for Non-Confidential, Unpublished Information

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

- Revised Kyoto Convention
- Republic Act No. 10863 "Customs Modernization and Tariff Act"
- Republic Act 10667 "Philippine Competition Act"
- Memorandum Circular No. 78, s. 1964 "Security of Classified Matter in Government Departments and Instrumentalities"
- Executive Order No. 02 "Operationalizing in the Executive Branch the People's Constitutional Right to Information and a State Policies of Full Public Disclosure and transparency in the Public Service and Providing Guidelines Therefore"
- RA 10173 "Data Privacy Act of 2012"
- Memorandum from the Executive Secretary dated November 24, 2016 "Inventory of Exceptions to Executive Order 2 (S. 2016)"
- Air Philippines Corp v. Pennswell, Inc., G.R. No. 172835, December 13, 2007
- 1987 Philippines Constitution