

**NMM**

**NAGUE MALIC MAGNAWA & ASSOCIATES**  
Customs Brokers

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COMPLIANCE BEYOND BORDERS

# CUSTOMS GAZETTE

**Updates on Customs-Related Matters**

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# CAO 10-2019

Issue Date: August 5, 2019  
UP Law Center Received: August 15, 2019

## Scope

- Outsourcing of Non-Sovereign and ancillary functions of the Bureau to qualified and competent private entities in accordance with government rules on service procurement

## Objectives

- Provide for customs policies, rules and regulations on Outsourcing of Non-Sovereign and ancillary functions of the Bureau to private entities
- Adhere to the principles of transparency, accountability, equity, efficiency and economy in the Outsourcing of Non-Sovereign and ancillary customs functions

G.R. No. 125948, Dec.29, 1998; RA-387, otherwise known as Petroleum Act of 1949, Article 86.

## Definition of Terms

**Bureau** – the Bureau of Customs

**Examination of Goods** – the inspection of goods by the Bureau and other regulatory agencies under existing laws and regulations to satisfy themselves that the nature, origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the goods declaration

cf. Revised Kyoto Convention

**Non-Sovereign Function** – ancillary function that provides necessary support to the Sovereign functions of the Bureau

**Outsourcing** – any contractual arrangement between the Bureau and a qualified and competent private entity for the latter to perform designated Non-Sovereign and/or ancillary functions on behalf of the Bureau

**Sovereign Functions** – governmental functions performed by an accountable officer of the Bureau

**Supervision and Control** - includes:

- Authority to act directly whenever a specific function is entrusted by law or regulation to a subordinate

- Direct the performance of a duty
- Restrain the commission of acts
- Review, approve, reverse or modify acts and decisions of subordinate officials or units
- Determine priorities in the execution of plans and programs
- Prescribe standards, guidelines, plans and programs

cf. Executive Order No. 292,  
Administrative Code of 1986, Section  
38(1)

## ***General Provisions***

### **Sovereign Functions**

The following are the Bureau's sovereign functions and shall not be outsourced to a private entity:

- Assessment and collection of customs revenues from imported goods and other dues, fees, charges, fines and penalties accruing under the CMTA
- Prescribe simplified and harmonized customs procedure to facilitate movement of goods in international trade
- Border patrol and control to prevent entry of smuggled goods
- Prevention and suppression of smuggling and other customs fraud
- Facilitation and security of international trade and commerce through an informed compliance program
- Supervision and control over the entrance and clearance of vessels and aircraft engaged in foreign commerce
- Supervision and control over the handling of foreign mails arriving in the Philippines for the purpose of collecting revenues and preventing the entry of contraband
- Supervision and control on all import and export cargoes, landed or stored in piers, airports, terminal facilities, including container yards and freight stations for the protection of government revenue and prevention of entry of contraband
- Exercise of exclusive original jurisdiction over forfeiture cases under the CMTA
- Enforcement of the CMTA and all other laws, rules and regulations related to customs administration
- Such other Sovereign functions as may be provided by law

cf. CMTA, Title II, Chapter 1, Section 202

cf. CMTA, Title II, Chapter 1, Section 202

CMTA, Title II, Chapter 1, Section 202 (c)

CMTA, Title II, Chapter 1, Section 202 (d)

CMTA, Title II, Chapter 1, Section 202 (e)

CMTA, Title II, Chapter 1, Section 202 (f)

CMTA, Title II, Chapter 1, Section 202 (g)

CMTA, Title II, Chapter 1, Section 202 (h)

CMTA, Title II, Chapter 1, Section 202 (i)

CMTA, Title II, Chapter 1, Section 202 (j)

## ***Non-Sovereign Functions***

The following are ancillary functions that can be outsourced by the Bureau:

- Fuel marking services
- Value Added Service Provider
- All other Non-Sovereign/ancillary functions as may be determined

## ***Policies in the Outsourcing of Non-Sovereign Functions***

- The outsourcing of non-sovereign and ancillary functions of the Bureau shall be subject to conditions under RA No. 9184, otherwise known as the "Government Procurement Reform Act"
- Those which involve direct financial or material assistance to the Bureau or projects covered by RA No. 8182, otherwise known as the "Official Development Assistance Act of 1996", shall be done in accordance with existing laws, rules and regulations
- All Outsourcing shall be approved by the Secretary of Finance upon recommendation of the Commissioner
- All private entities engaged to perform Non-Sovereign and ancillary functions of the Bureau shall strictly comply with all the provisions of RA No. 10173 otherwise known as the "Data Privacy Act of 2012"

## ***Exemption***

The Outsourcing of janitorial, clerical, messengerial, security, utility, maintenance, mobility services are not covered by this issuance.

cf. CSC-COA-DBM, Joint Circular No. 1 s.2017, Sector 5.5

## ***Transitory Provision***

All Outsourcing agreements of the Bureau already existing prior to the effectivity of this issuance shall remain valid.

## ***Periodic Review***

Unless otherwise provided, this issuance shall be reviewed every three (3) years and be amended or revised, if necessary.

## ***Repealing Clause***

All other rules and regulations issued by the Bureau which are inconsistent with this issuance are deemed repealed or modified accordingly.

## ***Separability Clause***

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

## ***Effectivity***

This issuance shall take effect thirty (30) days after its publication at the Official Gazette or a newspaper of national circulation. The Office of National Administrative Register (ONAR) of the UP Law Center shall be provided three (3) certified copies of this issuance.

# CAO 11-2019

**Issue Date:** July 23, 2019  
**UP Law Center Received:** August 15, 2019

## Scope

Applicable to Goods admitted into Free Zones, withdrawn from Free Zones into Customs Territory and Goods transferred from one Free Zone to another Free Zone

## Objectives

- Provide the guidelines and institute safeguard measures to control and monitor the admission, withdrawal and movement of Goods by Free Zone Locators
- Adopt clear and transparent customs rules, regulations, policies and procedures on Free Zones, consistent with international standards and Customs best practices
- Generate timely and accurate information on admitted Goods into the Free Zone, through the full use of Information and Communications Technology (ICT) enabled system
- To ensure proper collection of duties and taxes on withdrawal of Goods for consumption in the Customs Territory

cf. CMTA, Title I, Chapter 2, Section 101 (b)

## Definition of Terms

**Admission** – the act of bringing imported Goods directly or through Transit into a Free Zone

Direct admission applies when the Freeport is the port of discharge

cf. CMTA Section 102 (c)

**Customs Territory** – areas in the Philippines where customs and tariff laws are enforced

CMTA, section 102 (q)

**Entry** – the act, documentation and process of bringing imported Goods into the Customs Territory, including Goods coming from Free Zones

CMTA, Section 102 (r)

**Free Zone** – special economic zones registered with the Philippine Economic Zone Authority (PEZA) under RA 7916, as amended, duly chartered or legislated special economic zones and freeports such as Clark Freeport Zone, Clark Special Economic Zone, Clark Green City; Poro Freeport Zone; John Hay Special Economic Zone and Subic Bay Freeport Zone under RA No. 7227, as amended by RA No. 9400; the Aurora Pacific Economic Zone and Freeport Authority under RA No. 10083; the Cagayan

Special Economic Zone and Freeport under RA No. 7922; the Freeport Area of Bataan under RA No. 9278, Moring Special Economic Zone under Proclamation 984 s. 1997; and such other freeports as established or may be created by law

CMTA, Section 102 (w)

**Free Zone Locator** – a sole proprietorship, partnership, corporation or entity duly registered with the Free Zone Authorities and issued a Certificate of Registration and/or Tax Exemption that is not expired or has not been revoked, suspended or cancelled

**Goods** – articles, wares, merchandise and other items which are subject of importation or exportation

CMTA, Section 102 (x)

**Goods Declaration** – 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 of the Entry or Admission of imported Goods and the particulars of which the customs administration shall require

CMTA, Section 102 (y)

**Importation** – the act of bringing in Goods from a foreign territory into Philippine territory, whether for consumption, warehousing, or admission as defined by this issuance

CMTA, Section 102 (z)

**Lodgement** – the electronic registration of a Goods Declaration with the Free Zone Authority and the Bureau

CMTA, Section 102 (dd)

**Multi-Purpose Declaration** – a customs single administrative document (SAD) accomplished by the importer, or their authorized representative, under oath and submitted to the Bureau for purposes of declaring and identifying among others the nature of the Goods being imported, its value, volume, weight, and any relevant description thereof, whether entered for consumption Warehousing or by admission which will assist the Bureau in determining the true description of the Goods, the correct classification and the assessment of the duties and taxes due to the imported Goods if any

cf. Customs Administrative Order 1-2009

**Port User** – a sole proprietorship, partnership, corporation or entity that is not a Free Zone Locator, as defined herein, who uses the seaport or airport facility of a Free Zone for customs clearance on their importation



**Single Administrative Document (SAD)** – an internationally accepted form as customs declaration or Goods Declaration, designed to standardize customs documents, harmonize codification and simplify procedures in international trade exchanges

**Transit** – the customs procedure under which Goods, in its original form, are transported under customs control from one customs office to another, or to a Free Zone

CMTA, Section 102 (rr)

**Transit Permit** – a document authorizing the transfer of Goods from one Free Zone into another Free Zone in such form and guidelines as prescribed by the Bureau and the Zone Authorities

## ***General Provisions***

### **Exemption from Duty and Tax of Goods in Free Zones**

Unless otherwise provided by law and in accordance with the respective laws, rules and regulations of the Free Zone authorities, Goods admitted into a Free Zone shall not be subject to duty and tax

CMTA, Title VIII, Chapter 3, Section 815

### **Admission of Goods into Free Zones**

- Imported Goods shall be admitted into a Free Zone when the Goods Declaration, together with all documents as may be required by existing laws and regulations, are electronically lodged with the Bureau and other relevant Free Zone Authorities at the time of Admission
- The Bureau and the Free Zone Authority shall ensure that their respective ICT systems are capable of interfacing to allow the single Lodgement of Goods Declaration for Admission with the Bureau and the Free Zone Authority
- The Entry of Goods into a Free Zone, whether directly or through the Customs Territory, shall be covered by the necessary Goods Declaration for Admission or Transit, respectively:
  - Goods directly admitted into Free Zones by a Free Zone Locator shall be covered by a Goods Declaration for Admission together with required documents pursuant to existing laws and regulations
  - Goods directly admitted into Free Zones by a Port User shall be covered by a Goods Declaration for Consumption

cf. CMTA, Title VIII, Chapter 3, Section 814

CMTA, Title VIII, Chapter 3, Section 816

- Goods transited through a Customs Territory and admitted into Free Zones shall be covered by a Goods Declaration for Transit which shall be accepted by the Bureau and Free Zone Authorities as Goods Declaration for Transit and Admission whenever appropriate

### **Movement of Goods**

- Within the Zone – Free Zone Authorities shall have the responsibility to monitor the movement of Goods within the Free Zone where the Goods are admitted. The Free Zone shall provide the Bureau copies of the report for the purpose of monitoring the location of the admitted goods.
- From One Free Zone to another Free Zone – Transfer of Goods from one Free Zone to another Free Zone shall be covered by the necessary Transit Permit which shall be accepted by the Bureau and Free Zone Authorities as Goods Declaration for Transit and Admission, whenever appropriate, under such guidelines issued and prescribed jointly by Bureau and the Free Zone Authorities

CMTA, Title VIII, Chapter 3, Section 816

### **Withdrawal of Goods from Free Zones for Consumption in the Customs Territory**

- Imported Goods directly admitted into Free Zones then subsequently withdrawn for Entry into a Customs Territory shall be covered by a Goods Declaration for Consumption. This shall be lodged with the Bureau together with the copy of previously lodged Goods Declaration for Admission and other required documents pursuant to existing laws and regulations
- Imported Goods, whether in their original or advanced form, shall be withdrawn from the Free Zone for Entry to the Customs Territory when the Goods Declaration is lodged with the corresponding permit issued by the Free Zone Authority and upon posting of sufficient security as applicable, in accordance with systems, rules and regulations jointly issued and prescribed by the Bureau and the Free Zone Authorities. Withdrawal of Goods from the Free Zone into the Customs Territory shall be covered by the necessary Goods Declaration for Consumption.
- In case of withdrawal of Imported Goods from Free Zones for introduction to the Customs Territory, the duty rate and exchange rate at the time of withdrawal shall be applicable on the Goods originally admitted, whether withdrawn in its original or advanced form

cf. CMTA, Title VIII, Chapter 3, Section 814

CMTA, Title I, Chapter 2, Section 105, 1st. par., 2nd sentence

- Except in cases prescribed by existing laws, all applicable duties, taxes and other charges on Goods introduced into the Customs Territory from the Free Zones shall be paid to the Bureau before release from custody subject to the prior requirement of Authority to Release Imported Goods (ATRIG) for certain Goods.

In case of sale or auction of Goods by a Free Zone enterprise or locator to a buyer from the Customs Territory (i.e. domestic sales), all Value-added Tax (VAT) due, if any, on Goods sold or auctioned shall be payable to the Bureau of Customs (i.e., VAT due and collected on the imported Goods paid by the locator plus the VAT due on the actual selling or winning bid price of the Goods sold or auctioned, respectively, less the input VAT, if any).

### **Coordination with Free Zone Authority**

- The Admission, Transit, withdrawal and export of Goods from the Free Zone shall be governed by the rules and regulations jointly issued by the Bureau and the Free Zone Authorities. To ensure compliance with customs laws and regulations, the Bureau shall coordinate with the governing authority of the Free Zone.
- The Bureau shall coordinate with Free Zone Authorities to establish a BOC-Free Zone inter-operability system, by making full use of Information and Communications Technology (ICT)

CMTA, Title VIII, Chapter 3, Section 817

### **Requirement to Keep Importation Records**

- Locators and Port Users are subject to the post-clearance audit function of the Bureau. For this purpose, they are required to keep the records of all its activities, including, in whole or in part, records on imported Goods withdrawn from said Free Zones into the Customs Territory for a period of three (3) years from the date of filling of the Goods Declaration. Failure to keep the records required by this issuance shall constitute a waiver of the right to contest the results of the audit based on records kept by the Bureau
- The rules and regulations on post clearance audit, including the imposition of penalties and fines, shall be applied supplementary to this issuance

cf. CMTA, Title IX, Section 1003 (c)

cf. CMTA, Title IX, Section 1003, last par.

CAO 1-2019 Post Clearance Audit and Prior Disclosure Program

## **Free Zones Monitoring Office**

The Bureau shall establish an office to monitor and coordinate with Free Zones Authorities for the Admission Transit, withdrawal or any movement of Goods to and from the Free Zones

## ***Operational Procedures***

Joint Administrative Orders between the Bureau and the Free Zone Authorities shall be issued to outline the procedures in the Transit, Admission, withdrawal or any movement of Goods to and from the Free Zones.

## ***Data Management***

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

## ***Periodic Review***

This issuance shall be reviewed every three (3) years and shall be amended or revised, if necessary by the Bureau in coordination with the Free Zone Authorities.

## ***Separability Clause***

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

## ***Transitory Provision***

Pending the issuance of a Joint Administrative Order between the Bureau of Customs and Free Zone Authorities, the existing clearance procedure relative to Admission and Transit being adopted by the Free Zone Authorities and the Bureau shall apply respectively.

## ***Effectivity***

This issuance shall take effect thirty (30) days from publication at the Official Gazette or a newspaper of national circulation. The Office of the National Administrative Registrar (ONAR) of the UP Law Center shall be provided three (3) copies of this issuance.

# CMO 38-2019

Issue Date: July 26, 2019

Whereas:

- The Basel Convention controls the transboundary movements of hazardous wastes and their disposal
- Republic Act 6969, the Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1999 directs regulatory government agencies including the Bureau of Customs (BOC) to assist the Department of Environment and Natural Resources (DENR) in monitoring and preventing the entry, even in transit, of hazardous and nuclear wastes
- The Bureau of Customs, under Republic Act No. 10863 entitled "Customs Modernization and Tariff Act", is mandated among others, to prevent and suppress smuggling and other forms of customs fraud
- The Environment Protection Unit under the Enforcement and Security Service was created pursuant to Customs Special Order No. 12-1996 with limited duties and functions
- There is a need to establish, in accordance with law, a permanent and specialized unit to be known as Environmental Protection and Compliance Division (EPCD) in order to address the unlawful entry of hazardous and other form of waste.

## ***Scope and Coverage***

All importation, whether for consumption, warehousing, transit, or for admission to Free Zones as defined in Section 102 (w) of the CMTA, and all exportation of shipments subject to permitting requisites of RA 10863 and other related laws, rules and regulations

## ***Objectives***

- Institutionalize a specialized unit in the BOC whose primary focus is environmental protection
- Provide uniform guidelines in containing the illicit traffic of hazardous substances and wastes, nuclear wastes, and other chemicals or substances that have adverse effects on the environment

- Institutionalize a specialized unit in the BOC whose primary focus is environmental protection
- Rationalize the procedure in the clearance of shipments containing chemicals or articles regulated by agencies under the Department of Environment and Natural Resources (DENR) including other chemicals or substances regulated by other government agencies except those falling within the jurisdiction of Philippine Drug Enforcement Agency (PDEA) and Dangerous Drugs Board (DDB)

## ***Structure***

There shall be created a permanent Environmental Protection and Compliance Division under the Enforcement and Security Service (ESS), Enforcement Group (EG). The EPCD shall be headed by a Senior Officer from the ESS and composed of other ESS Personnel who will be selected by the ESS Director, subject to the approval of the Deputy Commissioner of the EG.

## ***Realignment of Central Alarm Station Monitoring Unit (CAMSU) to EPCD***

All Central Alarm Station Monitoring Units established at the Port of Manila, Manila International Container Port and Port of Cebu to ensure the accomplishment of the objectives of MEGAPORTS Initiative Project Pursuant to CMO no. 14-2007 are hereby placed under the supervision and control of the Chief, EPCD.

## ***Definition of Terms***

**Alert Order (AO)** – a written Order issued by the Commissioner of Customs, District Collector, or other customs officers authorized in writing by the Commissioner after the Lodgement of Goods Declaration and before their actual release from customs custody, on the basis of Derogatory Information (must be in writing and must state the suspected violations and other necessary specifics thereof) regarding possible non-compliance with the CMTA and other laws, rules and regulations enforced by Customs, pursuant to CAO No. 07-2019, entitled “Pre-Lodgement Control Order and Alert Order”.

**Certificate of Registration as Importer/Dealer of Imported**

**Wood Materials** – a certificate issued by DENR authorizing person to import logs, lumber, veneer, plywood, other wood based panels, poles and piles, pulpwood, and wood chips pursuant to DENR Administrative Order No. 99-46, otherwise known as the “Revised Regulations Governing the Entry and Disposition of Imported Logs, Lumber, Veneer, Plywood, Other Wood Based Panels, Poles and Piles, Pulpwood and Wood Chips”.

**Chainsaw** – any portable power saw or similar cutting implement, rendered operative by an electric or internal combustion engine or similar means that may be used for, but is not limited to, the felling of trees or the cutting of timber.

**Hazardous Substances** – substances which present either:

- Short-term acute hazard such as acute toxicity by ingestion, inhalation or skin absorption, corrosivity or other skin or eye contact hazard or the risk of fire or explosion.
- Long-term environmental hazard, including:
  - chronic toxicity upon repeated exposure
  - carcinogenicity (which may in some case result from acute exposure but with a long latent period)
  - resistance to detoxification process such as biodegradation
  - the potential to pollute underground or surface waters
  - aesthetically objectionable properties such as offensive odors

**Hazardous Wastes** – are:

- Substances that are without any safe commercial, industrial, agricultural or commercial usage and are shipped, transported or brought from the country of origin for dumping or disposal into or in transit through any part of the territory of the Philippines
- By-products, side-products, process residues, spent reaction media, contaminated plant or equipment or other substances from manufacturing operations and as consumer discards of manufactured products which present unreasonable risk and/or injury; to health and safety to the people or to the environment

**Importation Clearance for Chemicals under Chemical Control**

**Orders** - clearance issued to importation in multiple shipments of chemicals under DENR Chemical Control Orders, specifically: *mercury and mercury compounds* (DAO 1997-38); *cyanide and*



*cyanide compounds* (DAO 1997-39); *asbestos and asbestos compounds* (DAO 2000-02); and *lead and lead compounds* (DAO 2013-24). This type of clearance is issued by DENR to limit and regulate the use, manufacture, import, transport, processing, storage, possession and wholesale of the said chemicals.

**Importation Clearance for Recyclable Materials Containing Hazardous Substances** – importation clearance issued by DENR, through the Hazardous Wastes Management Section, EMB for single or multiple shipments of recyclable materials containing hazardous substances contained in Column 1 and 2, Table 10.1, Chapter 10 of DENR Administrative Order No. 2013-22 otherwise known as the “Revised Procedures and Standards for the Management of Hazardous Waste”.

**Mineral Ore Export Permit (MOEP)** – permit issued by the DENR for the transport/shipment outside the Philippines of all mineral ore(s), including tailings, by permit holders and other mining rights holders, including small scale mining permits pursuant to RA 7942, otherwise known as the “Philippine Mining Act of 1995”.

**Nuclear Wastes** - hazardous wastes made radioactive by exposure to the radiation incidental to the production or utilization of nuclear fuels but do not include nuclear fuel, or radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial, or industrial purpose

**Ozone-Depleting Substances or ODS** – any substance which is controlled under the Montreal Protocol and its amendments. ODS includes:

- CFCs
- HCFCs
- Halons
- Carbon tetrachloride
- Methyl chloroform
- Hydromofluorocarbons
- Bromochloromethane
- Methyl bromide

ODS has an ozone-depleting potential greater than zero (0) and can deplete the stratospheric ozone layer

**ODS Alternative substance** – a replacement of ODS with zero Ozone Depleting Potential, such as Hydrofluorocarbons (HFCs)

**Permit to Import Chainsaw** – permit issued by the DENR authorizing person to import chainsaw pursuant to RA 9175, entitled “Chain Saw Act of 2002”.

**Philippine Inventory of Chemicals and Chemical Substances (PICCS)** – a list of all existing chemicals and chemical substances, approximately 44,000 chemicals that are used, sold, distributed, imported, processed, manufactured, stored, exported, treated or transported in the Philippines. This includes both hazardous and non-hazardous substances updated by DENR as a result of PMPIN process that will be further reviewed for regulation

**Pre-Manufacturing Pre-importation Notification (PMPIN Compliance Certificate)** – certificate issued by DENR through the EMB for new substances not listed in the PICCS as authorized by RA 6969

**Pre-Lodgement Control Order (PCLO)** – a written Order issued by the Commissioner of Customs, District Collector, or other customs officers authorized in writing by the Commissioner before Lodgement of Goods Declaration or when no Goods Declaration is lodged, on the basis of grounds stated in Sections 5.1.1 of CAO No. 07-2019

**Pre-Shipment Importation Clearance (PSIC) of ODS** – importation clearance issued by DENR, through the Philippine Ozone Desk, EMB prior to the entry of each ODS and its alternative shipment within the Philippine territory pursuant to DENR Administrative Order No. 2013-25, entitled “Revised Regulations on the Chemical Control Order for ODS”, and EMB Memorandum Circular No. 2005-03 entitled “List of Alternatives to Ozone Depleting Substances”.

**Priority Chemical List (PCL) Compliance Certificate** – certificate issued by DENR, through the Chemical Management Section, EMB to importation of chemicals and chemical substances listed under the DENR Administrative Order No. 2005-27 entitled “Revised Priority Chemical List”, and except those chemicals that are already covered by Chemical Control Orders as mentioned in the preceding paragraph. Chemicals under PCL have been determined by DENR to potentially pose unreasonable risk to public health, workplace, and the environment.

**Small Quantity Importation Clearance** – importation clearance issued by DENR to chemicals which are exempted to the PMPIN Process. It is required prior to importation of less than 1,000 kg/year of pure chemical substances or component chemicals in percentage by weight of product, mixtures not listed in the PICCS

**Warrant of Seizure and Detention (WSD)** - an order in writing, issued in the name of the Republic of the Philippines and signed by the Collector of Customs, directing a Customs Officer to seize and detain 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

cf. CMTA, Title XI, Chapter 4, Section 1116

**Wildlife** – wild forms and varieties of flora and fauna, in all developmental stages, including those which are in captivity or are being bred or propagated

**Wildlife Export Permit** – permit issued by the DENR authorizing an individual to bring out wildlife from the Philippines to any other country pursuant to RA 9147, entitled “Wildlife Resources Conservation and Protection Act”.

**Wildlife Import Permit** – permit issued by the DENR authorizing an individual to bring in wildlife from another country pursuant to RA 9147

**Wildlife Re-export Permit** – permit issued by DENR authorizing an individual to bring out of the country a previously imported wildlife pursuant to RA 8147

## ***Power and Functions***

The EPCD shall have the following powers and functions:

- Monitor the processing of shipments of hazardous substances, waste products, nuclear wastes, recyclable products, and all other chemicals, products or substances under the regulatory control of DENR, including other chemicals or substances regulated by other government agencies except those falling under the jurisdiction of PDEA and DDB
- Recommend the issuance of Alert Order (AO) and Pre-Lodgement Control Order (PLCO) against shipments suspected of containing goods in violation of CMTA and Environmental Laws

- For the effective implementation of this Order, the importers of recyclable materials containing hazardous substances covered with PSIC shall be responsible for the advance submission of the same to the EPCD Central Office at least three (3) days prior.
- Boarding Officer on duty or any other Customs Officer acting as such shall make a report of the shipments to be re-exported and submit the same to the concerned District Collector. The issuance of a Re-Exportation Order is without prejudice to the filling of appropriate criminal cases pursuant to the applicable provisions of RA 6969, RA 10863, and other related penal laws to the arrival of the carrying vessel.
- For shipments processed at the Formal Entry Division (FED) and Informal Entry Division (IED), which requires the presentation of the appropriate permits or clearances from the DENR, the assigned Customs Operations Officer (COO) III shall forward the importation documents and permits or clearances to the Office of the EPCD for verification and recordation purposes. For shipments without the required DENR permit or clearance, it shall not be issued a Final Notice of Assessment by the concerned COO V and is referred to the EPCD-ESS for the issuance of Alert Order.
- For all other shipments processed thru different customs channels and falling under the permitting requirements of the DENR, the concerned COO III or any other customs officer responsible for the examination of goods shall forward the important documents and permits or clearances to the office of the EPCD for verification and recordation purposes.

### ***Penal Provision and Administrative Sanction***

Violations of this issuance committed by any person, officer or employee shall be penalized in accordance with Title XIV of the CMTA and other applicable penal provisions in addition to the administrative sanctions that may be imposed by the BOC.

### ***Additional Rules and Regulations***

The Commissioner of Customs may issue additional rules and regulations of the effective implementation of this issuance.

## ***Repealing Clause***

This issuance amends or repeals CSO 12-1996 and all other Orders, Memoranda, Circulars or parts thereof which are inconsistent herewith.

## ***Separability Clause***

In the event that any legislation, governmental regulation or court decision causes invalidation of any part, article or section of this issuance all other parts, articles and sections not so invalidated shall remain in full force and effect.

## ***Effectivity***

This issuance shall take effect upon publication.

# CMO 39-2019

**Issue Date:** August 7, 2019  
**UP Law Center Received:** August 13, 2019

## ***Objectives***

There is no uniformity among the various ports as to the period of the Formal Entry Division (FED) or its equivalent units to process a lodged consumption Goods Declaration (cGD) inasmuch as there is no rule or regulation setting the timeline/s for such. In line with RA 11032, otherwise known as "The Ease of Doing Business and Efficient Government Service Delivery Act of 2018", there is therefore a need to define the period to consummate such process.

## ***Coverage***

This issuance shall cover the process at the FED or its equivalent unit/s from lodgement of consumption Goods Declaration (cGD) selected GREEN or YELLOW, filing of the cGD, assignment of the cGD to the Examiner of the appropriate Section, the review thereof wherein the assigned Examiner may, among others, agree to the self-assessment made therein or recommend the imposition of additional duties and taxes, and until the Appraiser adopts the recommendation/s of the Examiner and inputs the same in the E2M producing the Assessment Notice. This issuance shall not apply to cGD selected RED or covered by an Alert Order.

## ***Definition of Terms***

**FED** – Formal Entry Division at the Port of Manila (POM) and the Manila International Container Port (MICP) and its equivalent unit in other ports

**Filing in the cGD** – the submission of the signed Single Administrative Document (SAD) of the cGD and its supporting documents to the EPU-FED or its equivalent unit

**Assessment process** – that portion commencing from assignment of the cGD to the Examiner of the appropriate Section, the review thereof wherein the assigned Examiner may, among others, agree to the self-assessment made therein or recommend the imposition of additional duties and taxes, and until the Appraiser adopts the recommendation/s of the Examiner and inputs the same in the E2M producing the Assessment Notice.

**Assessment Notice** – the Assessment Notice with appropriate data filled-in under the column “Assessment Reference”

## ***Period/s***

The following periods are observed:

- Filing of the cGD shall be within forty-eight (48) hours from lodgement of the cGD, except when the 48th hour falls on a non-working day in which case the deadline shall be the next working day. Any failure to comply shall be immediately reported in writing by the Examiner, concurred upon by their Appraiser, to the District Collector for appropriate action.
- The assessment process shall be completed within twenty-four (24) hours from filing of the cGD. In case of failure to comply with the foregoing, the District Collector shall require the Examiner and Appraiser to explain in writing why no administrative charges shall be pursued against them.

## ***Separability Clause***

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

## ***Repealing Clause***

All Orders, Memoranda or Circulars which are inconsistent herewith are hereby deemed repealed or amended accordingly.

## ***Effectivity***

This issuance shall take effect immediately. The Office of National Administrative Registrar (ONAR) of the UP Law Center shall be provided three (3) certified copies of this issuance.



# CMO 40-2019

Issue Date: August 7, 2019

UP Law Center Received: August 13, 2019

To expedite the disposition of goods thru public auction and, thereby, raise much needed revenue and ease port congestion, CMO No. 02-2019 on "Guidelines in the Conduct of Public Auction and in Setting of Floor Price of Goods Subject Thereto", shall no longer require prior approval from the Customs Commissioner.

However, the following conditions provided under CMO 02-2019 shall still be strictly observed, to wit:

*"The said floor price shall not be less than the landed cost of the goods taking into account the obsolescence, condition or normal depreciation of goods, including unpaid duties, taxes and other charges, and shall be computed in any of the manner below, as may be applicable, viz:*

- 1. The average of at least three (3) values of similar articles at the time of importation or at least three months prior to, plus applicable duties and taxes*
- 2. The domestic wholesale price arrived through backward computation using as basis, the average of three (3) canvassed retail prices of similar articles in the usual and ordinary course of trade."*

For this purpose, the National Value Verification System (NVVS) shall be the basis for the computation of floor prices for item identified for public auction.

For monitoring purposes, all Collection Districts shall continue to provide AOCG with the appraisal report and other such documents that have become the bases in arriving at the computed floor price.

# CMO 41-2019

**Issue Date:** August 5, 2019

**UP Law Center Received:** August 13, 2019

To expedited and ensure that no unnecessary delay is incurred in the conduct of examination of alerted shipments, second paragraph of Section 3.9 of CMO 07-2018 is hereby amended and shall be read as follows:

The District Collector or his duly authorized representative shall notify the importer/exporter, broker or third-party monitor of the date, time and place of examination of alerted shipments for purposes of witnessing the conduct of examination. Failure on the part of the aforementioned party/parties to appear despite due notice shall be considered as waiver on their part, and shall not bar the conduct of the physical examination or non-intrusive inspection.

All CMOs and Memoranda issued contrary to this issuance are hereby repealed or amended accordingly.

This issuance shall take effect on August 5, 2019.

# CMO 46-2019

Issue Date: August 27, 2019  
UP Law Center Received: August 30, 2019

## ***Objectives***

- Set the procedures in the registration of Non-regular Importers (NRIs)
- Create a Compliance Monitoring Database for NRIs to prevent circumvention of customs laws and regulations through the use of once-a-year importation scheme

## ***General Provisions***

- The following are considered as NRIs:
  - Any person, whether natural or juridical, who has never been accredited as an importer with the BOC under existing laws, rules and regulations or a once-a-year importer who has had only one (1) importation within 365 days prior to application for registration as NRI
  - Returning Residents, foreigners married to Filipino citizens, Filipino diplomats, and other individuals granted privileges under special laws or as provided under Section 800 of the CMTA, in relation to their importation of motor vehicles, motorcycles and motor scooters, water and aircrafts
- NRIs with subsequent importations within 365 days from registration shall be treated as regular importers and shall thus be required to be accredited as such with the Account Management Office (AMO)
- NRIs eligible for exemption shall apply to the Department of Finance for tax exemption

## ***Exclusions***

The following shall not be covered under this issuance:

- Importations for the personal or family use of members and attaches of foreign embassies, consulates, legations, agencies of other foreign governments and international organizations with diplomatic status and recognized by the Philippine Government and importations for official use

- Importers with shipments or items cleared through parcel post or informal entry process
- Importations by the Philippine government, its agencies and instrumentalities
- Importations by registered business enterprises / locators of free zones
- Coffins or urns containing human remains, bones or ashes, used personal and household effects (nor merchandise) of the deceased person
- Airport terminal release scheme such as:
  - Plants and by products
  - Fruits and by products
  - Fishes and by products
  - Foodstuff
  - Live animals
  - Diplomatic mails
- Importation of aircraft parts of Aircraft on Ground (AOG)
- *De minimis* importations
- Balikbayan Boxes sent to families or relatives by Qualified Filipinos while abroad. Consolidated shipment of duty and tax-free Balikbayan boxes as embodied separately in CAO No. 1-2018.

## ***Documentary Requirements***

### **Corporation/Cooperative/Partnership**

- Application Form (notarized and completely filled) signed by applicant
- BCOR Processing Fee (green copy)
- SEC Articles of Incorporation and Updated GIS
- BIR 2303
- Import documents such as:
  - Airway Bill/Bill of Lading
  - Commercial Invoice
  - Packing List
  - Entry Declaration (pre-assessment)
  - Import Permit
- Notarized print out of the CPRS application form "stored" in the e2m system and the email notification proving that the CPRS registration has been stored in the system
- Undertaking stating the following under pain of criminal, civil or administrative action:

- Intended use or purpose of the importation
- The shipment does not contain prohibited items
- It is the only importation and no prior importation has been made in the last 365 days
- Full knowledge of the contents of the said shipments
- Attest to the veracity of the declaration
- Special Power of Attorney (SPA) or Authorization Letter, if through a representative
- Data Privacy Consent

### **Sole Proprietor**

- Application Form (notarized and completely filled) signed by applicant
- BCOR Processing Fee (green copy)
- DTI Registration
- BIR 2303
- Import documents such as:
  - Airway Bill/Bill of Lading
  - Commercial Invoice
  - Packing List
  - Entry Declaration (pre-assessment)
  - Import Permit, if any
- Notarized print out of the CPRS application form “stored” in the e2m system and the email notification proving that the CPRS registration has been stored in the system
- Undertaking stating the following under pain of criminal, civil or administrative sanction:
  - Intended use or purpose of the importation
  - The shipment does not contain prohibited items
  - It is the only importation and no prior importation has been made in the last 365 days
  - Full knowledge of the contents of the said shipments
  - Attest to the veracity of the declaration
- SPA or Authorization Letter, if through a representative
- Data Privacy Consent

### **Individual**

- Application Form (notarized and completely filled) signed by the applicant
- BCOR Processing Fee (green copy)
- Photocopy of the TIN Card of the Applicant
- Import documents such as:
  - Airway Bill/Bill of Lading
  - Commercial Invoice

- Packing List
- Entry Declaration (pre-assessment)
- Import Permit
- Notarized print out of the CPRS application form “stored” in the e2m system and the email notification proving that the CPRS registration has been stored in the system
- Undertaking stating the following under pain of criminal, civil or administrative sanction:
  - Intended use or purpose of the importation
  - The shipment does not contain prohibited items
  - It is the only importation and no prior importation has been made in the last 365 days
  - Full knowledge of the contents of the said shipments
  - Attest to the veracity of the declaration
- SPA or Authorization Letter, if through a representative
- Data Privacy Consent

## ***Operational Provisions***

### **Where to File**

For NRIs whose shipments are to be entered in the ports within Metro Manila, the application for NRI shall be filed with the AMO with complete requirements. For shipments entering in the outports, the NRI shall submit the application together with the supporting documents to the District Collector of the port of entry. The District Collector concerned shall within twenty-four (24) hours transmit the application to AMO for processing and record the transmittal in the Bureau’s Document Tracking System.

In cases where the applicant NRI does not receive an email notification from the Bureau after submission of complete documentary requirements, the NRI can follow up the status of the application through the Bureau’s Customer Care Portal System (Ticketing System)

### **Payment of Processing Fee**

Payment of processing fee shall be made prior to submission of the application with the green copy of the BCOR attached thereto. For NRIs with shipments entering through the Manila ports, payment of the processing fee shall be made at the Collection Division of the Port of Manila. For NRIs with shipments entering in the outports, the payment of the processing fee shall be made at the Collection Division of the concerned District Port.

## **Review by Evaluator**

The assigned evaluator shall review the application and the supporting documents submitted to ensure that the same are complete. Based on the documents submitted, the Evaluator shall submit their recommendation to the Chief, AMO on whether to approve or deny the application.

## **Action on the Application**

The Chief, AMO shall either concur with the recommendation or return the application to the Evaluator for further review. If the Chief, AMO concurs with the recommendation, he shall forward the application to the Commissioner through the Deputy Commissioner, Intelligence Group, for approval or denial.

Disapproved applications for CPRS Registration, based on inadvertent or clerical errors may be corrected by reapplication following the steps provided for application.

## **Activation of CPRS Profile**

The AMO shall immediately activate the NRI's CPRS Profile upon receipt by the AMO of the approved application.

## **Client Receipt of the CPRS Feedback**

- Upon approval of the CPRS Registration, the NRI shall automatically receive an email notification from the e2m Customs System with the Certificate of Registration (COR) as attachment, in the email address that he indicated in his application for CPRS Registration
- If the NRI fails to get their copy of the COR in the email, they shall forward his notification email of approval to the MISTG email address ([cprs@customs.gov.ph](mailto:cprs@customs.gov.ph)) and request a copy of their COR. The COR shall be resent to the NRI's email address. (Some email providers and corporate email accounts do not accept email attachments. The applicant shall indicate an email address in his CPRS application that will not reject an email attachment).
- If the NRI fails to get an email notifying him of the approval of his CPRS registration, but their name is listed in the Approved List of NRIs in the BOC website ([www.customs.gov.ph](http://www.customs.gov.ph)), they shall correct or replace the email address in their CPRS record to where the email notification and COR will be sent. (This

happens when the email address provided is erroneous, non-existent or inactive). The NRI must ensure that the Bureau's CPRS email address or IP address is included in the list of accepted senders to the NRI's email system.

### ***Mandatory 100% Physical Examination***

Shipments of registered NRIs shall be required to undergo 100% physical examination. Any discrepancy or findings of violation of the CMTA shall be reported to the AMO.

### ***Enrollment with Authorized Agent Bank (AAB)***

- The NRI shall submit their COR to any of the AABs to enroll his bank account, existing or new, from where his Customs duties and taxes will be debited. The list of AABs is available in the BOC website.
- The AAB completes the enrollment process and provides the NRI with their Bank Reference Number and electronically transmits the same to e2m Customs System through the BOC-Bankers Association of the Philippines-Philippine Clearing House Corporation (BOC-BAP/PCHC) internet portal.
- The NRI shall indicate the Bank Reference Number in their once-a-year importation declaration.

### ***Monitoring and Reporting Requirements***

The AMO shall maintain a Compliance Monitoring Database of all registered NRIs and record of violations of the CMTA and other laws, if any. The AMO shall also prepare and submit a Monthly Report of all registered NRIs to the Office of the Commissioner.

### ***Repealing Clause***

All orders, memoranda, circulars and issuances inconsistent herewith are hereby repealed and/or deemed modified accordingly.



## ***Effectivity***

This issuance shall take effect on September 9, 2019.

# CMC 174-2019

Issue Date: July 23, 2019

With reference to the letter dated July 3, 2019 from Mr. George Y. Culaste, Officer-in-Charge, Director, Bureau of Plant Industry, all concerned are informed that all importations of rice, wheat and grains must be accompanied by a Sanitary and Phytosanitary Import Clearance (SPSIC) and should comply with food safety and plant quarantine rules.

Below is the pertinent section:

*"In light of the recently passed Republic Act 11023 also known as An Act Liberalizing the Importation, Exportation and Trading of Rice, Lifting for the Purpose the Quantitative Import Restriction on Rice, and For Other Purposes, all importation of rice, wheat and grains must be accompanied by an SPSIC and must comply with food safety and plant quarantine rules. We request that this information be also circulated to all ports and all customs inspectors for their guidance and cooperation."*

# MEMORANDUM 2019-08-010

Issue Date: August 9, 2019

You are hereby instructed to strictly observe the proper description of the following:

- Food
- Articles covered warehousing goods declaration

The description must be in sufficient detail to enable the subject article to be identified for tariff classification, valuation and other statistical purpose.

Importers/consignees who fail/refuse to comply with the foregoing shall be subjected to, among others, continuing alert.

# MEMORANDUM

## 2019-08-11

Issue Date: August 9, 2019

You are hereby instructed to strictly observe the proper description of the following:

- Food
- Articles covered warehousing goods declaration

The description must be in sufficient detail to enable the subject article to be identified for tariff classification, valuation and other statistical purpose.

Importers/consignees who fail/refuse to comply with the foregoing shall be subjected to, among others, continuing alert.

# MEMORANDUM

## 2019-08-12

Issue Date: August 9, 2019

You are hereby instructed to strictly observe the proper description of the following:

- Food
- Articles covered warehousing goods declaration

The description must be in sufficient detail to enable the subject article to be identified for tariff classification, valuation and other statistical purpose.

Importers/consignees who fail/refuse to comply with the foregoing shall be subjected to, among others, continuing alert.

# MEMORANDUM

## 2019-08-017

Issue Date: August 27, 2019

This is to reiterate previous memoranda issued regarding the ban on importation of pork and pork-based products from African Swine Fever (ASF) affected countries.

Following is the updated list of countries affected by ASF:

- Hungary
- Latvia
- Poland
- Romania
- Russia
- Ukraine
- China
- Bulgaria
- Czech Republic
- Moldova
- South Africa
- Zambia
- Belgium
- Vietnam
- Cambodia
- Hong Kong
- Laos
- Mongolia
- North Korea

## ABOUT US

Nague Malic Magnawa & Associates Customs Brokers (NMM) is a general professional partnership of customs brokers duly registered by the Securities and Exchange Commission and the Bureau of Customs. As the first general professional partnership of customs brokers registered with SEC and BOC, it complies with RA 9280, or the Customs Brokers Act of 2004. It has offices in Metro Manila and Cebu, and brokers in Clark, Subic, Davao, Cagayan de Oro, Batangas, and other major ports and special economic zones in the Philippines.

To learn more about the company, please visit our website at:

**<http://www.nmmcustomsbrokers.com/>**

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