

**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 NO. 05-2021

Issue Date: August 5, 2021

## *Introduction*

This CAO implements Chapter 2, Title VIII, in relation to Section 204, 801, Section 1226 and other relevant sections of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA) and Chapter VI of the Republic Act No. 9593 also known as the Tourism Act of 2009 **AND AMENDS FOR THIS PURPOSE THE PERTINENT PROVISIONS OF CAO 11-2020.**

## *Scope*

This **AMENDED** CAO applies to all Duty and Tax-Free Stores and warehouses operated by the Government under Republic Act No. 9593.

## *Objectives*

**THIS AMENDED CAO AIMS TO** provide **FURTHER** guidelines **TO STREAMLINE THE** establishment, operation, supervision, and control of DFPC Stores and Warehouses and ensure its compliance with customs warehousing laws and regulations.

## *Definition of Terms*

For purposes of this **AMENDED** CAO, Store is defined as follows:

**STORE — SHALL REFER TO THE PHYSICAL ESTABLISHMENT SALES, OR DISPLAY COUNTERS WHERE THE GOODS SOLD BY DFPC ARE EXHIBITED FOR CONSUMPTION BY QUALIFIED INDIVIDUALS. DFPC STORES ARE CONSIDERED AS EXTENSIONS OF DFPC'S MAIN BONDED WAREHOUSE IRRESPECTIVE OF LOCATION, PROVIDED THAT EACH BRANCH OR OUTLET SHALL BE COVERED BY A SEPARATE AND INDIVIDUAL WAREHOUSING SECURITY.**

## **General Provision**

The following provisions are AMENDED as follows:

**4.2.** The Collection District III — Ninoy Aquino International Airport (NAIA) shall exercise jurisdiction over the existing DFPC Customs Main Bonded Warehouse. However, the operation of all DFPC **STORES** outside Metro Manila, including the deployment of customs personnel, shall be under the direct supervision and control of the concerned Collection District.

**4.4.** Duty-free warehouses and STORES to be established shall be considered extensions of the DFPCs Main Bonded Warehouse irrespective of location; provided, that each branch or outlet shall be covered by separate and individual warehousing security.

CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 1.4.

CAO No. 03-1987 "Rules, Regulations, and Procedures Governing the Establishment, Operation and Control of Duty and Tax-Free Stores and Warehouses", Section 1.3.

## **Renewal of Authority to Operate**

Section 8 of CAO 11-2020 is further amended as follows:

"The application for subsequent renewal of Authority to Operate shall be filed with the District Collector, NAIA not later than ninety (90) days but not earlier than one hundred twenty (120) days before its expiration, together with the following documents:

**8.1.** Updated layout plan of DFPC Main Bonded Warehouse including the location or vicinity map;

**8.2. UPDATED LAYOUT PLAN OF DFPC STORES, NAMELY ITS PHYSICAL SALES, DISPLAY OR COUNTERS AND PROVINCIAL OUTLETS INCLUDING THE LOCATION OR VICINITY MAP;**

XXX    XXX    XXX"

## **Renewal of Authority to Operate**

Section 11 of CAO 11-2020 is likewise amended as follows:

**11.1.** Customs Officers and Personnel. In pursuit of the supervisory and control functions of the District Collector over DFPC Main Bonded Warehouse and STORES, assigned customs officers and personnel shall monitor and implement control measures for customs purposes, in accordance with its existing organizational structure and staffing pattern.

**11.2.** Provision for a Suitable Working Space for Bureau Personnel. The DFPC Main Bonded Warehouse and **STORES** shall provide customs personnel with suitable working areas complete with office equipment, furnishings, supplies, telephone, internet connection and Closed-Circuit Television (CCTV) system, including office space needed by the Bureau of Customs personnel for the proper discharge of their functions.

**11.3.** Work Hours. Customs personnel assigned to DFPC Main Bonded Warehouse and STORES shall strictly observe regular office hours and record their attendance in accordance with Civil Service Rules and Regulations. xxx

## ***Withdrawals of Imported Duty and Tax-Free Goods***

Section 15 of CAO 11-2020 is hereby amended as follows:

**15.1.** Withdrawals from the DFPC's Main Bonded Warehouse for transfer to any **OR** all of the duty and tax-free **STORES** shall be made only upon prior application by the DFPC to the District Collector of Customs through the Duty-Free Shops Division, NAIA, who shall permit such withdrawal or transfers under withdrawal entries or transfers slips and the actual transfer shall be underguarded by Customs Personnel concerned and to be covered by Transfer Note.

**15.2.** Withdrawals from the **DFPC'S** Main Bonded Warehouse to other ports for transfer to other duty and tax-free **STORES** outside the Metro Manila area shall be made by requisition as approved by the NAIA District Collector through the Duty-Free Shops Division and the transfer shall be effected under local transit complying with all the established requirements, procedures, rules and regulations for Transit Permits.

**15.3.** Withdrawals from other duty free extension warehouses established outside the Metro Manila area for transfer to duty and tax-free **STORES** situated within the jurisdiction of the collection district where the extension warehouse is located shall be made upon prior application by the DFPC to the District Collector of Customs concerned who shall permit such withdrawals or transfers under withdrawal entries or transfer slips. The actual transfer shall be underguarded by Customs Personnel concerned and covered by Transfer Note.

## ***Sale of Duty and Tax-Free Goods to Qualified Individuals***

Section 17 of CAO 11-2020 is amended as follows:

"Sale to the following individuals of duty and tax-free goods from Duty Free Philippines **STORES** shall be allowed under the following conditions:

XXX    XXX    XXX"

## ***Books of Records to be kept by the Duty Free Philippines Corporation***

Section 22.4 of CAO 11-2020 is hereby amended as follows:

**22.3** A monthly report of importation, sales, and inventory shall be submitted by the DFPC operating the duty and tax-free **STORES** to the Department of Tourism, COA, BIR, and BOC with copy furnished the NAIA Collection District through the Duty Free Shops Division.

## ***Penalties or Violations***

Section 24.1 of CAO 11-2020 is amended to read:

**24.1** Any violation by the DFPC of any term and conditions hereof and such other regulations as may hereafter be promulgated will be sufficient cause for the cancellation of their Authority to Operate the duty and tax-free bonded warehouse and **STORES**. Any fraudulent practice committed against customs revenues as defined in the CMTA, shall subject the violator to the administrative and penal provisions provided for under the CMTA.

## ***Periodic Review***

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

## ***Repealing Clause***

This CAO specifically amends or repeals previously issued CAOs and CMOs, **OR PARTS THEREOF**, which are inconsistent with the provisions herein stated.

## ***Separability Clause***

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

## ***Effectivity***

This CAO shall take effect **FIFTEEN (15)** days after its complete publication at the Official Gazette or a newspaper of general circulation.

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

# CMO NO. 32-2021

Issue Date: September 14, 2021

## Objectives

- To provide an electronic procedure in the implementation of Customs Administrative Order (CAO) No. 03-2016 - Establishment of an Advance Ruling System for Valuation and Rules of Origin; and
- To encourage electronic application for advance ruling on valuation and rules of origin in line with the Bureau's thrust to re-engineer its systems and processes towards trade facilitation.

## Definition of Terms

**Advance Ruling (AR)** — shall refer to an official written, and binding ruling issued by the Commissioner of the Bureau of Customs (Bureau) which provides the Requesting Person with an assessment of: (1) treatment to be applied on a certain element of customs value, or (2) rules of origin, prior to an import or export transaction for a specified period.

cf. CAO No. 3-2016, Section 3.1.

**Electronic Advance Ruling System (e-ARS)** — shall refer to a web portal that allows the electronic submission of the application and supporting documents for advance ruling on valuation and rules of origin of shipments.

**Fee** — shall refer to the non-refundable amount assessed by the Bureau to be paid by a Requesting Person during the application to cover the reasonable cost of the research and other services rendered for the issuance of Advance Ruling.

CAO No. 3-2016, Section 3.2.

**Foreign Exporter** — shall refer to a natural or juridical person intending to export any goods or commodities from the foreign Country to the Philippines.

CAO No. 3-2016, Section 3.3.

**Importer** — shall refer to a natural or juridical person intending to import any goods into the Philippines.

CAO No. 3-2016, Section 3.4.

**Requesting Person** — shall refer to a natural or juridical person who is an importer, foreign exporter, or his/her/its authorized agent, who/which is requesting an Advance Ruling pursuant to this Order.

CAO No. 3-2016, Section 3.5.

## ***Administrative Provisions***

- The Imports and Assessment Service (IAS), Assessment and Operations Coordinating Group (AOCG) shall be responsible in the establishment and implementation of the e-ARS on Valuation.
- The Port Operations Service (POS), AOCG shall be responsible in the establishment and implementation of e-ARS on Rules of Origin.
- The Management Information System and Technology Group (MISTG) shall provide full access, technical assistance and training to the IAS and POS to effectively carry out their mandate under this Order.
- The AR Fee per request is One Thousand Five Hundred Pesos (Php1,500.00). The payment shall be through the Landbank of the Philippines (LBP), any other Authorized Agent Bank (AAB) or payment platforms as may hereafter be approved by the Commissioner.

## ***Operational Guidelines***

- The Requesting Person shall access the website: <https://ars.customs.gov.ph> and select the type of application either for valuation or rules of origin.
- After selecting the type of application, the e-ARS will request verification on the payment of AR Fee. Thereafter, the Requesting Person shall accomplish the mandatory/required fields of the application form, and upload supporting documents in PDF format.
- Once the electronic filing is successful, it will be assigned a unique system-generated ticket number which will be used by the Requesting Person in tracking the status of their AR application via the e-ARS. The status of the application is **"SUBMITTED"**.
- The e-ARS shall automatically assign/queue/route AR applications to the Technical Support Team's (TST) pool of Advance Ruling for Valuation (ARV)/Advance Ruling for Rules of Origin (ARROO) officers, ensuring that AR applications are evenly distributed between the officers for each AR type.
- The assigned ARV/ARROO evaluator shall flag the AR application as **"UNDER EVALUATION"** and the applicant will receive notification regarding change of said status.

- If, upon the initial evaluation, it is determined that the AR application has insufficient supporting documents/information, the assigned ARV/ARROO evaluator will flag the AR application accordingly and the e-ARS will notify the Requesting Person via email to submit/provide the requested documents/information. The status of the application will be changed to **"INCOMPLETE"**.
- The Requesting Person shall send additional documents by uploading the same through the e-ARS dashboard for the applicant. The status of the application will be changed to **"COMPLIED"**.
- Once the uploaded documents are viewed by the ARV/ARROO evaluator, the status will be reverted to **"UNDER EVALUATION"**.
- Once the evaluation is completed, it will be endorsed to the ARTST's senior officer for review. The status will be changed to **"UNDER REVIEW"**.
- During the review process, if the ARV/ARROO senior analyst does not agree with the findings, the senior analyst shall return the application to the evaluator for further updates.
- Once approved by the ARV/ARROO senior analyst, the AR document will be forwarded for approval in the following order:
  - In case of AR on Valuation, to the Chief, Valuation and Classification Division (VCD), Director IAS, Assistant Commissioner Post Clearance Audit Group (PCAG), Deputy Commissioner, AOCG and Commissioner.
  - In case of AR on Rules of Origin, to the Chief, Export Coordination Division (ECD), Director POS, Assistant Commissioner Post Clearance Audit Group (PCAG), Deputy Commissioner, AOCG and Commissioner.
  - In case of AR on Rules of Origin, to the Chief, Export Coordination Division (ECD), Director POS, Assistant Commissioner PCAG, Deputy Commissioner AOCG, and Commissioner.

The status of the application is **"FOR APPROVAL OF**

- **RECOMMENDATION"** is signed/approved by the Commissioner, the Requesting Person will be notified via email with the AR decision attached. The status of the AR application will be either **"APPROVED"** or **"DENIED"**.

## ***Appellate Remedy***

In case of denial of the application for AR, the Requesting Person may avail of the following remedies:

- The Requesting Person may file a motion for reconsideration within fifteen (15) calendar days, from receipt of the Ruling or decision. The status will be changed to **"MOTION FOR RECONSIDERATION FILED"**.

The evaluation, review, and approval of recommendation shall follow the same process provided under Section 4 of this Order.

The Commissioner shall issue a resolution either granting the motion for reconsideration and approve the application, or deny the motion.

In case of approval, the status will be changed to "APPROVED".

In case of denial, the status will be changed to "DENIED"; or

- The Requesting Person may, within thirty (30) calendar days from the receipt of the denial of the motion for reconsideration, appeal the adverse ruling to the Court of Tax Appeals (CTA). If no motion for reconsideration was filed, the period to file an appeal shall be reckoned from receipt of the decision denying the application for AR.

## ***Separability Clause***

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

## ***Repealing Clause***

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

## ***Effectivity***

This Order shall take effect five (5) days after its posting at the official website of the Bureau.

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

# CMO NO. 33-2021

Date Issued: September 20, 2021

## ***Introduction***

This Order prescribes the rules on the use of Body-Worn Camera or Alternative Recording Device by customs officials and employees exercising Police Authority and in the conduct of other customs operations in relation to Supreme Court Administrative Matter (A.M.) No. 21-06-08-SC, otherwise known as Rules on the Use of Body-Worn Cameras in the Execution of Warrants.

## ***Scope and Applicability***

This Order shall govern the use of Body-Worn Camera as standard equipment in the exercise of Police Authority as defined and prescribed under Title II: Chapter 3 of Republic Act (R.A.) 10863 or the Customs Modernization and Tariff Act (CMTA) and in the conduct of other customs operations.

## ***Objectives***

- To identify specific customs operations and enforcement actions which require the use of Body-Worn Camera or Alternative Recording Device.
- To delineate the extent and limit on the use of Body-Worn Camera or Alternative Recording Device in customs-related exercise or operation.
- To establish a uniform and clear guidelines on the usage, preservation, collection and retention of audio-visual Recordings generated from Body-Worn Camera or Alternative Recording Device.

## Definition of Terms

**Alternative Recording Device** – shall refer to an electronic camera system which is not a Body-Worn Camera, that is capable of creating, generating, sending, receiving, storing, displaying, and processing audio-visual Recordings, and may be worn or used during customs operations and in the exercise of Police Authority. It may be used as a substitute for Body-Worn Cameras in case of unavailability. To be used as a functional equivalent, it shall comply with the following minimum standard requirements:

- |                            |   |  |
|----------------------------|---|--|
| i. Video Resolution        | : | 720p or higher   |
| ii. Frame rate             | : | 30 frames per second   |
| iii. Audio                 | : | Built-in   |
| iv. Data and time stamping | : | Built-in   |
| v. GPS                     | : | Built-in   |
| vi. Battery Life           | : | 8 hours continuous   |
| vii. Storage               | : | Capable of storing 8 hours continuous audio-video footage                      |
| viii. Low-light recording  | : | With night mode built-in, a low lux rating and/or an infrared (IR) illuminator |

In any case, the Alternative Recording Device shall be capable of capturing with reasonable clarity the events that transpired.

**Body-Worn Camera** - shall refer to an electronic camera system designated to the Bureau's law enforcement units and other authorized customs officials for creating, generating, sending, receiving, storing, displaying, and processing audiovisual Recordings that may be worn during customs operations and in the exercise of Police Authority.

cf. Rule 1, Section 4, A.M. No. 21-06-08-SC

**Bureau** – shall refer to the Bureau of Customs

**Data Custodian** - shall refer to an authorized customs officer who has the sole responsibility of storing and safekeeping data recorded from Body-Worn Cameras.

**Metadata** — shall refer to information within the recording file containing any digital identifiers that are captured as part of the actual recording, such as the recording date, time, GPS coordinates, etc.

cf. Rule 1, Section 4, A.M. No 21-06-08-SC.

**Police Authority** — shall refer to the authority granted to specific regular government employees, 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.

CAO No. 3-2019, Section 3.23.

**Recording** — shall refer to digital material generated as a result of using Body-Worn Cameras or Alternative Recording Devices, which contains images and audio-video footages. It shall include the copies of the material created by way of copying to portable media storage and other data repositories.

cf. Rule 1, Section 4, A.M. No. 21-06-08-SC

## ***Mandatory Use of Body-Worn Cameras***

The use of a body camera and recording of events shall be mandatory under the following instances:

cf. CAO No. 3-2019, Section 3.4.

- Approved controlled delivery operation;
- Boarding formalities;
- Conduct of auction sales;
- Destruction or condemnation of goods, including the transport thereof to the designated facility;
- Electronic Tracking of Containerized Cargo (E-TRACC)-related operations, particularly the conduct of investigation upon report of violation of E-TRACC rules and regulations;
- Fuel marking operations;
- Guarding duty at customs import exit gates for containers/cargoes, if applicable;
- Hot pursuit;
- ·Inspection of consignees' offices;
- ·Non-intrusive examination of goods;
- ·Physical examination of goods within and/or outside of customs zone;
- Search of persons arriving from foreign countries;
- Service of Letter of Authority;
- Search of vehicles, other carriers, persons, and animals; or
- Search on vessels or aircrafts and persons or goods conveyed therein.

CMTA, Title II, Chapter 3, Section 223.

CMTA, Title II, Chapter 3, Section 224.

CMTA, Title II, Chapter 3, Section 222.

CMTA, Title II, Chapter 3, Section 221.

## ***Guidelines in the Use of Body-Worn Cameras***

A customs official or employee required under this Order to use a Body-Worn Camera shall abide by the following guidelines:

- The customs official or employee shall make sure that the device is functioning properly upon its issuance to the responsible officer.
- The Body-Worn Camera shall be attached on the uniform in an overt manner. The Body-Worn Camera shall be visible to the public;
- The Body-Worn Camera shall be placed in a location that maximizes the camera's functionality to capture audio and video footage of the customs-related operation or activity;
- The customs official or employee shall activate the Body-Worn Camera at the beginning or prior to a customs operation or enforcement action and shall continue until the same has been concluded. In no case shall the camera be intentionally deactivated, redirected or covered during an operation, except as provided under Section 6 of this Order;
- As soon as the Body-Worn Camera is activated, the customs official or employee shall commence recording by facing the camera and stating the following:
  - Customs official or employee's name and rank;
  - Date and time the recording has started, or the time the recording will be turned off;
  - Subject of the customs operation; and
  - Current location of the customs operation;
- In the event that Body-Worn Cameras or Alternative Recording Devices shall be turned off during the enforcement operation in the circumstances as provided under Section 6 of this Order, the following protocol shall be observed:
  - The customs official or employee shall record on camera his reason for switching off his camera before doing so; and
  - The customs official or employee shall comply with the procedure stated in this Order when he resumes recording and switches on the camera.
- After the conclusion of the operation, the customs official or employee wearing the Body-Worn Camera shall sign off by restating the information required to be stated upon activation of the Body-Worn Camera;
- In the event the recording is disrupted, the customs official or employee wearing the Body-Worn Camera shall use Alternative Recording Device and shall continue to record the event using the alternative device and comply with the procedure for activating the Body-Worn Camera;
- Upon completion of the operation, the customs official or employee shall submit the recordings to the Data Custodian within twenty-four (24) hours, including those coming from the Alternative Recording Device, together with his explanation on the cause of the disruption if applicable;

- The proper use of the Body-Worn Camera shall be the responsibility of the head and personnel of the unit to which the Body-Worn Camera is assigned. In this regard, they shall be responsible in maintaining and keeping the camera ready for use at all times. They shall likewise be responsible in ensuring that the data stored in the body camera are downloaded and turned over to the Data Custodian; and
- In the event that a Body-Worn Camera becomes unavailable due to causes beyond the control of the unit responsible for the camera, the head of the unit shall submit a report to this effect to the Commissioner within twenty-four (24) hours from the occurrence of the cause. Otherwise, the non-use of a Body-Worn Camera under circumstances where its use is required shall be deemed deliberate and the personnel involved shall be dealt with in accordance with the provisions of this Order.

In case of unavailability, an Alternative Recording Device shall be Administrative Officer V used following the procedure provided under this Section, including the submission of explanation why the Body-Worn Camera is not available.

### ***Circumstances Where Use of Body-Worn Cameras or Alternative Recording Devices May Be Turned Off***

Body-Worn Cameras or Alternative Recording Devices shall be turned off during the enforcement operation in the following circumstances:

- Communications between customs officials and employees unrelated to the customs operations or enforcement actions;
- Encounters with undercover officers or confidential informants;
- When customs officials and employees are on break or otherwise engaged in personal or non-work-related activities;
- Inside restrooms, locker rooms, or other places where there is a similar expectation of privacy, and there is no legal reason to be present unless the premises is covered by the search warrant;
- In locations where individuals have a reasonable expectation of privacy such as in residences, unless the recording is being made pursuant to a valid arrest or search warrant of the individuals or locations;
- Strip or body cavity searches when such is necessary;

cf. Rule 4, Section 10, A.M. No. 21-06-08-SC.

- Conduct of tactical planning before conducting the enforcement operation;
- Privileged communications between the subject of recordings and other individuals, such as attorneys, members of the clergy, peer support counselors, and medical professionals; or
- Such other circumstances as may be provided by the court, in case of court-issued search warrant on dwelling place which is part of constitutional privilege and where the dignity of an individual may outweigh the public necessity for recording.

CMTA, Title II, Chapter 3, Section 220.

### ***Effect of Failure to Observe the Requirements for Body-Worn Cameras***

A customs official or employee who fails to use a Body-Worn Camera as required under this order, without reasonable grounds, or intentionally interferes with the Body-Worn Cameras' ability to accurately capture audio and video Recordings of the arrest, or otherwise manipulates such Recording during or after the arrest shall be liable for criminal, civil and administrative offenses.

Liability shall not apply if the Body-Worn Camera was not activated due to malfunction and the customs officer was not aware of the malfunction prior to the incident, provided, that the customs officer submits an explanation as provided under Section 5.7 of this Order. Failure to timely file the explanation may render the customs official or employee liable.

cf. Rule 2, Section 5, A.M. No. 21-06-08-SC

### ***Downloading and Preservation of Recorded Data***

Downloading of the data from the Body-Worn Cameras or Alternative Recording Devices for safekeeping shall be done within twenty-four (24) hours from the time of their recording by the Data Custodian or his or her authorized representative.

To ensure that no tampering is done during the downloading process, the customs official or employee may allow a third person to witness the downloading of the recordings from the cameras prior to safekeeping.

In case of Alternative Recording Devices, the Data Custodian shall be assigned a separate server for the transfer of files, ensuring that the files are compatible and integrity of the recorded data is intact.

## ***Retention Period***

Recordings captured by said Body-Worn Camera or Alternative Recording Device are subject to a retention period of forty-five (45) days from its recording date, after which time the same are permanently deleted. Such period is, however, extendible for a longer time, upon request by an interested party to the recording when such recording is material to an investigation being conducted by the proper authorities or case filed/pending before a court of competent jurisdiction or a government or regulatory agency, or upon instruction of the Commissioner.

## ***Custody of and Access to Recordings***

The Data Custodian shall retain and have custody of the Recordings including its Metadata, if applicable, and he or she shall ensure the security, confidentiality, and integrity of the data. The Data Custodian or any other person in custody of the recording shall allow access of the footage to the following:

- Where the use of the Body-Worn Camera or Alternative Recording Device violates the right to speech and expression, to association, to religion, or any other fundamental rights;
- Where the Body-Worn Camera or Alternative Recording Device is used to record events unrelated to an investigation, enforcement operation, special police operation, or other customs operations listed under the section "Mandatory Use of Body-Worn Cameras" of this Order;
- Where the use of the Body-Worn Camera or Alternative Recording Device violates Republic Act No. 10088, otherwise known as Anti-Camcording Act of 2010; Republic Act No. 9995, otherwise known as Anti-Photo and Video Voyeurism Act of 2009; and other similar laws regulating the use of cameras and other recording devices.

cf. Rule 4, Section 3, A.M. No. 21-06-08 SC.

## ***Redaction of Personal Identifiers in Special Circumstances***

When sensitive information and images appear in the Recordings, such as those incidents where minors are involved, or those involving national interest or national security, it shall be the duty of the Custodian or his or her authorized representative to redact such information, images, and other personal identifiers of the person appearing in the Recordings for his or her protection. Any person redacting information pursuant to this Section shall ensure that other incidents relevant to the exercise of the mandate of the Bureau shall remain in the Recordings.

cf. Rule 4, Section 4, A.M. No. 21-06-08-SC.

In case of redaction of personal identifiers in the Recordings pursuant to the above paragraph, both the unredacted and redacted file shall be kept by the Data Custodian, however, the unredacted file shall only be accessible by authorized officials of the Bureau or upon valid order of a court of competent jurisdiction. The fact of redaction of personal identifiers appearing in the recording whenever applicable shall be stated in a report, including the special circumstance/s justifying such redaction and the details redacted.

cf. Rule 2, Section 4, A.M. No. 21-06-08 SC.

## ***Non-Disclosure of Recordings***

No customs official or employee may publicly disclose, release, or share Body-Worn Camera or Alternative Recording Device video footage for personal gain, or where such disclosure, release, or sharing is not in any way related to customs operations and/or enforcement action of the Bureau as listed under the section "Mandatory Use of Body-Worn Cameras" of this Order.

## ***Privacy Rights***

The data privacy rights of every person as espoused under Republic Act No. 10173, otherwise known as Data Privacy Act of 2012, shall be respected, provided that the exercise of such rights does not fall under the exception provided under Section 4(e) of the same law.

## ***Privacy Notice***

Except in cases of hot pursuit and service of Letter of Authority, sufficient notification informing the general public that a Body-Worn Camera or Alternative Recording Device is being used in the vicinity where customs Police Authority is being exercised shall be placed in conspicuous places or in the Bureau's official website.

## ***Privacy Notification***

When a Letter of Authority is being served, the customs official or employee wearing the Body-Worn Camera or Alternative Recording Device shall, as early as practicable, notify the lawful occupants of the premises to be searched that the service of the Letter of Authority is being recorded and that they are conducting the inspection and visitation pursuant to the Letter of Authority issued by the Commissioner.

cf. Rule 3, Section 4, A.M. No. 21-06-08-SC.

In case of apprehension pursuant to a hot pursuit, the customs official or employee wearing the Body-Worn Camera or Alternative Recording Device shall, as early as practicable, notify the person to be apprehended and the other subjects of the recording that the apprehension is being recorded and the cause of their apprehension.

cf. Rule 2, Section 2, A.M. No. 21-06-08-SC.

## ***Administrative Liability***

Any act in violation or failure to comply with this Order shall be a ground for administrative liability.

The administrative penalty arising from this Order shall be without: prejudice to other criminal, administrative, or civil liability that may arise pursuant to the provisions of the applicable law violated.

## ***Repealing Clause***

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

## ***Separability Clause***

If any part or provision of this Order is later declared invalid or illegal, the remaining portion shall remain valid and enforceable.

## ***Effectivity***

This Order shall take effect on Oct. 01 2021.

# CMC NO. 178-2021

Issue Date: September 8, 2021

As provided under Department of Trade and Industry (DTI) Administrative Order No. 21-04, series of 2021, dated 06 August 2021, and pursuant to the directive dated 16 August 2021 from the Secretary of Finance, all concerned are hereby informed regarding DTI's Decision dismissing the petition for general safeguard measures on the shipments of motor vehicles (passenger cars and light commercial vehicles) falling under This is with reference to the letter from Engr. Ana Trinidad F. Rivera, MSc., Director IV, Center for Cosmetics and Household/Urban Hazardous Substances Regulation and Research (CCHUHSRR) providing an update and amendment of the requirements in "Table II (For Exports)" for cosmetic products. The update and amendment are in relation to CMC No. 54-2014 dated April 11, 2014 which disseminated the letter issued by the FDA on March 25, 2014 providing the matrix of appropriate requirements for the Clearance of FDA regulated products by the Bureau.

Relative thereto, local companies intending to export cosmetic products shall only be required to submit the appropriate License to Operate (LTO) as a cosmetic establishment (manufacturer/trader or distributor/exporter). Likewise, the appropriate documents for export of Household/Urban Hazardous Substances (HUHS), Household/Urban Pesticides (HUPs) and Toys and Childcare Articles (TCCAs) [TABLE II (for exports)] are included in attached matrix for reference.

For further clarifications, CCHUHSRR can be reached thru [cchuhsrr@fda.gov.ph](mailto:cchuhsrr@fda.gov.ph).

For information and guidance.

# CMC NO. 182-2021

Issue Date: September 8, 2021

This is with reference to the letter from Rolando Enrique D. Domingo, MD., Director General, FDA, giving clarification on the optional issuance of Food/Export Commodity Clearance, the same being subject to the requirements of the country of destination. Thus, issuance is not mandatory on the part of manufacturers/traders of processed food products intended for export to secure the authorization from the Food and Drug Administration (FDA) if the same is not required by the importing country.

FDA also notifies that an update will be had on the Matrix of Appropriate Requirements on the Release of Products under its jurisdiction to be consistent with the current regulations and commits to provide the Bureau the said updated Matrix once issued.

For information and guidance.

# CMC NO. 197-2021

Issue Date: September 22, 2021

This is with reference to the letter dated August 31, 2021 from San Miguel Aerocity Inc. (SMAI) bearing on its request for proper notice and circularization to all ports of RA No. 11506 otherwise known as "An act granting SMAI a franchise to construct, develop, establish, operate and maintain a Domestic and International Airport in the municipality of Bulakan, Province of Bulacan and to construct, develop, establish, operate and maintain an adjacent airport city" together with the BIR Ruling No. OT-324-2021 for the orderly processing of SMAI importations and the implementation of the tax exemptions granted thereunder.

Section 16 of RA No. 11506, provides that:

"During the ten-year construction period, the grantee, its successors or assignees, shall be exempt from any and all direct and indirect taxes and fees of any kind, nature or description, which emanate exclusively from the construction, development, establishment, and operation of the airport and Airport City, including income taxes, value-added taxes, percentage taxes, excise taxes, documentary stamp taxes, customs duties and tariffs, taxes on real estate, buildings and personal property, business taxes, franchise taxes, supervision fees, and permit fees levied, established or collected, or may be levied, established or collected, by any city, municipal, provincial or national authority."

On August 26, 2021, the BIR issued Ruling No. OT-34-2021 confirming and implementing the tax exemptions granted under RA No. 11506 in favor of SMAI, its successors and assignees.

For information and guidance.

# CMC NO. 198-2021

Issue Date: September 20, 2021

With reference to the letter dated 06 September 2021 from Atty. Ruth B. Castelo, Undersecretary, Consumer Protection Group, Department of Trade and Industry (DTI) relative to the reports and complaints received by the DTI regarding the influx of uncertified imported products being sold in online platforms, all Collection Districts are hereby directed to require all importers of all products covered under the BPS Mandatory Product Certification Schemes to secure and present clearance from the BPS prior to the release of the commodities from Customs' custody.

Be reminded that only an **Import Commodity Clearance (ICC)**, **Certificate of Conditional Release (CRR)**, or **Certificate of Exemption (COE)** duly issued by the BPS shall be accepted as valid clearance for the release of subject shipment from the BOC. A copy of a Philippine Standard (PS) License issued by the BPS to a foreign manufacturer **shall not suffice** as an import clearance from the Bureau.

Also provided are the specimen signatures of the BPS' approving authorities as reflected in the ICC, CCR, and COE originating from said office, for ready reference.

Moreover, you are also directed to submit an electronic weekly report to Port Operations Service, AOCG through [pocd@customs.gov.ph](mailto:pocd@customs.gov.ph) starting **September 27 to October 1, 2021**, using the appropriate template, together with the scanned copies of the ICC, CCR or COE.

For full List of Products under Mandatory Certification, please refer to DTI Memorandum Circular No. 21-22 s. 2021.

For strict compliance.

# CMC NO. 202-2021

Issue Date: September 9, 2021

This is with reference to the letter addressed to Commissioner Caesar R. Dulay, BIR dated August 31, 2021 from Rolando Enrique D. Domingo, MD, Director General, Food and Drug Administration (FDA) providing updates to the "List of VAT-Exempt Drugs for Hypertension, Cancer, Mental illnesses, Tuberculosis, Kidney Diseases, Diabetes and High Cholesterol" pursuant to the Implementing Guidelines on the Value-Added Tax (VAT) exemption on several health products provided under the Joint Administrative Order (JAO) No. 2- 2018 dated 21 December 2018 and JAO No. 20210001 dated 23 June 2021.

The updates included several changes, including the correction/delisting of 44 entries and the addition of 102 entries, the summary of which is indicated in the table provided therein.

For information and guidance.

# PPA AO NO. 04-2021

Issue Date: October 5, 2021

## ***Legal Bases***

- Presidential Decree No. 857, as amended
- Sections 5 and 26 of Republic Act 1 1032 otherwise known as, "Ease of Doing Business and Efficient Government Service Delivery Act of 2018"
- Customs Administrative Order (CAO) 01-2015 on the Shortening of Period for Re-Export of Empty Containers from 150 to 90 days
- United Nations Office of Drugs and Crime (UNODC) Joint Port Control Unit (JPCU) Initiatives
- United Nations Office of Drugs and Crime-World Customs Organization
- (UNODC-WCO) Global Container Control Programs (CPP)
- Title 19 US Code of Federal Regulations Part 4 (Section 4.2 — 4.7)
- United Nation/Centre for Trade Facilitation and Electronic Business (UN/CEFACT) Smart Container Specifications
- Board Resolution No-3055, Series of 2021

## ***Objectives***

- To prescribe the policy in the registration and monitoring of containers entering and leaving PPA ports including the scheduling, loading, unloading, release and movement of all containers.
- To generate an explicit and non-repudiable record of accountabilities to enable PPA to monitor the movement of containers from the time of entry, discharge, return and storage, and re-export.
- To promote competitiveness and provide cost saving mechanisms that mutually benefit importers and foreign carriers by prescribing container insurance policy from authorized and accredited insurance providers as an available option in lieu of the current container deposit and container maintenance fees.

- To develop a container identification, accountability, and protection program to demonstrate commitment to internationally agreed standards specifically the Container Control Programs as specified by the United Nations Office of Drugs and Crime (UNODC).
- To provide a whole-of-government approach in container tracking and management by providing government agencies with information to streamline and automate their own processes.

## ***Scope***

This Order shall apply to all containers originating from foreign ports that will be unloaded at government and/or private ports under the administrative jurisdiction of PPA.

## ***General Guidelines***

- PPA shall prescribe and adopt a system for the registration and monitoring of containers which shall have the following features:
  - Facility to record all containers passing in and out from the port terminals;
  - Provide a real time monitoring facility of the location, status, and movements of containers from the time the container is discharged from the vessel up to the time the same container is loaded for export.
  - Easily interfaced with the existing container monitoring or tracking system of other concerned government agencies as well as port terminal operators, as may be necessary.
- All inbound containers shall be enrolled under the system to be adopted by PPA.
- Each container moving inward or outward of the terminal shall be recorded in the said system with the detailed information required.
- In order to protect local importers from additional transaction costs, all containers to be registered in the system will be required to secure a container insurance policy which will be used in lieu of the container deposit and container maintenance fees being required by international shipping lines.
- The container insurance cover for containers required to be registered must be secured from insurance companies authorized by the Insurance Commission and accredited by PPA.

## ***Role of PPA, Shipping Lines/Shipping Agents and Insurance Providers***

- PPA shall acquire the necessary technology solution for the implementation of the registration and monitoring system that will have the features stated in Section 4.1 of this Order.
- PPA shall maintain and manage secure tracking devices to be used for monitoring and tracking the location of inbound containers in real-time.
- PPA shall ensure that there is enough space within the port terminal or in the absence thereof, in an area strategically located thereto, to process the installation and decoupling of tracking device to the containers as well as stacking prior to loading.
- Shipping lines and/or shipping agents shall provide the required information to PPA, through the authorized terminal operators / cargo handling operators.
- Insurance service providers shall provide readily available insurance policies and shall ensure prompt settlement of claims, as applicable.

## ***Implementing Guidelines***

PPA shall prescribe the implementing operational guidelines on container registration and monitoring. Prior consultation with affected sectors shall be conducted prior to the implementation of said guidelines.

## ***Amendatory Clause***

All other laws, rules and regulations, including those that may be promulgated hereafter not inconsistent with any of the provision of this Order, shall remain in force and effect.

## ***Separability Clause***

If for any reason any provision or section of this Order is declared to be invalid or unconstitutional, the other provisions not affected shall remain in force and effect.

## ***Effectivity***

This Order shall take effect fifteen (15) calendar days from its publication in the Official Gazette or in a newspaper of general circulation and a copy filed with the University of the Philippines Law Center.

# IG MEMO NO. 11-2021

Issue Date: September 26, 2021

## *References*

- Customs Administrative Order (CAO) No. 03-2020 on *"DISPOSITION OF SEIZED, ABANDONED AND FORFEITED GOODS IN CUSTOMS CUSTODY"*;
- Customs Memorandum Order No. 24-2021 on *"RULES AND REGULATIONS IMPLEMENTING [CAO] NO. 3-2020 ON THE DISPOSITION OF FORFEITED AND ABANDONED GOODS THROUGH CONDEMNATION"*; and
- Instruction of the Commissioner.

In view of the above references, the respective chairman/chairwoman of the Condemnation Committee of each Customs District is hereby ordered to provide this Office a list of accredited service contractors, as defined in CAO No. 3-2020 and CMO No. 24-2021.

Such list, in excel file format, shall indicate the following: complete business name; address; responsible officer(s); contact number(s); date of accreditation; and date of expiration. It shall be sent to [prod.ciis@customs.gov.ph](mailto:prod.ciis@customs.gov.ph) not later than 5:00pm on 07 September 2021.

For immediate compliance.

# OCOM MEMO NO. 135-2021

Issue Date: September 6, 2021

The following guidelines are further issued to amend and clarify the reporting mechanism for Foreign Currency Declaration as provided in OCOM Memorandum No. 104-2021 dated 6 July 2021 on Foreign Currency Declaration and Reporting:

A. Section 3 (a) of OCOM Memorandum No. 104-2021 is hereby amended to read as follows:

3. Ensure **weekly** submission of the physical copies to the Anti-Money Laundering Secretariat and **daily submission** of clear scanned copies and summaries of the following reports via email at [fcdf.eg.boc@gmail.com](mailto:fcdf.eg.boc@gmail.com):

a. **Daily** Report on CBDFs with and without declaration on carriage of foreign currency and other foreign-exchange denominated bearer negotiable monetary instruments in excess of USD10,000, to be submitted **within twenty-four (24) hours from the submission of the CBDF by the declarant;**

**The daily report shall be submitted using the prescribed template.**

B. Additional provisions of Section 3 of OCOM Memorandum No. 104-2021 to read as follows:

c. The BOC Anti-Money Laundering Council (AMLC) Secretariat, in coordination with the Management Information System and Technology Group (MISTG) and the AMLC, shall develop a system or platform to automate reporting and information sharing of Customs Baggage Declaration Form and Foreign Currency Declaration Form.

d. All District Collectors concerned are requested to nominate a focal person for the daily reporting and provide the following contact information through a memorandum to the Deputy Commissioner, Enforcement Group not later than **15 September 2021**:

- a. Name:
- b. Designation:
- c. Office:
- d. Email Address:
- e. Mobile No.:

For strict and immediate compliance.

# OCOM MEMO NO. 138-2021

Issue Date: September 17, 2021

In reference to the issued memorandum dated June 25, 2021 with the subject FREQUENCY AND DATA ANALYSIS OF THE CLIENT FEEDBACK MECHANISM and in relation to recent personnel movement, necessary revisions are required.

The monthly Customer Satisfaction (CSAT) analysis of all Customer Care Centers must be submitted on or before the 5th day of following month to these email addresses.

[bienvenido.datuinir@customs.gov.ph](mailto:bienvenido.datuinir@customs.gov.ph)

[alexandracamille.diaz@customs.gov.ph](mailto:alexandracamille.diaz@customs.gov.ph)

[raezshamae.napuli@customs.gov.ph](mailto:raezshamae.napuli@customs.gov.ph)

[mariavanessa.villa@customs.gov.ph](mailto:mariavanessa.villa@customs.gov.ph)

[joel.espeio@customs.gov.ph](mailto:joel.espeio@customs.gov.ph)

For strict and immediate compliance.

# AOCG MEMO NO. 496-2021

Issue Date: September 3, 2021

Pursuant to the provisions of Section 1603 (f) of the Customs Modernization and Tariff Act (Republic Act 10863) and Section 4.9 of Commission Order No. 2017-1 (Procedure on Application for an Advance Ruling on Tariff Classification related to Importation of Goods), the Tariff Commission furnished copy of the Advance Ruling (AR) on Tariff Classification with Tariff Classification Circular (TCC/AR) issued on 20 August 2021 and the same having been reviewed and summarized as follows:

TCC NO.	DESCRIPTION OF ARTICLES	2017 AHTN CODE	2020 RATES OF DUTY
21-179	"MAYTRONICS DOLPHIN M600 ROBOTIC POOL CLEANER"	8421.21.22	MFN - 5% Ad Valorem
<i>*Subject to submission of their corresponding CERTIFICATE OF ORIGIN (CO).</i>			

# AOCG MEMO NO. 499-2021

Issue Date: September 10, 2021

In line with the full implementation of Customs Memorandum Order No. 172021 on the implementation of the General Warehousing Bond (GWB) through the Automated Bonds Management System (ABMS) at the Manila International Container Port of September 15, 2021, we would like to inform our CBW Operators and its member importers to please resubmit your bond policies in the E2M ABMS System as soon as possible. On the said date, all previous bond which were posted by their Common Bonded Warehouse Operators not resubmitted will no longer be accepted. CBW members may apply for their new bond policy.

Kindly coordinate to the Manila International Container Port, Chief of Bonds Division for the application of bond account / policy and the updated bond balance and to your Value-Added Service Provider (VASP) for the submission of bond policy.

For your information and compliance.

# AOCG MEMO NO. 515-2021

Issue Date: September 21, 2021

This has reference to the OCOM Memo No. 75-2020 with subject: Joint Administrative Order (JAO) No. 20-01 on the Adoption of Processes for the Expedited Release of Refrigerated Containers and Dry Vans During the Period of Enhanced Community This is to inform everyone that there is now a ban on the importation of Live Cattle, Meat and Meat Products due to the outbreak of Atypical Bovine Spongiform Encephalopathy (BSE) or Mad Cow Disease from **Brazil**.

All District Collectors and Sub-port Collectors and all others concerned are directed to coordinate with DA-BAI personnel should there be any importation of live cattle, meat and meat products from Brazil.

For strict and immediate compliance.

# AOCG MEMO NO. 520-2021

Issue Date: September 20, 2021

This is with reference to the letter-reply to Ms. Melody Ann Go, Kenkim's Recycling Junkshop dated August 31, 2021 from the Environmental Management Bureau, Department of Environment and Natural Resources (EMB-DENR) relative to the inquiry on the requirements and procedures to export Used Lead-Acid Batteries (ULABs) to India.

The EMB-DENR in the aforesaid letter, informs that ULABs are classified as hazardous wastes, with waste number D406, under Table 2.1 of DENR Administrative Order (DAO) No. 2013-22: Revised Procedures and Standards for the Management of Hazardous Wastes (Revising DAO 2004-36). Likewise, it is one of the controlled wastes under the Basel Convention (BC) on the Transboundary Movement of Hazardous Wastes, to which the Philippines is a party and therefore is bound to abide by its obligations thereto.

The said Convention explicitly states that controlled wastes may only be exported for treatment or recycling in the absence of appropriate local technology/recycling facility. However, that is not true in the case of ULABs in the country.

Further, the Philippines does not have a viable commercial source of primary lead to supply its demand. Hence, the export of ULAB's is not allowed and prohibited but shall instead be sent to an EMB-DENR-registered Treatment, Storage, and disposal (TSD) facility for treatment/recycling and disposal.

For information and guidance.

# AOCG MEMO NO. 527-2021

Issue Date: October 5, 2021

We refer to our memorandum issued on 21 September 2021, regarding the ban on the importation of live cattle, meat and meat products derived from cattle from Bovine Spongiform Encephalopathy (BSE) or Mad Cow Disease.

The countries affected by BSE now includes United Kingdom.

All District Collectors and Sub-port Collectors and all others concerned are directed to coordinate with DA-BAI personnel should there be any importation of live cattle, meat and meat products from Brazil and **United Kingdom**.

For strict and immediate compliance.

# AOCG MEMO NO. 528-2021

Issue Date: September 30, 2021

With reference to the letter dated 27 September 2021 addressed to Ms. Lorielyn J. Visaya, TES-AMM Philippines, Inc. from Engr. William P. Cuñado, Director, Environmental Management Bureau, Department of Environment and Natural Resources (EMB-DENR) relative to the latter's inquiry on the requirements for the importation of Refurbished Electrical and Electronic Equipment (EEE) like computers and laptops.

Please be informed that importation of such is not regulated by Republic Act 6969 (Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990), specifically Chapter 10 of DENR Administrative Order (DAO) No. 2013-22: Revised Procedures and Standards for the Management of Hazardous Wastes (Revising DAO 2004-36) since they are considered products.

In this regard, an Importation Clearance is not required from the EMB-DENR. However, this does not preclude the importer from complying with the requirements of other government agencies that have a mandate or jurisdiction regulating the same. In case of misdeclaration, denial of the shipment to enter the country shall be warranted, and the importer and exporter shall be liable to re-export the subject shipment to the State of Export.

Please be guided accordingly.

## ABOUT US

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

If you have questions or comments, you may send them to:

**Michael Tede**  
**Compliance Manager**  
mtede@nmm.ph

**Jhumar Coloso**  
**Operations Manager**  
jhumarcoloso@nmm.ph

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