

[BOC CUSTOMS ADMINISTRATIVE ORDER NO. 9-2003, October 13, 2003]

**RULES AND REGULATIONS GOVERNING CUSTOMS OPERATIONS
IN CAGAYAN SPECIAL ECONOMIC ZONE AND FREEPORT**

Pursuant to the Revised Administrative Code of 1987, in relation to Republic Act 7922 and the Tariff and Customs Code of the Philippines (TCCP), as amended, the following rules and regulations are hereby promulgated:

1. DEFINITIONS

The following terms used in these Rules and Regulations are hereby defined as follows:

1.1 ACT - refers to Republic Act No. 7922, otherwise known as the Cagayan Economic Zone Authority Act of 1995.

1.2 ARTICLES - any goods, wares, merchandise and, in general, anything that may, under the Tariff and Customs Code of the Philippines, as amended, be made the subject of importation or exportation.

1.3 CAGAYAN ECONOMIC ZONE AUTHORITY (CEZA) - is the Zone Authority, authorized under Section 5 of the Act to manage and operate the CSEZF.

1.4 CONTAINER - the outer container in which merchandise is held for storage or transportation, not an inter-modal container covered by the Customs Convention on Containers done at Geneva on December 02, 1972, unless otherwise indicated.

1.5 CSEZF - The Cagayan Special Economic Zone and Freeport referred to under Section 3 of the Act.

1.6 CUSTOMS - means the Philippine Bureau of Customs.

1.7 CUSTOMS CLEARANCE AREA - an area provided and delineated, pursuant to Administrative Order 296, by the CEZA in consultation with Customs as the clearing and processing center for articles entering and exiting the CSEZF; guarded and managed by Customs.

1.8 CUSTOMS TERRITORY - the territory outside of CSEZF;

1.9 DOMESTIC ARTICLES - articles which are grown, produced or manufactured in the Philippines and upon which all national internal revenue taxes have been paid, if subject thereto, and upon which no drawback or bounty has been allowed; and articles of foreign origin on which all duties and taxes have been paid and upon which no drawback or bounty has been allowed, or which have previously been duly entered into Customs Territory free of duties or taxes.

1.10 FOREIGN ARTICLES - articles of foreign origin on which duties and taxes have not been paid, or, if paid, upon which drawback or a bounty has been allowed, or which have not been entered into customs Territory; or articles which are grown, produced, or manufactured in the Philippines on which not all national internal revenue taxes have been paid, or upon which a drawback or bounty has been allowed.

1.11 IMPORT PERMIT - the authority issued by the CEZA to the locators/residents, allowing the importation of specific foreign articles into the CSEZF.

1.12. LOCATOR/ENTERPRISE - any sole proprietorship, partnership, corporation or entity duly registered with the CEZA, unless otherwise indicated to do business in the secured area of CSEZF, whether or not for profit.

1.13 REGULATED ARTICLES - articles the importation of which requires authority of the concerned government agency(ies).

1.14 PERSON - a natural person who brings merchandise into, possesses merchandise in, or takes merchandise from the CSEZF, whether or not a resident of the CSEZF.

1.15. POINT OF ENTRY OR EXIT - refers to any place designated by the Cagayan Export Zone Authority (CEZA), the Department of Finance/Bureau of Customs, where articles may be lawfully introduced into or removed from the secured area of the CSEZF.

1.16 PROHIBITED ARTICLES - articles the importation of which is prohibited by law.

1.17 RESIDENT - refers to those individuals and members of their immediate family who: (a) are registered and authorized by CEZA to establish and maintain a personal residence in the secured area of the CSEZF and are actually residing on a permanent basis within the secured area of the CSEZF by virtue of domicile or employment; or (b) have qualified investments of at least US\$150,000 or its equivalent in the CSEZF and have continuously stayed within the secured area of the CSEZF for a period of at least one hundred eighty (180) days.

1.18 RETAIL SALE - the sale of articles in the CSEZF in small non-commercial quantities to a person for his own personal use and account, not for resale.

1.19 RULES AND REGULATIONS - unless otherwise specified, the regulations issued by CEZA to implement the Act.

1.20 SELECTIVITY - an automated system for the risk profiling/assessment of shipments discharged at the CSEZF based on previously determined risk criteria. The system automatically assigns the risk level of a particular shipment by color codes, as follows:

1.20.1 Green Lane - low risk where shipments can be admitted without any kind of inspection.

1.20.2 Yellow Lane - medium risk where documentary inspection is required prior to the admission of shipments.

1.20.3 Red Lane - high-risk where inspection of documents and physical examination of goods are required.

1.21 SECURED AREA - the area in the CSEZF designated by the CEZA, in consultation with the Department of Finance/Bureau of Customs, within which there shall be unimpeded, tax/duty-free flow of goods and articles; may be expanded jointly by the CEZA, the Department of Finance/Bureau of Customs and the Department of Interior and Local Government from time to time, with a resolution of concurrence of the affected local government units, as the requirements of the business in the CSEZF may demand or permit.

1.22 TCCP - the Tariff and Customs Code of the Philippines, as amended.

1.23 WITHDRAWAL PERMIT - the authority signed/issued by the BoC/CEZA allowing the removal of specified foreign articles from the CSEZF into Customs Territory.

2. SCOPE

This Order shall cover all foreign shipments/articles entered into or removed from the secured area of the CSEZF.

3. AUTHORITIES AND RESPONSIBILITIES

3.1 CEZA

3.1.1 Operates/manages the CSEZF, pursuant to Section 6 of the Act and its implementing rules and regulations, as well as to the provisions of this Order;

3.1.2 Implements its own procedures to ensure the free flow and movement of articles into, within, and out of the CSEZF secured area, provided that the foreign articles shall be entered into/removed from the CSEZF secured area in accordance with this Order;

3.1.3 Issues Import Permits and Withdrawal Permits as prescribed in this Order;

3.1.4 Maintains/keeps true and updated records of articles entering into and leaving the CSEZF secured area and of all customs transactions made with regard to the activities in the CSEZF, for submissions, periodically or as required, to the Commissioner of Customs.

3.2 CUSTOMS

3.2.1 Supervises and administers Customs operations involving the admission/removal of articles into/from the CSEZF secured area.

3.2.2 Applies the Selectivity scheme in the processing of foreign shipments/articles brought into the CSEZF secured area and issues Alert/Hold Orders and/or Warrant of Seizure and Detention (WSD) on said shipments/articles, as may be warranted, in accordance with existing rules and regulations.

3.2.3 In coordination with the CEZA, establishes and maintains Customs Offices within the secured area; and to efficiently conduct Customs operations therein.

3.2.4 In coordination with the CEZA, sets up/operates the Customs Clearance Area (CCA) and the Customs checkpoint(s) at the point of

entry/exit of the CSEZF secured area.

4. SEARCH, SEIZURE AND ARRESTS

Customs, in coordination with the CEZA, shall enforce all customs laws, rules and regulations within the CSEZF, as follows:

4.1 Persons, baggage, vehicles and cargoes entering or leaving the CSEZF secured area shall be subject to search by Customs. For this purpose, the point(s) of entry/exit at the CSEZF secured area shall be equipped with adequate facilities to pull aside vehicles/passengers, to hold/store seized or entering/leaving articles and/or to assess and collect taxes and duties.

4.2 Upon specific authority of the Commissioner of Customs, or of the Collector of Customs who has jurisdiction over the CSEZF, the designated customs officials, in the presence and with the assistance of CEZA officials/representatives, may at any time:

4.2.1 Pass through, search or enter any land or inclosure, or warehouse, store or building, except a dwelling house inside the CSEZF;

4.2.2 Go on board any vessel or aircraft within the CSEZF; and to inspect, search and examine said vessel/aircraft and any trunk, package, box or envelope on board; and to search any person on board the said vessel or aircraft if under way; to use all necessary force to compel compliance; and if it shall appear that any breach or violation of the customs and tariff laws of the Philippines has been committed, whereby or in consequence of which such vessels or aircraft, or the article or any thereof on board of or imported by such vessel/aircraft has become subject to forfeiture, to make seizure of the same or any part thereof.

4.3 Prohibited articles and those not covered by Import Permit during the search or any examination, audit or check of articles by Customs may be seized by the Customs for violation of the tariff/customs laws, rules and regulations.

4.4 Where authorized under the law, Customs may arrest persons entering/leaving the CSEZF secured area. Arrests within the CSEZF shall be made with the assistance/in the presence of CEZA officials/representatives.

5. INVENTORY, AUDIT AND RECORD-KEEPING

5.1 At the end of its business year, each locator/enterprise shall conduct an annual physical inventory of all articles in its premises and possession within the CSEZF, and reconcile any discrepancies, if any. Such reconciliation shall be made and reported to the CEZA on a CEZA-prescribed form, copy furnished the Collector of Customs, within ninety (90) days after the end of the business year, along with any payment of duty/tax shortages or for excess importations/deliveries.

5.2 Authorized officials of CEZA and Customs shall, at any time during office hours, jointly check or conduct an audit or inventory count of the accounts or records of any locator/enterprise for purposes of verification and/or reconciliation.

5.3 Locator/enterprises bringing articles into the CSEZF secured area are responsible for keeping records of the permits, receipts, sales transfers, deliveries, and removals from CSEZF secured area of said articles, and for maintaining on a

current basis the accounts and inventory records of the articles brought into the CSEZF secured area in accordance with the generally-recognized accounting principles and standards of the Republic of the Philippines.

5.4 The records shall provide an audit trail of the articles from the time of their receipt by the locator/enterprise in CSEZF to the time the locator/enterprise is relieved of responsibility over the articles pursuant to existing rules and regulations.

5.5 Such records shall be kept for five (5) years. If the record keeping systems of a locator/enterprise has been impaired to the point where no effective check, audit or inventory can be made by the CEZA, Customs, Bureau of Internal Revenue, or other authorized office, the CEZA may order the suspension of that enterprise's Certificate of Registration. For its part, the locator/enterprise shall provide authorized officials of the CEZA, Bureau of Internal Revenue, or any other government agency access to articles in the CSEZF that are in its premises and possession, and to records pertaining thereto.

6. ADMINISTRATIVE PROVISIONS

6.1 Boarding Formalities - Regulations and procedures for the arrival formalities and clearance of aircraft/vehicles calling directly at the CSEZF shall be the same as those observed in the Customs Territory.

6.2 Importable Articles - Any kind or class or articles, except those prohibited under the Philippine laws, may be admitted into the CSEZF in accordance with this Order.

6.3 Prohibited Articles - Prohibited articles and those not covered by an Import Permit, shall be proceeded against pursuant to the pertinent TCCP provisions and this Order.

6.4 Import Permit Required - Except as herein provided, raw materials, capital goods, consumer items and other foreign articles may be brought, free of tax and duty, into the CSEZF by locator/enterprises/residents, either by direct unloading at CSEZF from abroad, or through a Port of Discharge/Unloading in Customs Territory, or from a CBW, PEZA locator or other special economic zones; provided that said articles are not prohibited and are covered by the corresponding Import Permit duly issued by the CEZA.

6.5 No Import Permit Required - No Import Permit shall be required for the admission of foreign articles to the CSEZF secured area for the following:

6.5.1 Any articles of foreign origin valued at less than Five US Dollars (US\$5.00);

6.5.2 Any personal effect of residents or of CSEZF locators valued at less than One Hundred Dollars (US\$100.00);

6.5.3 Articles for delivery to a vessel or aircraft for loading and exportation to a foreign country;

6.5.4 Articles being returned to the CSEZF secured area after their temporary transfer from said area to the Customs Territory under the procedures allowed herein;