

[BOC ADMINISTRATIVE ORDER NO. 2-98, June 26, 1998]

RULES AND REGULATIONS FOR CUSTOMS OPERATIONS IN THE JOHN HAY SPECIAL ECONOMIC ZONE (JHSEZ)

Pursuant to the provisions of the Revised Administrative Code of 1987 in relation to Section 15 of Republic Act No. 7227, Proclamation No. 66, as amended and the Tariff and Customs Code of the Philippines (TCCP), as amended, the following Rules and Regulations are hereby promulgated.

**Chapter I
Definitions**

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

1. *ACT* — Republic Act No. 7227 otherwise known as the Bases Conversion and Development Act of 1992.
2. *PROCLAMATION* — refers to Proclamation No. 420 creating and designating the area covered by the John Hay Special Economic Zone, pursuant to Republic Act No. 7227; defining the investment climate for John Hay and directing all heads of departments, bureaus, offices, and instrumentalities of government to support the program.
3. *ARTICLES* — any goods, wares, and articles 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.
4. *CONTAINER* — the outer container in which articles is held for storage or transportation, and not an intermodal container covered by the Customs Convention on Containers done at Geneva on December 02, 1972, unless otherwise indicated.
5. *CUSTOMS* — the Philippines Bureau of Customs.
6. *TCCP* — the Tariff and Customs Code of the Philippines as amended.
7. *Customs Territory* — the area of the Republic of the Philippines where the customs laws are in full force and effect, which is separate from the JHSEZ.
8. *Domestic Articles* — articles which are the growth, product or manufacture of 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

entered into Customs Territory free of duties or taxes.

9. *Foreign Articles* — articles of foreign origin on which duties and taxes have not been paid, or if paid upon which drawback or bounty has been allowed, or which have not been previously entered into Customs Territory; or articles which are the growth, product or manufacture of the Philippines on which not all national internal revenue taxes have been paid, if subject thereto, or if paid upon which drawback or bounty has been allowed.

10. *Person* — a natural person, and not a juridical person, who brings articles into, possesses articles in, or takes articles from the JHSEZ, whether or not the person is a resident of the JHSEZ.

11. *Point Of Entry Or Exit* — any place designated by JPDC and the Bureau of Customs, Department of Finance, where articles may be introduced into or removed from the Secured Area of the JHSEZ.

12. *JHSEZ Enterprise* — any sole proprietorship, partnership, corporation or entity registered with the JHSEZ to do business in the Secured Area of the JHSEZ, whether or not for profit.

13. *Rules And Regulations* — unless otherwise specified, the regulations issued by JPDC to implement Republic Act No. 7227, Proclamation Nos. 420 and 198 and Executive Order Nos. 62 and 103.

14. *Resident* — any person who by reason of domicile or employment, is registered and authorized by the JPDC to establish residence on a permanent basis in the Secured Area of the Zone. It excludes the following:

(1) Non-residents who enter into short or long term property lease inside the Secured Area of the Zone.

(2) Outsiders engage in doing business within the Secured Area of the Zone.

(3) Members of Private clubs (e.g. yacht and golf clubs) located in the Secured Area of the Zone.

15. *John Hay Poro Point Development Corporation (JPDC)* — is the Zone Authority under Executive Order No. 103, to manage and operate the JHSEZ.

16. *Secured Area* — the area in the Zone which shall be designated by the JPDC, in consultation with the Department of Finance and the Bureau of Customs which shall be the only completely tax and duty-free area and within which there shall be free and unimpeded flow of goods and articles, and along the boundaries of the Area, Customs Checkpoints and Clearance Areas shall be set up through which goods authorized to leave or enter the area from some destination inside or outside the Zone must pass; the boundaries of the Secured Area may be expanded from time to time jointly by the JPDC Zone Authority and the Department of Finance and the Bureau of Customs, as the requirements of the business in the Zone may demand or permit.

17. *JHSEZ* — The John Hay Special Economic Zone, (or the zone for brevity) referred to under Proclamation No. 420 and pursuant to Section 15 of the Act, which is outside the Customs Territory and the authority of the Customs Laws.

18. *Customs Clearance Area (CCA)* — as provided for under Administrative Order No. 296, this is an area, as shall be provided and delineated by the JPDC in consultation with the Bureau of Customs, and to be guarded and managed by Customs, which shall be the clearing and processing center for goods/cargoes entering and exiting the Zone.

Chapter II General Provisions

A. *Authorities and Responsibilities*

1. *Authority of JPDC*

The JPDC is responsible for the operation and management of the secured area of the JHSEZ pursuant to Section 15 of the Act, Rules and Regulations; and the provisions of this Administrative Order;

2. *Authority of Customs*

Customs in the Secured Area of the JHSEZ, as a unit of the Bureau of Customs, Department of Finance working in coordination with JPDC, shall be responsible for:

- a. supervising and administering Customs Operations involving the admission and removal of articles to and from the JHSEZ, and other Customs operations as determined by the Commissioner of Customs; and
- b. establishing and maintaining offices within the JHSEZ wherever necessary to efficiently conduct Customs operations.
- c. maintaining and keeping of true and updated records of goods entering into and exiting from the Secured Area of the Zone and all customs transactions made with regard to the activities in the Zone, and for submission periodically or whenever required, to the Office of the Commissioner of Customs.

To enable Customs to perform the above-functions, the bringing out of the articles from the Secured Area shall require the written permission from the Zone Authority and the Collector of Customs, which shall be monitored until the same is returned to the Secured Area.

B. *Audit, Search, Seizure and Arrest in JHSEZ*

1. *Audit*

Officials of JPDC and Customs are authorized to jointly conduct, at any time during office hours, any audit, check or inventory count of all articles for the verification and reconciliation of the accounts or records of any JHSEZ Enterprise.

2. *Search*

Persons, baggages, vehicles and cargoes entering or leaving the JHSEZ may be subject to search by Customs officials may, only upon specific authority of the Commissioner of Customs or the District Collector designated by him and with the assistance and in the presence of JPDC officials or representatives, examine any articles held in the JHSEZ by any JHSEZ Enterprise, or by any resident if the latter or any of his household is at home, for possible violations of Section 101 of the Tariff and Customs Code of the Philippines and the pertinent provisions of this Administrative Order, provided, that the constitutional requirements for search are met.

3. *Seizure*

Any prohibited or excluded articles found upon search, or through any examination, audit or check of articles in the JHSEZ by Customs may be seized for violation of the TCCP, as amended, and be disposed of in accordance with law.

4. *Arrest*

The JPDC shall, in coordination with or upon the assistance of Customs Officers in the Zone, arrest persons in the Zone for violations of the Tariff and Customs Code, as amended, for which arrest is empowered under the law. Provided however, that Customs may arrest persons who violate the Tariff and Customs Code upon entering or leaving the Secured Area of the Zone. It shall be the duty of the arresting officers to make known their official character, the authority of exercising such power and to inform the person arrested the cause of his arrest. Moreover, the arrested person must be afforded with all rights prescribed by law and to avail the demands of due process for the determination of his case.

C. *Records Keeping*

JHSEZ Enterprises bringing articles into the JHSEZ are responsible for retaining and maintaining accounts and records of permits, receipts, sales, transfer, deliveries, and removals from JHSEZ of articles received by the Enterprises, and for maintaining accounts and inventory records of articles brought into the JHSEZ on a current basis according to the regulations and the generally-recognized accounting principles and standards of the Republic of the Philippines. The records shall provide an audit trail of the articles from the time of their receipt by the JHSEZ Enterprise to the time the JHSEZ Enterprise is relieved of responsibility for the articles according to the Rules and Regulations and the provisions of this Administrative Order. Such records shall be retained for five (5) years. If the recordkeeping system of the JHSEZ Enterprise has become impaired to the point where no effective check, audit or account of the inventory of the enterprise can be made by the JPDC, Customs, Bureau of Internal Revenue, Economic Intelligence and Investigation Bureau (EIIB), or other authorized office, the JPDC may order a suspension of permit of the Enterprise. For its part, the Enterprise shall provide access to articles in its premises and possession in the JHSEZ, and all records pertaining thereto, which it is responsible for maintaining under the Rules and Regulations, and the provisions of this Administrative Order by authorized officials of the JPDC, Bureau of Internal Revenue, or any other government agency to which access is authorized by law and regulation.

D. *Bonding of Carriers*

Carriers who undertake to transship foreign articles from the JHSEZ to a Customs Bonded Warehouse within the Customs Territory shall be bonded in an amount to be determined by the JPDC which in no case shall be less than Fifty Thousand Pesos (P 50,000.00), conditioned that the carrier shall transport and deliver, without delay, and in accordance with the rules and regulations in effect in the Customs Territory to the Collector of Customs at the point of entry/destination. The provisions of the Tariff and Customs Code, as amended, and its implementing regulations shall govern the transshipment of foreign articles to and/or from the JHSEZ.

E. *Importation of Raw Materials, Capital Goods, and Equipment into the Secured Area of the JHSEZ*

Registered Enterprises are free to import raw materials, capital goods, equipment tax and duty-free provided that they shall be covered by the corresponding Permit to Import issued by the JPDC Authority. Removal of raw materials, capital goods and/or equipment out of the Secured Area of the JHSEZ shall be subject to the usual taxes and duties. Vehicles which are brought into the Zone free of duties and taxes for use in the Zone shall become subject to duties and taxes upon transfer to Customs Territory subject to the existing guidelines and regulations on the matter.

F. *Exportation to Zone and Importation from Zone*

Articles which are admitted to the Secured Area of the Zone from the Customs Territory, which in turn are to be re-exported, under proper permit shall be considered exported.

Articles which are transferred to the Customs Territory from the Secured Area of the Zone, shall, unless, proven otherwise, be considered imported and, therefore subject to all laws, rules and regulations regarding importations.

Chapter III
Admission and Receipt into JHSEZ

A. *Prohibited Merchandise*

1. *General*

Any kind or class of articles may be admitted into the JHSEZ from a foreign country, the Customs Territory or a Customs Bonded Warehouse, Export Processing Zone or Special Economic Zone, except articles prohibited under the laws of the Republic of the Philippines, executive orders, and proclamation which may hereafter be enacted.

2. *Articles Not in Accordance With Permit to Import*

Articles brought into JHSEZ which are not in accordance with the permit to import issued by the JPDC to a Registered Enterprise shall be proceeded against pursuant to the provisions of the TCCP and this Administrative Order.

B. *Importation of Articles Destined for Customs Territory*