

[BC CUSTOMS ADMINISTRATIVE ORDER NO. 6-94, June 11, 1994]

RULES AND REGULATIONS FOR CUSTOMS OPERATIONS IN THE CLARK SPECIAL ECONOMIC ZONE

Chapter I
Definitions

A. The following terms used in these Rules and Regulation 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. 163 creating and designating the area covered by the Clark Special Economic Zone, pursuant to Republic Act No. 7227.
3. Executive Order — refers to Executive Order No. 80 authorizing the establishment of the Clark Development Corporation as the implementing arm of the Bases Conversion and Development Authority for the Clark Special Economic Zone; defining the investment climate for Clark Field; and directing all heads of departments, bureaus, offices, agencies, and instrumentalities of government to support the program.
4. Articles — for purposes of these Rules and Regulations, 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.
5. Container the outer container in which merchandise 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.
6. Customs means the Philippine Bureau of Customs.
7. Customs Territory the portion of the Republic of the Philippines where the customs laws are in force and effect, (but) which is separate from the Zone.
8. Domestic Articles articles which are the growth, product, or manufacture of the Philippines on 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 a bounty has been allowed, or which have not previously been 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 a bounty has been allowed.

10. Person a natural person, and not a juridical person, who brings merchandise into, possesses merchandise in, or takes merchandise from, the Main Zone/Secured Area, whether or not the person is a resident of the Main Zone/Secured Area.

11. Point of Entry or Exit any place (gate or port) designed by the Clark Development Corporation (CDC) and the Bureau of Customs, Department of Finance, where articles may be lawfully introduced into or removed from the Main Zone/Secured Area, or any area within the Sub-Zone in which duty and tax free benefits are limited by the CDC pending the establishment of a secure perimeter around the subject area within the Sub-Zone. However, the Port/Airport of Entry for the importation and exportation of foreign articles into/from the zone in accordance with this administrative order shall be the premises declares by the President of the Republic of the Philippines as the Port/Airport of Entry and where the Customhouse shall be located.

12. Registered Enterprise any sole proprietorship, partnership, corporation, including CDC, or entity registered with the CDC to do business in the Main Zone/Secured Area, whether for profit or not.

13. Rules and Regulations unless otherwise specified, the implementing rules and regulations issued by the CDC to implement Republic Act No. 7227, Proclamation No. 163, and Executive Order Nos. 62 and 80.

14. Resident any person who is registered and authorized by the CDC to establish and maintain a personal residence in the Main Zone/Secured Area.

15. Retail Sale — the sale of articles in the Main Zone/Secured Area, in non-commercial quantities, to a person for his or her own personal use and account and not for resale.

16. CDC — refers to Clark Development Corporation, created under Executive Order No. 80, pursuant to Section 15 of the Act.

17. Zone/CSEZ — the Clark Special Economic Zone, referred to under Proclamation No. 163 and pursuant to Section 15 of the Act, outside the Customs Territory and the authority of the Customs laws, comprising the lands occupied by the Clark military reservations and its contiguous extensions as embraced, covered and defined by the 1947 Military Bases Agreement between the Philippines and the United States of America, as amended, located within the territorial jurisdiction defined in the Act.

18. Main Zone/Secured Area — refers to the areas in the Zone which shall enjoy all CSEZ freeport incentives and privileges, including free and unimpeded flow of articles from one registered enterprise/resident to another registered enterprise/resident; the areas shall include the presently fenced-in former Clark Air

Base Proper (4,440 hectares per Proclamation 163 and E.O. No. 80) plus suitable areas in Zone A adjacent to the fence on the western side of CAB to be determined by the CDC.

19. Sub-Zone — refers to the reverted baselands (per Proclamation 163 and E.O. No. 80) or the areas in the Zone which shall not enjoy all Zone incentives, notably free flow/movement/purchase/consumption of tax and duty-free articles and foreign exchange, but without precluding the possibility of the CDC allowing such incentives in contained and secured Industrial Estates which may be established in these reverted baselands or Sub-zone, subject to the issuance of an amendment to this Customs Administrative Order.

Chapter II General Provisions

Authority and Responsibilities

1. Authority of CDC The CDC is responsible for the operation and management of the Zone, as provided in Section 1 of the Executive Order, pursuant to Section 15 of the Act; the Rules and Regulations; and the provisions of this Administrative Order.

2. Authority Of Customs Customs in the Main Zone/Secured Area shall, as a unit of the Bureau of Customs, Department of Finance working in coordination with the CDC, be responsible for:

- a. supervising and administering Customs operations involving the admission of articles to the Main Zone/Secured Area, and other Customs operations as determined by the Commissioner of Customs in coordination with the President of the CDC; and
- b. establishing and maintaining offices within the Main Zone/Secured Area wherever necessary to efficiently conduct customs operations, as determined by Customs in coordination with the President of CDC.

To enable Customs to perform the above functions, the bringing out of the articles from the Main Zone/Secured Area to a sub-contractor in the Customs Territory shall require approval from CDC and the Collector of Customs assigned to the Zone which shall be monitored until the same is returned to the Main Zone/Secured Area.

A Customs checkpoint at the boundary or boundaries of the Main Zone/Secured Area designated as points of entry or exit, shall be set up by Customs for the above purposes.

B. Audit, Search, Seizure and Arrest In Main Zone/Secured Area

1. Audit Officials of the CDC and Customs are authorized to JOINTLY conduct, at any time during office hour, any audit, check, or inventory count for the verification and reconciliation of the accounts or records of any Registered Enterprises in the Main Zone/Secured Area.

2. Search Persons, baggage, vehicles, aircraft, and cargo entering or leaving the Main Zone/Secured Area are subject to search by Customs. Customs officials may, only upon specific authority of the Commissioner of Customs or the district Collector (having jurisdiction over the Main Zone/Secured Area) DESIGNATED BY THE COMMISSIONER OF CUSTOMS, and with the assistance and in the presence of CDC officials or representatives, examine any article held in the Main Zone/Secured Area by any Registered Enterprise, or by any Zone resident when a member of the household is at home, for possible violation(s) 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 Main Zone/Secured Area by Customs may be seized by Customs for violations of the Tariff and Customs Code of the Philippines, as amended, and disposed of in accordance with law.

4. Arrest The CDC shall, upon request of the Commissioner of Customs or the District Collector (having jurisdiction over the Zone) DESIGNATED BY THE COMMISSIONER OF CUSTOMS, and in coordination with Customs officials, arrest persons in the Main Zone/Secured Area for violation of the Tariff and Customs Code for which arrest is authorized under law.

C. Record Keeping - Registered Enterprises bringing articles into the Main Zone/Secured Area are responsible for retaining and maintaining records of permits, receipts, sales transfer, deliveries, and removals from the Main Zone/Secured Area of articles received by the Enterprise; and for maintaining accounts and inventory records of articles brought into the Main Zone/Secured Area on a current basis and 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 Registered Enterprises to the time the Registered Enterprises 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 after the removal of the articles from the Zone. If the record keeping system of the Registered 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 CDC, Customs, Bureau of Internal Revenue, Economic Intelligence and Investigation Bureau (EIIB), or other authorized office, the CDC 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 Main Zone/Secured Area, and to 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 CDC, Bureau of Internal Revenue, or any other government agency to which access is authorized by law and regulation.

D. Aircraft and Vehicles Arriving in the Main Zone/Secured Area

1. In General Regulations and procedures for the arrival formalities and clearance of aircraft in the Main Zone/Secured Area shall be the same as those observed in the Customs Territory. Vehicles and aircraft which are brought into the Main Zone/Secured Area free of duties and taxes for use in the Main Zone/Secured Area shall become subject to duties and taxes upon transfer to Customs Territory for

consumption; provided, that the CDC and Customs, in coordination with the Land Transportation Office (LTO) of the Department of Transportation and Communication (DOTC) in the case of vehicles, and the Civil Aeronautics Board and/or the Air Transportation Office in the case of aircraft, shall formulate separate rules and guidelines on the registration and use of imported vehicles and aircraft within and outside the Main Zone/Secured Area.

2. Bonding of Carriers Carriers who undertake to transship foreign articles from the Main Zone/Secured Area to a Customs Bonded Warehouse within the Customs Territory shall be bonded in an amount to be determined by the CDC which in no case shall be less than Fifty Thousand Pesos (P50,000.00), 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 port of destination or export. 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 Main Zone/Secured Area.

E. Importation of Articles, Raw Materials, Capital Goods, Equipment and Consumer Items into the Main Zone/Secured Area

1. In General Registered Enterprises including CDC and registered residents (Filipinos and foreigners) in the Main Zone/Secured Area are allowed to import articles, raw materials, capital goods, equipment and consumer items tax — and duty-free into the Main Zone/Secured Area within which there shall be free and unimpeded flow of articles from one registered enterprise/resident to another registered enterprise/resident. Removal of articles, raw materials, capital goods, equipment and consumer items out of the Main Zone/Secured Area for sale shall be subject to the usual taxes and duties, except as may be provided herein.

F. Consumer Items Imported into the Main Zone/Secured Area -

1. Residents of the Main Zone/Secured Area can consume any quantity of consumer items in hotels, restaurants and stores within the Main Zone/Secured Area. However, these residents can purchase and bring out of the Main Zone/Secured Area to other parts of the Philippine Territory consumer items worth not exceeding US\$100 per month per person, or the amount to be later established by any amendment to Executive Order No. 97-A, pursuant to Executive Order No. 140. Only persons age 15 and over are entitled to this US\$100 per month per person privilege.

2. Persons who are non-Zone residents can consume any quantity of consumer items in hotels, restaurants and stores within the Main Zone/Secured Area. However, these residents can purchase and bring out of the Main Zone/Secured Area to other parts of the Philippines Territory consumer items worth not exceeding US\$200 per year per person, or the amount to be later established by any amendment to Executive Order No. 97-A, pursuant to Executive Order No. 140. Only persons age 15 and over are entitled to this US\$200 per year per person privilege.

3. There shall be no pooling, tacking, or advance use of the entitlement per F.1 and F.2 above which is a privilege similar to the entitlement enjoyed by returning residents who shop at existing government-owned tourists' duty-free shops.