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

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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 lntermodal container covered by the Customs Convention on Container 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 of Exit any place (gate or port) designated 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 importation and exportation of foreign articles Into/From the Zone in Accordance With This Administrative Order shall be the premises declared by the President of the Republic of the Philippines as the Port/Airport of Entry and where the Customshouse 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 Orders no. 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

A. 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:

- supervising and administering Customs operations involving the admission of articles to the Main Zone/Secured

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Area, and other Customs operations as determined by the Commissioner of Customs in coordination with the President of the CDC; and

- 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

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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.

G. Sale of Consumer Items in Duly Authorized Retail Stores

1. The sale of tax — and duty-free consumer items in the Main Zone/Secured Area shall only be allowed in duly authorized stores. Stores shall be subject to the joint regulation of Customs and the CDC to insure proper accounting of imports and sales.

2. Foreign tourists, "balikbayans", and returning residents (from abroad) passing through the Main Zone/Secured Area shall be entitled to the same prevailing tax — and duty-free privileges they presently enjoy. (Republic Act. No. 6768 and CAO 3-87, as amended).

3. Sale of consumer items to persons in Section F(1) above, shall be HELD IN ABEYANCE until a control system has been approved by the CDC and Customs authorities. This applies to consumer items to be brought out of the Main Zone/Secured Area. Sales of consumer items for consumption within the Main Zone/Secured Area, however, will be allowed even before a control system has been put in place.

H. Exportation to and Importation from the Main Zone/Secured Area - Articles which are admitted to the Main Zone/Secured Area from the Customs Territory shall be considered exported. Articles which are transferred to the Customs Territory from the Main Zone/Secured Area shall, UNLESS OTHERWISE PROVEN, be considered imported and, therefore, subject to all laws, rules, and regulation regarding importations.

Chapter III
Admission and Receipt Into Zone

A. Prohibited Articles

1. General - Any kind or class of articles may be admitted into Main Zone/Secured Area from a foreign country, the Customs Territory, a Customs Bonded Warehouse, Export Processing Zone or Special Economic Zone, except articles prohibited under the laws of the Republic of the Philippines.

2. Articles Not In Accordance With Permit To Import - Articles brought into the Main Zone/Secured Area which are not in accordance with the permit to import issued by the CDC to the Registered Enterprise or Resident shall be proceeded against pursuant to the provisions of the Tariff and Customs Code of the Philippines and this administrative Order.

B. Importation of Articles Destined For Customs Territory - Foreign articles destined for the Customs Territory which arrive on a carrier landing in the Main Zone/Secured Area may be unladen in the Main Zone/Secured Area and held there pending completion of requirements for entry and transshipment through the Main Zone/Secured Area to Customs Territory. Articles which have been released for transfer to Customs Territory shall be transshipped through the Main Zone/Secured Area under Customs supervision or control.

C. Importation and Transshipment of Zone-Destined Foreign Articles

1. Exemption From SGS Inspection - As in Export Processing Zones, foreign articles destined for the Main Zone/Secured Area shall be exempt from inspection by SGS from the port of origin. This exemption is pursuant to E.O. No. 62 and E.O. No. 80 which provides that the CSEZ shall have the same incentives and privileges as in Subic SEZ and EPZA.

2. Tax and Duty Exemption - Importations destined for the Main Zone/Secured Area, either for direct unloading in the Main Zone/Secured Area or through ports in the Customs Territory, Export Processing Zones or other

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Special Economic Zones, shall be exempt from payment of all duties and taxes.

3. Container Marking Requirement - Foreign articles destined for the Main Zone/Secured Area may be imported directly into the Main Zone/Secured Area or through any port in Customs Territory through which importations may be lawfully made. Except for foreign articles arriving by mail or accompanying persons upon their arrival, the containers bearing the foreign articles shall be marked "SHIP TO CLARK SPECIAL ECONOMIC ZONE, CLARK FIELD, PAMPANGA, REPUBLIC OF THE PHILIPPINES" or with similar wording to show the Zone destination of the articles.

4. Transshipment Procedure - If the foreign articles were unloaded at port in the Customs Territory, Export Processing Zone or Special Economic Zone, the Registered Enterprise or its agent will present the admission documentation to the Customs office at the port of importation. No other authorization or approval will be necessary for release of the articles for transshipment to the Zone.

- Processing of Documentation - When the Registered Enterprise submits the admission documentation before arrival of the articles, officials of Customs will accept, review and approve the documentation in advance of the arrival. The Customs Office shall review and authorize the release of the articles within one (1) work day after receipt of the required documentation, and provide rapid release privileges to perishable and other articles which are normally allowed to be removed from the port as soon as they are unloaded from the arriving carrier. Release of the articles for transportation to the Main Zone/Secured Area shall be documented by the authorized official of Customs in writing on the admission documentation.

- Examination at Port Of Importation - Except in unusual circumstances, Officials of Customs will not inspect the articles at the port of importation. The articles will remain unopened in the original packing containers and under Customs or the original shipper's seal. Customs will deviate from this policy only when there is a real threat of loss of revenue or other serious law violations, and will document and explain its reasons for inspection to the CDC and the Registered Enterprise.

D. Admission Procedure

1. Right to Apply for Admission - The application for admission of articles to the Main Zone/Secured Area shall be made by or on behalf of the owner or purchaser of the articles. The consignee shown on the bill of lading or airwaybill, or the addressee shown on the mail packages, will be considered to be the owner or purchaser, unless another person or firm presents evidence satisfactory to Customs that it is the true owner or purchaser, or that it is requesting admission on behalf of and at the specific request of the owner or purchaser. The application may be prepared by a person who has the authority to sign the documents on behalf of the owner or purchaser. A Zone Resident or other person having possession of the articles accompanying them upon arrival in the Main Zone/Secured Area shall be considered the owner or purchaser of the articles.

2. Admission Form - The admission application of Registered Enterprise (including small Registered Enterprise), Zone Residents or other persons bringing articles into the Main Zone/Secured Area shall be made on forms provided for and required by CDC. The forms shall be prepared in the number of copies required by Customs, and shall be presented at the location designated by Customs, normally the Customs office nearest to point of arrival of the carrier or person bringing the articles to the Main Zone/Secured Area.

3. Accompanying Documents - The admission application to be prepared by Registered Enterprises (including small Registered Enterprises) or Residents of the Main Zone/Secured Area shall be accompanied by the permit to import, a commercial invoice, packing list, or other itemized statement which describes the articles precisely and in commercial terms and serves as an audit trail into the records and accounts of the applicant. If the applicant is

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not the person or enterprise shown as consignee in the permit to import or other shipping documents, the admission application shall also be accompanied by evidence satisfactory to demonstrate that the applicant is making the application on behalf of the eligible owner or purchaser.

4. Customs Review Procedure - Customs officials shall review the admission documentation and, if necessary, examine the articles, to verify the correctness of the information in the documentation.

- Customs will review the admission documentation for completeness and accuracy. A copy of the admission application shall be retained by Customs for compilation of statistics.

- Customs will examine the articles as a condition of approving admission only (1) when the Commissioner or Collector of Customs has reason to believe information in the admission documentation is incorrect, (2) when the Commissioner or Collector of Customs has reason to believe that there has been a violation of the law, regulations, or the provisions of this Administrative Order, or (3) under a program of random checks to test the quality of admission documentation furnished to Customs.

- If Customs decides to examine the articles, the examination will be conducted in the applicant's premises, unless:

> (1) the examination cannot be readily performed there,
>
> (2) the articles consist of personal or household effects or other articles accompanying Zone residents or other persons which can be readily examined at the point of entry where these will be examined,
>
> (3) the applicant requests that the examination be conducted at the Customs point of Entry into the Main Zone/Secured Area,
>
> (4) the articles, vehicles or aircraft carrying them, cannot be sealed, or
>
> (5) the Commissioner or Collector of Customs has reason to believe the carrier or the articles will be tampered with before arrival at the applicant's premises. Customs will seal the vehicle or aircraft containing the articles to assure that the articles are delivered to the applicant's premises without a change in the condition, quantity, or nature of the articles between the point of entry into the Main Zone/Secured Area and the location where the inspection will take place.

d. Containers of the articles will be opened and the articles presented to Customs by the applicant or an agent of the applicant. Customs officials will not open containers for examination of the articles.

e. If no examination is to be conducted, Customs will check the condition of the vehicle or aircraft delivering the articles to the applicant's premises and any seals affixed thereto, and note any irregularities on the admission documents.

5. Customs Release - If no irregularities are discovered through review of the documentation and any examination conducted by Customs that require detention of the articles, Customs will issue a permit to release the articles for delivery to the applicant's premises in the Main Zone/Secured Area. The articles may be delivered by:

(a) the vehicle which brought the articles to the Main Zone/Secured Area;

(b) a vehicle owned or leased by the applicant; or

(c) a vehicle of a firm licensed by the CDC for the purpose of carriage of articles within the Main Zone/Secured Area.

E. Exemption From Admission Procedure - Except upon special order of the CDC but without any limitation on

Customs search authority of vehicles, aircraft, persons, baggage, or cargo arriving in the Main Zone/Secured Area, no declaration of admission or permit by either Customs or the CDC is required for admission to the Main Zone/Secured Area of:

1. ANY personal effect(s) of residents of the Main Zone/Secured Area valued at less than One Hundred U.S. Dollar (US$100);

2. ANY article(s) of foreign origin in any shipment valued at less than Five U.S. Dollars (US$5).

3. Articles for delivery to an aircraft for loading and exportation to a foreign country from the Main Zone/Secured Area;

4. Articles being returned to the Main Zone/Secured Area after temporary transfer from the Main Zone/Secured Area under the procedure of Chapter V, Section D; or

5. Domestic articles not covered by any of the preceding exemptions when the person or enterprise presenting the articles for admission surrenders to Customs a commercial invoice or similar document describing the articles in commercial items, along with a declaration that the articles are domestic articles as provided in the regulation of Customs in force in the Customs Territory.

F. Personal Effects Arriving in the Main Zone/Secured Area - Personal effect(s) of residents of the Main Zone/Secured Area valued at more than One Hundred U.S. Dollars (US$100), but in non-commercial quantities, arriving directly in the Main Zone/Secured Area or through Customs Territory, shall be subject to admission procedure.

1. Admission Procedure - The application for admission of personal effects shall be made by or on behalf of the owner of the personal effects, to be made on Forms provided for and required by CDC. The forms shall be prepared in the number of copies required by Customs, and shall be presented at the location designated by Customs, normally the Customs Office nearest to the point of arrival of the carrier or person bringing the personal effects to the Main Zone/Secured Area.

Customs shall review the admission documentation and, if necessary, examine the articles to verify the correctness of the information in the documentation. The same Customs inspection procedure as that applied for regular articles destined for the Main Zone/Secured Area, and discussed in Section D, number 4 and 5 of this Chapter, shall thereafter be followed.

G. Postal Importation - Articles arriving by mail or parcel post at a postal facility within the Main Zone/Secured Area shall be released by Customs after completion of the required admission procedure, for delivery by postal officials to the addressee.

H. Customs Bonded Warehouse, Export Processing Zone or Special Economic Zone - Articles may be admitted into the Main Zone/Secured Area from a Customs Bonded Warehouse, Export Processing Zone or Special Economic Zone. Containers of the said articles shall be clearly marked: "SHIPPED FROM (NAME OF THE CBW, EPZ OR SEZ ENTERPRISE/NAME OF CBW, EPZ OR SEZ), DESTINED TO CLARK SPECIAL ECONOMIC ZONE, CLARK FIELD, PAMPANGA," or similar wordings to show both the origin and destination of the shipment. Acceptance and acknowledgment of authorized receipt by a Registered Enterprise in the Main Zone/Secured Area shall constitute fulfillment of the obligations for safe delivery from the sending Customs Bonded Warehouse, Export Processing Zone or Special Economic Zone to the Main Zone/Secured Area.

I. Eligibility For Drawback, Bounty Or Exemption - The signed permit and release by Customs for the admission of foreign articles into the Main Zone/Secured Area and conclusive proof of actual exportation therefrom as

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required under pertinent customs laws, rules and regulations shall be the basis for consideration to prove exportation.

Chapter IV
Operation and Handling Within Zone

A. Annual Inventory, Reconciliation And Report - Each Registered Enterprise shall conduct an annual physical inventory at the end of its business year of all articles in its premises and in its possession in the Main Zone/Secured Area, and reconcile any discrepancies found with its inventory; such reconciliation shall made to the CDC on a form to be required by the latter, copy furnished the Bureau of Customs, within ninety (90) days after the end of the business year, along with any payment of duties and taxes for shortages or admission documents for overages.

B. Country Of Origin Of Articles Manufactured In The Main Zone/Secured Area - Without reference to the assessment of duties and taxes under these regulations, the country of origin of articles which are manufactured or produced in the Main Zone/Secured Area in whole or in part from foreign articles and transferred to the Customs Territory for consumption, shall be determined according to the laws of the importing country. No false country of origin marking or designation shall be placed by any person or firm on any articles in the Main Zone/Secured Area whether the articles are destined for consumption in the Main Zone/Secured Area, the Customs Territory, or a foreign place or country.

C. Loss Of Identity Of Domestic Articles - Domestic articles which have lost their identity as such in the Main Zone/Secured Area shall be treated as foreign articles if they are transferred to the Customs Territory. They will be considered as having so lost their identity if they cannot be identified by Customs as domestic articles on the basis of an examination of the articles or consideration of any proof presented by the Registered Enterprise, including the accounting and inventory records of the Enterprise.

Chapter V
Transfer of Articles From Zone

A. Articles Eligible For Transfer From Main Zone/Secured Area - Any article which has been admitted to or produced in the Main Zone/Secured Area may be transferred therefrom for exportation, transshipment through Customs territory, transportation to a Customs Bonded Warehouse, an Export Processing Zone, or a Special Economic Zone, or transfer to the Customs Territory for consumption subject to existing rules and regulations.

B. CDC Permit For Transfer

1. Except as specified below, articles shall not be transferred from the Main Zone/Secured Area without permit of the CDC. Forms and procedures used for transfers from the Main Zone/Secured Area shall provide therein for the permit of the CDC. The following articles are exempted from the permit requirement and from Customs entry procedures after examination and verification conducted by Customs and if allowed under the pertinent provisions of the Tariff and Customs Code of the Philippines, except where such a permit is required under special orders of the CDC.

- Domestic articles which have not been manufactured, blended or otherwise combined in the Main Zone/Secured Area with foreign articles, when the person or enterprise presenting the articles for removal from the Main Zone/Secured Area surrenders to Customs a commercial invoice or similar document describing the articles in commercial terms along with a declaration that the articles are domestics articles as provided in the provisions of this Administrative Order.

- Foreign articles, or articles which contain foreign article components, which are exempted from entry requirements under the rules and regulations in effect in the Customs territory.

- Articles which are not subject to the Tariff and Customs Code of the Philippines.

2. Carriers containing such articles are nevertheless subject to search by Customs upon removal from the Main Zone/Secured Area, and Registered Enterprises shall maintain and produce records of the transfer and removal of exempted articles.

C. Transfer for Consumption In Customs Territory - Foreign articles, or articles containing foreign article components, in the Main Zone/Secured Area may be transferred to Customs territory under the laws, regulations and procedures applicable in the Customs Territory, except as provided in the Implementing Rules and Regulations as well as the provisions of this Administrative Order.

1. Assessment of Duties and Taxes - Customs and import duties and taxes shall be assessed, where authorized and required by law, as provided in this subsection:

- Tariff Classification - The classification under the Tariff and Customs Code of the Philippines of foreign articles, whether or not they have been manufactured, blended or otherwise combined with domestic articles, shall be determined according to the time of its transfer from the Main Zone/Secured Area to the Customs Territory.

- Valuation - The value of foreign articles, or articles containing foreign article components, on which ad valorem duties and taxes are assessed shall be the price actually paid or payable for the entire article in the transaction that caused the article to be transferred to Customs Territory, minus the cost of any domestic article components of the entire articles.

In other words, duties and taxes shall be assessed only on the value of imported materials, except when the final product is exempt. (P. D. No. 66)

D. Temporary Transfer to Customs Territory

1. Eligible Purposes - Foreign articles which have been admitted to the Main Zone/Secured Area may be removed temporarily for services which are not available in the Main Zone/Secured Area, such as repair, restoration, testing and other specialized work not normally undertaken by the registered enterprise in the Zone, including subcontracted work such as to meet export commitment (P.D. 66).

2. Application - A person or enterprise shall obtain a permit for temporary transfer from the CDC, and fill up an application on a form required by CDC and Customs. The permit and application shall be presented to Customs, together with the articles for review and examination.

3. Time and Geographic Limits - Upon issuance of a Customs permit, the articles may be transferred from the Main Zone/Secured area for a period of not more than four (4) months, unless the period is extended by another four (4) months by the CDC for a valid business reason. The articles may be transported to any place within the Customs Territory to conduct the service or operation. The article may not be entered for consumption or exported while it is in temporary transfer status in the Customs Territory, unless duties and taxes are paid where applicable.

4. Return To Main Zone/Secured Area and Enforcement Measures - Upon return to the Main Zone/Secured Area, the original permit and articles shall be presented to Customs for examination and review. If the articles are not returned within the period granted by the CDC, or not handled in accordance with the provisions of this section, the articles will be considered to have been transferred to the Customs Territory without proper permit, and will be subject to duties and taxes and any enforcement action authorized under the provisions of this Administrative Order.

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E. Exportation From Main Zone/Secured Area

1. Exportation From Customs Territory Through The Main Zone/Secured Area - Foreign or domestic articles may be brought into the Main Zone/Secured Area from the Customs Territory for the purpose of loading onto aircraft arriving in the Main Zone/Secured Area. Such articles shall be supervised by Customs to assure their exportation from the Main Zone/Secured Area. If the articles are not exported or returned to Customs Territory within three (3) months, the articles shall be considered abandoned and turned over to Customs for disposal in accordance with the Tariff and Customs Code of the Philippines, as amended, and from the proceeds shall be deducted any and all expenses incurred by the CDC in connection therewith as may be allowed by law. However, in all other respects the articles shall be governed by Customs laws and regulations as if it were being exported from the Customs Territory.

2. Direct Exportation From Main Zone/Secured Area - Foreign or domestic articles in the Main Zone/Secured Area may be delivered to aircraft arriving in the Main Zone/Secured Area for exportation directly thereon under Customs supervision.

3. Transshipment Through Customs Territory For Exportation - Foreign articles, or articles containing foreign article components, in the Main Zone/Secured Area may be transshipped to other ports in the Customs Territory for delivery to vessels or aircraft for exportation under the supervision of Customs using the forms and procedures applicable for exportation in the Customs Territory. Before release from the Main Zone/Secured Area to Customs Territory, the articles shall be inspected by Customs and the CDC.

Upon arrival at the port of exportation and while awaiting loading into the exporting vessel or aircraft, the articles will remain unopened in the original packing containers and under Customs or the original Zone shipper's seal. Customs officials at the port of exportation shall not inspect or examine the Zone articles destined for exportation because these articles were already inspected and the containers sealed by Customs officials in the Main Zone. Customs officials at the port of exportation may deviate from this policy only in the most unusual circumstances, which will be clearly documented and justified to the Registered Enterprise and the CDC.

4. Marking of Container For Exportation - Except in the case of exportations from the Main Zone/Secured Area by mail, accompanying persons, or under the Special Retail Sales Regime, containers of articles for exportation, whether directly from the Main Zone/Secured Area or transshipment through the Customs Territory, shall be clearly marked, "SHIPPED FROM CLARK SPECIAL ECONOMIC ZONE CLARK FIELD, PAMPANGA, PHILIPPINES," or similar wording to show the origin of the shipment.

5. Exportation Under Retail Sales Regime - Persons who purchase articles under the Special Retail Sales Regime may export the articles accompanying them upon departure to a foreign country on an aircraft they board in the Customs Territory. The itemized listing provided by the retail seller under the provisions of this Administrative Order shall contain the CDC permit to export the articles and the export documentation for the articles.

a. Persons who board an aircraft in the Main Zone/Secured Area shall present to Customs immediately prior to boarding:

(1) the articles to be exported;

(2) the itemized listing provided by the seller; and

(3) a declaration of any foreign article consumed in the Main Zone/Secured Area. If the aircraft is to land at a place in Customs Territory before departure to a foreign country, Customs will place the articles in the custody of the officers of the airline for surrender to the purchaser only after final departure to a foreign country.

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b. Persons who board vessels or aircraft in the Customs Territory shall present to Customs at the point of exit from the Main Zone/Secured Area:

(1) the articles to be exported;

(2) the itemized listing provided by the seller; and

(3) a declaration of any foreign article consumed in the Main Zone/Secured Area. The articles to be exported will be placed in a specially sealed container provided by the seller of the articles for transshipment of the articles to the vessel or aircraft the purchaser is to board. The seller will be responsible for the delivery of the merchandise, under the supervision of Customs to the purchaser in the Customs Territory upon departure of the vessels or aircraft for exportation to a foreign country, and for payment of any duties, taxes or penalties due on any merchandise that is not properly delivered.

6. Articles which have been exported from the Main Zone/Secured Area to a foreign country and which are subsequently reimported may be admitted into the Main Zone/Secured Area as foreign articles in the manner provided in Chapter III, Section D of this Administrative Order. Foreign articles, or articles containing foreign article components which are exported and subsequently re-imported directly into Customs Territory for consumption shall be treated in the same manner as like articles from the country exportation.

F. Articles for Use on Aircraft - Foreign articles, or articles containing foreign article components, may be delivered free of duties and taxes to aircraft arriving in the Main Zone/Secured Area for use or consumption on board by the crew or passengers or aircraft, as fuel, equipment, or for repair of the aircraft, to the same extent as is authorized under the laws and regulations in effect in the Customs Territory. The articles will be considered transferred from the Main Zone upon signature for receipt of the articles by an authorized official of the airline, with the intent to use these articles on board the airline. Such articles may also be transshipped to ports in the Customs Territory for delivery free of duties and taxes to vessels and aircraft under the laws and regulations in effect in the Customs Territory. However, the containers of such articles shall be marked "SHIPPED FROM CLARK SPECIAL ECONOMIC ZONE," or with similar wording to show the Zone origin of the shipment.

G. Transfer to Customs Bonded Warehouse, Export Processing Zone or Special Economic Zone - Foreign or domestic articles may be transferred from the Main Zone/Secured Area for transshipment to a Customs Bonded Warehouse, Export Processing Zone or Special Economic Zone in the Customs Territory, and receipt therein, under the laws, regulations and procedures in effect in the Customs Territory. However, containers of such articles shall be clearly marked "SHIPPED FROM CLARK SPECIAL ECONOMIC ZONE, DESTINED FOR (NAME OR CBW, EPZ OR SEZ ENTERPRISE; NAME OF CBW, EPZ OR SEZ)" or with similar wording to show both the origin and destination of the shipment.

H. Delivery and Removal From The Main Zone/Secured Area - Articles shall be delivered to carriers and removed from the Main Zone/Secured Area in accordance with the provisions of this section:

1. Customs shall require that vehicles or aircraft containing shipments of foreign articles or of articles containing foreign article components, transshipped through Customs Territory be sealed with Customs seal, or with a shipper's seal approved by Customs, and transferred under guard so as to prevent or make evident the diversion of the articles into the commerce of the Republic of the Philippines, or any tampering with the articles.

2. The articles may be transferred from the premises of the Registered Enterprise by the carrier which is to transport the articles to Customs Territory, a vehicle of the Registered Enterprise, or a carrier accredited by the CDC for carriage within the Main Zone/Secured Area.

3. Passenger vehicles, including buses, taxicabs or other vehicles carrying persons for hire shall be subject to

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Customs Inspection and search at the point of exit to allow persons to properly declare purchases made in the Main Zone/Secured Area for transfer to Customs territory and to detect undeclared merchandise. Point of exit shall contain adequate facilities to pull aside, assess and collect duties and taxes.

4. When foreign articles, or articles containing foreign article components, are examined at the premises of a Registered Enterprise and given a permit to transfer the articles from the Main Zone/Secured Area, or in other situations where the permit is given at a location other than the point of exit, Customs shall establish controls, such as escorts, gate passes, sealing, or other devices, to assure that only those articles for which a permit to transfer has been issued are duly and properly removed from the Main Zone/Secured Area.

5. A person or Enterprise which has received a Customs permit for transfer of articles from the Main Zone/Secured Area shall see to it that the articles are physically removed from the Main Zone/Secured Area within seven (7) calendar days after the permit is issued, or request the withdrawal or cancellation of the application for transfer. Except by special order of the CDC, foreign articles, or articles containing foreign components, shall not be entered for consumption in the Customs Territory but retained in the Main Zone/Secured Area. If the request for transfer is withdrawn or canceled, the Registered Enterprise shall reassume responsibility for the article and any duty or tax paid will be refunded by Customs. If the request for transfer is not withdrawn or canceled and there has been no special permit by the CDC for retention of the articles in the Main Zone/Secured Area, any duty and tax paid will be treated as unclaimed and turned over to the BOC for disposal.

I. Return to Main Zone/Secured Area Without Entry Into Commerce - If foreign articles or articles containing foreign article components are transferred to Customs Territory with the intent of returning them to the Main Zone/Secured Area, and the articles are so returned, without having entered the commerce of the Republic of the Philippines or circumventing the removal requirements provided in the provisions of this Administrative Order, the original permit to transfer and entry shall be canceled, any duties and taxes shall be refunded by Customs, and the Registered Enterprise which transferred the articles from the Main Zone/Secured Area shall reassume responsibility for the articles as foreign articles.

Chapter VI
Enforcement of Regulations

A. Penalties - Any person or enterprise found to have violated any provision of the Act or this Administrative Order shall be subject to the pertinent penal provisions of the Tariff and Customs Code of the Philippines.

B. Effectivity - This order shall take effect immediately upon approval by the Secretary of Finance. Certified copies of this Customs Administrative Order shall be submitted to the U.P. Law Center pursuant to Book VII, Chapter II, Section 3 and 4 of the Revised Administrative code of 1987.

Adopted: 11 June 1994

(SGD.) GUILLERMO L. PARAYNO, JR.
Commissioner

(SGD.) ROBERTO F. DE OCAMPO
Secretary of Finance

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