

# SMUGGLING OF ILLICIT DRUGS AIDED BY CUSTOMS PLAYERS

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## I. INTRODUCTION

The entry into the Philippines of large volumes of imported illicit drugs was initially believed to be through the various islands of the Philippines, taking into consideration the archipelagic nature of the country. However, there have been reservations on this because of the proliferation of smuggling activities being perpetrated by the “*players*”<sup>1</sup> or “*fixers*” at the Bureau of Customs.

In an investigation conducted by the National Bureau of Investigation in September 2013, whereby 62 kilograms of methamphetamine hydrochloride—commonly known as *shabu*—were seized by virtue of the service of a search warrant<sup>2</sup> issued against the occupants of a condominium unit in Manila used as a “drying station” of shabu, large empty tea packs were found inside the premises. Examination conducted on the tea packs revealed the presence of shabu residue.

It was assumed that tea packs containing shabu were smuggled into the country through boats entering through the various islands of the Philippines. There was no opportunity to confirm or disprove it. The investigation reached a dead-end since no documents were found within the premises that could lead the investigation beyond the three (3) Chinese nationals arrested during the operation, since, as with other investigations, the arrested Chinese nationals were mum when questioned.

Another investigation in December 2016 conducted by the Task Force on Anti-Illegal Drugs (TFAID) of the NBI in the City of San Juan yielded a total of almost 800 kilograms of shabu in a series of interrelated operations.<sup>3</sup> Likewise, no documents were found in the premises subject to the search warrant that would provide leads as to the source of the illicit drugs. Similarly, no additional information was revealed by the Chinese nationals arrested in the operation. As in the other case, there were indications that the same were also smuggled into the country.

A breakthrough came about in 2017, when the Bureau of Customs sought the assistance of the NBI in the investigation of the contents of five (5) metal cylinders from China containing a total of over 600 kg of shabu.

## II. INVESTIGATION OF THE SHABU CONTAINED IN METAL CYLINDERS

### A. Initial Discovery of the Shabu by the Bureau of Customs<sup>4</sup>

On 26 May 2017, the Bureau of Customs’ (BOC) Criminal Intelligence and Investigation Service (CIIS) sought the assistance of the National Bureau of Investigation’s (NBI) Anti-Organized and Transnational Crime Division (NBI) and the Philippine Drug Enforcement Agency (PDEA) to assist them in the investigation and processing of the methamphetamine hydrochloride, or shabu, they discovered in a warehouse in Valenzuela City.

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<sup>1</sup> “*Players*”, or “*fixers*”, are the terms used to refer to those who facilitate/process the importation of goods in the Bureau of Customs.

<sup>2</sup> Search Warrant No. SW 13-147-MN issued by the Regional Trial Court of Malabon City on 06 September 2013.

<sup>3</sup> By virtue of Search Warrant No. 16-031 issued by the Regional Trial Court of Makati City, Branch 65 and a series of related operations, such as interdiction.

<sup>4</sup> *Joint Affidavit*, dated 14 August 2017, executed by the operatives of the AOTCD in filing charged against the importers of the shabu. (NPS Docket No. XVI-INV-17H-00206)

A total of 605 bags of shabu were found inside five (5) metal cylinders placed in wooden crates. After deliberations among the BOC, NBI and PDEA, it was decided that a controlled delivery would be conducted as to one of the cylinders containing shabu. The controlled delivery was led by the PDEA. Delivery was made to the ultimate consignee as indicated in the documents. The consignee was arrested by the PDEA for violation of R.A. 9165 (Comprehensive Dangerous Drugs Act of 2002). A total of 100 bags of shabu were seized at the address indicated, with a net weight of 100,181.0 grams (100.181 kg).

Meanwhile, the rest of the transparent bags containing a white crystalline substance and the four cylinders containing the same were left in the custody of the NBI-AOTCD for field testing, seizure, qualitative and quantitative examination and further investigation. Personnel from the NBI Forensic Chemistry Division (FCD) were, thus, called-in for the field testing.

## **B. Investigation Conducted by the AOTCD<sup>5</sup>**

After the illicit drugs were seized, the NBI-AOTCD conducted a thorough investigation on how the shabu was able to pass through the BOC without being detected. Various modes of investigation were utilized, among which are: (1) interviews of witnesses, officials and employees of the different departments of the BOC, experts in the field of importation, among others; (2) backtracking of the import documents, accreditation papers, as well as the various customs orders and issuances; (3) verification with several government agencies; and (4) issuance of subpoenas to those who participated in the importation.

Based on the investigation, the warehouse where the metal cylinders containing the shabu were found is owned by a company engaged in international sea and air freight forwarding. The company receives several items for shipment from its various warehouses in China and assembles and consolidates the same into a single lot. Once a container is filled up, it contacts its broker in China to arrange for the shipment of the containers to the Philippines. Since the company is no longer a registered forwarder of the Bureau of Customs, to continue its operation as an international freight forwarder, it hires consultants handling the release of goods from the Bureau of Customs. These consultants in turn use the *players* for the importations. The *players* charge an *all-in package* of one hundred ninety thousand pesos (Php190,000)<sup>6</sup>. It means that for the said amount, the player will provide a “consignee-for-hire”<sup>7</sup>, pay the taxes and duties, and deliver the container to the importer.

Further, the player guides the importer through the consultants in the preparation of the import documents. The player revises the packing list with the corresponding harmonized system (HS) codes to be used by the importer to ensure that the shipment would be categorized as “general merchandise.”

In the importation of the shipment which includes the five (5) metal cylinders containing the shabu, the same procedure was adopted. The actual packing list of the importer was revised by the player. As prepared by the player, the packing list forming part of the import documents to be submitted to the BOC indicated the contents as cutting boards, footwear, kitchenware and molds, contrary to the actual contents of the original packing list as transmitted by the importer’s warehouse in China.

In the course of the preparation of the documents, the shipment was brought to the Port of Shihu where it was loaded into a vessel. It arrived at the Manila International Container Port (MICP) on 15 May 2017.

On 17 May 2017, the customs broker hired by the player lodged the details of the shipment in the Bureau of Customs Electronic to Mobile (E2M) System. As part of the all-in package, the player’s customs broker entered a trading company or the consignee-for-hire as the importer/consignee for the shipment.

The player and the consignee-for-hire verbally agreed that the player would use the business name of her trading company in exchange for a royalty/retainer of one thousand five hundred pesos (PhP 1,500.00) per container. The shipment was assigned a “Green Lane” tag by the Selectivity System of the Bureau of Customs. Because the shipment was tagged “GREEN”, no physical inspection and further documentary

<sup>5</sup> *Transmittal of the NBI to the Department of Justice*, dated 14 August 2017 (NPS Docket No. XVI-INV-17H-00206).

<sup>6</sup> Equivalent to around US\$3,800.

<sup>7</sup> A “consignee for hire” is a consignee whose business name is used as consignee of the various importation of the player’s clients.

examination was required. All that was needed was the payment of customs fees and taxes.

On 23 May 2017, the shipment was released from the MICP. It was loaded onto a truck owned by the player and delivered to the importer's warehouse on 24 May 2017. Upon arrival of the container, the warehouse personnel listed its contents, and checked the same to see if it matched the actual packing list e-mailed from China. They then called up the individual consignees of the shipments to inform them of the arrival of their goods.

At around 5 or 6 o'clock in the evening of 25 May 2017, the warehouse manager, who is also the importer/consolidator (hereinafter referred to as importer), received a call from a Xiamen Customs Police Officer, asking if the shipment of five (5) insulator machines had arrived. The warehouse manager answered that it arrived on 24 May 2017. The Xiamen Customs Police Officer then told the importer that the shipment contained voluminous drugs; and that the shippers thereof were arrested in China.

Fearing that the shipment would be discovered in his warehouse by the Philippine authorities, the importer then coordinated with the Chinese Embassy in the Philippines. He also called up a Philippine customs official, who has contacts with the Customs of China to assist him. After proper verification by the Philippine Customs official with the Xiamen Customs Police Officer, the package as described was indeed part of the shipment. The information was relayed by the Philippine Customs official to his superior, the BOC-CIIS head. Consequently, the assistance of the NBI and the PDEA were sought.

### **C. Result of the Investigation**

As a result of the investigation conducted by the NBI-AOTCD, charges for Importation of Dangerous Drugs, under Section 4 of the *Comprehensive Dangerous Drugs Act of 2002* (R.A. 9165) were filed against the actual consignee's importer, players, consultants, broker and the consignee-for-hire.<sup>8</sup> The case is now pending before the Regional Trial Court of Manila and arrest warrants have been issued against them.<sup>9</sup>

In addition, criminal cases for Unauthorized Practice of Customs Broker Profession, under Section 28 of the *Customs Brokers Act of 2004* were filed against the player and the consultants. Criminal cases for violation of the *Anti-Graft and Corrupt Practices Act* (Republic Act 3019, as amended) were also filed against employees of the Bureau of Customs: the Chief of the Risk Management Office (RMO) and two employees of the Formal Entry Division (FED).<sup>10</sup>

## **III. BEATING THE SYSTEM OF THE BOC**

### **A. Selectivity System of the BOC**

The players at the Bureau of Customs have wittingly or unwittingly paved the way for the drug traffickers to smuggle illicit drugs into the country passing through the Bureau of Customs itself.

The customs player in his testimony before the *Senate Blue Ribbon Committee on Accountability of Public Officers and Investigations (Blue Ribbon)* hearings in the *Inquiry, in Aid of Legislation, Into the Php6.4 Billion Worth of Shabu Shipment From China, on the Possible Malfeasance, and Nonfeasance of Bureau of Customs (BOC) Officials and Employees* and the corresponding parallel investigations before the *House Committees on Dangerous Drugs and Good Government and Public Accountability* admitted the employment of the "tara system", whereby he pays off customs officials to ensure the release of the importations he processes.

According to the player, he was provided with the HS Codes and other methods to give his shipments a better chance of being tagged "green" in the BOC's Selectivity System. Under the said system, when given a green tag, goods are released without further inspection. All that has would have to be done is the payment of the assessed duties and taxes, and the shipment will be released from the Bureau of Customs without

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<sup>8</sup> *Ibid.*

<sup>9</sup> *Criminal Case No. R-MNL-18-00347-CR.*

<sup>10</sup> The cases were docketed as NPS Docket No. XVI-INV-17I-00251 and NPS Docket No. XVI-INV-17I-00252. The case against the Chief of the RMO was dismissed while the cases against the employees of the FED are awaiting Resolution of the Prosecutor of the Department of Justice.

inspection.

True enough, in the investigation conducted by the NBI-AOTCD, for the period of 31 March 2017 to 29 May 2017, or for almost two (2) months, out of the six hundred sixty-four (664) shipments processed by the player through his broker and consignee-for-hire, five hundred thirty-two (532) were tagged green, one hundred twenty-three (123) were tagged yellow and only nine (9) were tagged red.<sup>11</sup> (With a yellow tag, only a documentary check is made on the shipment while with a red tag, documentary check and physical examination is conducted.) This is despite the fact that the consignee-for-hire utilized by the player is a “new importer” and a “sole proprietorship”, which are considered as high risk by the Selectivity System.

#### **B. Insufficient X-ray Machines**

Since the shipment was assigned a green lane, it did not have to go through the x-ray machines. Under the current set-up of the BOC, only a small number of containers pass through the x-ray machines due to the limited machines available. Had the container containing the metal cylinders been examined through the x-ray machines, the magnitude of the size of the metal cylinders would have alerted the inspector. The discrepancy between the actual contents of the container and the packing list submitted with the import documents could have been detected.

### **IV. CONCLUSION**

Entry of illicit drugs in large volumes through the Philippine ports has become an easier and perhaps a cheaper mode for drug traffickers. Corruption coupled with the lack of sufficient technology has allowed entry under the noses of customs officials. If not for the timely information coming from the Chinese authorities, over 600 kilograms of shabu would have been distributed in the Philippines; thus, taking a big step backward on the current administration’s war on drugs.

### **V. RECOMMENDATIONS**

It is recommended that the Philippine government invests in sufficient x-ray machines to enable the BOC to have an efficient 100% inspection of all importations and not just a small percentage. This will deter the proliferation of smuggling not only of drugs but other contraband as well. Further, law enforcement agencies should develop partnerships with other nations to enable sharing of intelligence.

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<sup>11</sup> *Transmittal filed by the NBI before the DOJ under NPS Docket No. NPXVI-INV-17I-00251, dated 18 September 2017.*