



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA

April 3, 2000

CUSTOMS MEMORANDUM ORDER
NO. 3-2110

TO: All Deputy Commissioners, Service Directors, District Collectors, Collectors, Division Chiefs, COO V, COO III, Importers, Brokers & Representatives, and All Others Concerned

SUBJECT: Enhanced Cargo Clearance Procedures with Provisions on Tentative Release

PURSUANT TO SECTION 608, TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED, THE FOLLOWING RULES AND REGULATIONS ARE HEREBY PROMULGATED:

I. OBJECTIVES

1. To further enhance the regulations covering the import clearance processes under the WTO Valuation System; and
2. To facilitate the clearance of legitimate commerce while protecting government revenue.

II. SCOPE

This Order shall cover all shipments in all ports except those covered by the Super Green Lane facility, and by SGS-CRF, in which case CMO Nos. ___ and 24-99 shall apply respectively.

III. CARGO CLEARANCE PROCEDURE

1. Documentation Requirements

The following documents shall be used in clearing importations at the BOC:

- 1.1 Import Entry and Internal Revenue Declaration (IEIRD) Form - BC Form 236, which will include the Supplemental Declaration on Valuation (SDV) form. The guidelines for the proper accomplishment thereof are prescribed by CMO 1-96 A;
 - 1.2 Bill of Lading or Air Waybill or House Bill of Lading, where applicable;
 - 1.3 Commercial Invoice;
 - 1.4 Packing List; and
 - 1.5 Others additional documents as maybe required.
2. The IEIRD shall be based on self-assessment. As such, the importer and the customs broker shall make a complete and correct declaration of the particulars of the importation on the IEIRD and the SDV, which declaration shall be under oath and subscribed to by the importer and the Customs broker before a notary public or a Customs officer authorized to administer such oath under Section 3503 of the Tariff and Customs Code of the Philippines, as amended, under pain of prosecution for perjury. However, in the case of SDV, the Customs broker shall sign to attest to the authenticity of the signature of the importer.
 3. The importer/broker shall compute the duties and taxes using the applicable valuation method as prescribed in Section I of CAO No. 2-99.
 4. The computed duties and taxes based on self-assessment shall be paid through Authorized Agent Bank (AAB) in accordance with CAO 2-95.

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5. An import entry may be subject to post entry audit to verify the truth or accuracy of the declaration in the IEIRD and the SDV.

Entry Lodgement

6. For ports where the Automated Customs Operations System (ACOS) is in operation, electronic lodgment of import entries shall be made through any of the following as may be applicable:

- 6.1 Entry Encoding Center (EEC)
- 6.2 Direct Traders Input (DiTI)
- 6.3 Electronic Data Interchange (EDI)

For ports, which are not equipped with ACOS, lodgment shall be at the Entry Processing Division or equivalent unit. In these ports, provisions pertaining to ACOS and Selectivity shall not apply.

7. Upon electronic lodgment, Selectivity is triggered.
 - 7.1 If Green Channel - The import entry documents shall be forwarded together with the ACOS generated assessment notice to the Collection Division.
 - 7.2 If Selected Channel - The import entry documents shall be forwarded together with the ACOS generated assessment notice to the Formal Entry Division (FED) through the Entry Processing Unit (EPU).

Assessment (for Selected Entries in ACOS)

8. At the Entry Processing Unit -
 - 8.1 The document examiner/processor shall check that all required documents accompanying the IEIRD and the SDV are complete and forward the same to the Releasing Clerk/Segregator.
 - 8.2 The Releasing Clerk/Segregator shall segregate the IEIRD copies according to the distribution list in IL3 of CAO 1-96A. He shall then forward the Customs Copy (white) together

with all the supporting documents to the Formal Entry Division (FED), or equivalent unit concerned.

9. At the Formal Entry Division or equivalent unit concerned -

Upon receipt of the import entry documents the COO V shall, verify through ACOS whether the import entry has been selected due to the valuation screen or an enforcement screen. If hit by the valuation screen, the COO V shall stamp the word "VALUATION" on the top right corner of the IEIRD (space above the logo of the BOC).

For Entries under YELLOW Lane:

9.1 The conduct of document examination and disposition of yellow lane shipments shall be in accordance with current procedures governing yellow lane entries.

If hit by the valuation screen, the COO III and the COO V concerned shall forward the import entry documents to the Valuation and Classification Review Committee (VCRC).

But even if not hit by the valuation screen, the COO III and COO V may nevertheless forward the import entry to the VCRC under paragraph 10.2.1 below.

9.2 For import entries re-routed, in appropriate cases, to the red lane, the procedures for shipments through the red lane will apply.

For Entries under RED Lane:

9.3 The conduct of physical examination and disposition of red lane shipments shall be governed by the current procedures governing shipments in the red lane.

If hit by the valuation screen, the COO III and the COO V concerned shall forward the import entry documents to the Valuation and Classification Review Committee (VCRC).

But even if not hit by the valuation screen, the COO III and COO V may nevertheless forward the import entry to the VCRC under paragraph 10.2.1 below.

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- 9.4 For import entries re-routed to red channel by VCRC, the COO III shall inspect the goods in accordance with existing rules and regulations and transmit the import entry, together with his findings to the COO V who shall then forward the import entry to the VCRC.

The Valuation and Classification Review Committee (VCRC)

10. There is hereby created for each Collection District a Valuation and Classification Review Committee (VCRC) directly under the Chairmanship of the respective District Collector of Customs to be composed of the following:

- Deputy Collector for Assessment - Vice Chairman
- Chief, FED or equivalent unit - Member
- Concerned COO V and COO III - Members

- 10.1 The VCRC shall have the following functions:

- 10.1.1 To determine if there is a genuine valuation issue;
- 10.1.2 When a genuine valuation issue exists, to determine whether delay will ensue in the determination of customs value;
- 10.1.3 To process request for tentative release, when applicable;
- 10.1.4 To re-route import entry when necessary to the red channel;
- 10.1.5 To determine applicable method of valuation including computation of duties and taxes;
- 10.1.6 To perform such other functions as may be necessary to effectively carry out its mandate.

The VCRC shall meet at least once a week or as often as necessary and shall be supported by a permanent Secretariat composed of a Head, several evaluators and a clerical staff to be assigned by the District Collector concerned.

- 10.2 Import Entries shall be coursed to the VCRC when:

- 10.2.1 Hit by the Valuation Screen under the selectivity system (the ACOS computer will display the word

"VALUATION" if the particular shipment was hit by the valuation screen). Under this scenario, the COO V shall fill up the Request for VCRC Review Form and immediately forward the same together with the import entry to the VCRC

Note that the COO V shall not decide whether or not the value of the shipment is doubtful. Only the VCRC has the power to cast doubt on the value of the shipment and decide whether a genuine valuation issue exists or not.

10.2.2 Further valuation scrutiny is needed even if not hit by the valuation screen as justified by the COO V and COO III. Such import entry shall be endorsed by the COO V and COO III, with the appropriate justification to the VCRC and shall be released tentatively, with the Transaction Value accepted provisionally. A guarantee will however not be required in this case and the procedures for tentative release are stated in Section IV below.

10.3 A genuine valuation issue exists when:

10.3.1 The shipment is hit by the Valuation Screen; and

10.3.2 At least one of the elements under the Transaction Value (method 1) is inconsistent with the declaration and/or is missing; and/or

10.3.3 The VCRC establishes that the method of valuation used by the declarant is incorrect.

10.4 For purposes of 10.3.2 above, the elements under method 1 that should be reviewed are the following:

- a. Sale for Export
- b. Price Actually Paid or Payable
- c. Restrictions to the Disposition of the Goods being Valued
- d. Conditions of Sale (for which the value cannot be determined)
- e. Proceeds of any subsequent resale/disposal of the goods being valued
- f. Relationship between the buyer and the seller

- g. Commissions and Brokerage fees
- h. Assists
- i. Royalties and License fees
- j. Packing and Container costs and charges
- k. Insurance
- l. Transport Costs and charges

Procedure at the VCRC

11. The following procedure shall be followed when an Entry is coursed to the VCRC:

VCRC Secretariat

11.1 The receiving clerk receives the Request for VCRC Review Form properly filled up together with the Entry referred by the concerned COO III and COO V and records the same in a pre-numbered logbook.

11.2 The Evaluator shall perform the following:

11.2.1 Check the value range

11.2.2 Consult CDSS and GVSS and print the available data

11.2.3 Require importer to submit documents, if warranted, such as sales contract, evidence of payment, certificate of discount, and other documents to verify price actually paid or payable

11.2.4 Initially determine if the article is correctly classified based on the data warehouse.

11.2.5 From the documents gathered, initially determine if there is a genuine valuation issue.

11.3 The Head, VCRC Secretariat shall be responsible for the following:

11.3.1 Maintenance of a logbook which shall contain the docket number assigned to a case; the date and time when the VCRC Request for Review Form has been received by the secretariat and by whom;

11.3.2 Preparation of the minutes of the VCRC meetings which shall, among others, indicate the following:

- Facts of the case
- Issue

- Findings of the evaluators on value and classification
- Excerpts of the position paper of the parties involved, if any

11.3.3 Computation of the amount of the guarantee for purposes of tentative release

VCRC

- 11.4 The VCRC shall deliberate on the issues involved including the determination on whether a genuine valuation issue exists or not.
- 11.5 If a genuine valuation issue exists, the VCRC shall provisionally determine the appropriate value based on the applicable valuation method pursuant to CAO 2-99 and shall inform the importer/broker accordingly.
- 11.6 If the provisional value is acceptable to the importer/broker, he may pay the assessed duties and taxes based therefrom and the Collector of Customs shall cause the release of shipment thereafter.
- 11.7 If the provisional value is unacceptable to the importer/broker, the shipment may nevertheless be released through tentative release if there will be a delay in the resolution of the case (note: "delay" means the resolution of issue would take more than 16 working hours).
- 11.8 In shipments that will be processed under tentative release, an importer shall be given a period of 15 days, extendible for a period not exceeding another 15 days for reasonable cause, from receipt of notice to comply with the requirements needed (e.g. contract of sale, royalty agreement, etc.). The VCRC, in turn, shall resolve the issue within 24 hours from receipt of full requirements.
- 11.9 For shipments where tentative release is not availed of, the VCRC shall resolve the issue within 24 hours upon receipt of the documentary requirements.



- 11.10 Failure to comply with the documentary requirements as directed by the VCRC within the period provided in paragraph 11.8 shall be a ground for rejecting the valuation method as declared.
- 11.11 The VCRC shall prepare and submit a draft resolution containing the following information:
 - a. Port of Entry
 - b. Country of Importation
 - c. VCRC Issue No.
 - d. Date filed
 - e. Entry No.
 - f. Name of Consignee
 - g. Resolution (Method used)
 - h. Basis of Resolution (Explanation on method used)
 - i. Computation of duties and taxes as per resolution
 - j. Implementation Instruction
- 11.12 The VCRC shall notify the importer of the decision.
- 11.13 The Commissioner of Customs and the Deputy Commissioner for Assessment and Port Operations through the Import and Assessment Service shall be furnished with copies of all the decisions of the VCRC under this Order.

Payment Verification/Cargo Release

- 12. The Collection Division shall cause the release of shipments through OLRs based on the results of payment verification.
- 13. For shipments released under tentative release:
 - 13.1 The Collection Division shall insure that the required bond has been posted before causing the release of the subject shipment through OLRs.
 - 13.2 The Collection Division shall return the import entry to the VCRC for appropriate disposition.

IV. TENTATIVE RELEASE

1. Tentative release of shipments shall not be allowed, or if already granted, the same is deemed withdrawn when:
 - 1.1 The shipment is the subject of an alert/hold order involving an enforcement issue.
 - 1.2 The shipment has incurred a violation that would merit the issuance of a Warrant of Seizure and Detention (WSD).
 - 1.3 The importer fails to put up the required security, in which case, the VCRC shall resolve the issue without the benefit of tentative release.
 - 1.4 In any other instance where the VCRC can actually resolve the valuation question within sixteen (16) working hours from receipt of the valuation selected Entry.
2. Form of the Security - To secure the additional revenue in the event of an adverse decision resulting in higher customs assessment, the importer shall be required to post a guarantee which may take the form of Cash or a Manager's/Cashier's check.
3. Amount of Security - The amount of the security shall be equivalent to the difference in the duties, taxes and other charges assessed by Customs using any of the acceptable method of valuation as against the duties, taxes and other charges computed based on the declaration plus 25% thereof.
4. Handling of Security - The treatment of Cash/Check Guarantee for tentatively released shipment shall be handled in accordance with Customs Memorandum Order (CMO) No. 4 - 99.

Procedures on the Tentative Release of Shipments

5. When the importer opts to avail of the Tentative Release of shipments in appropriate cases, the importer shall file with the VCRC a formal request for tentative release of his shipment.
6. The VCRC shall evaluate the request and take appropriate action thereon.

7. If disallowed, the VCRC shall resolve the valuation issue without benefit of tentative release. If disallowance is by reason of enforcement issue or WSD, the shipment shall be treated in accordance with existing rules and regulations applicable in the premises.
8. If allowed, the VCRC shall transmit the Entry to the Collection Division which shall check the sufficiency of initial payment of duties and taxes made, and ensure the posting of the required guaranty. Thereafter, the Collection Division shall immediately return the import entry to the VCRC for appropriate disposition including the flagging of the subject Entry in ACOS covering a tentatively released importation.
9. The final decision of the VCRC under this Order shall be forwarded to the Collection Division for implementation pursuant to CAO 4-99.

V. APPEALS/PROTEST PROCEDURE

If the importer disputes the final assessment of the Collector through the VCRC, the importer may appeal the decision of the VCRC to the Commissioner of Customs.

IV. SEPARABILITY CLAUSE

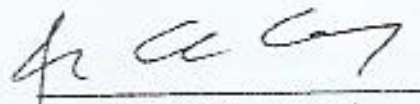
If any part or parts hereof is/are declared unconstitutional by the courts, the rest of the provisions will remain in full force and effect.

VI. REPEALING CLAUSE

CMO Nos. 25-99 and 26-99 and all Orders, Memorandums, Circulars or parts thereof which are inconsistent with this Memorandum are hereby deemed repealed and/or modified accordingly.

VII. EFFECTIVITY

This order shall take effect immediately upon signing.


Renato A. Ampil
Acting Commissioner