



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA

CUSTOMS MEMORANDUM ORDER
NO. 3-2002

TO: Deputy Commissioners, Service Chiefs, District Collectors, Importers, Brokers & Representatives, and All Others Concerned

SUBJECT: Amendment of CMO 27-99 on the procedure in protest cases against the determination of the customs value and tariff classification of imported goods under the WTO valuation regime.

PURSUANT TO SEC. 608, IN RELATION TO SECTIONS 201, 2308, 2313, AND 2315 OF THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED, AND CUSTOMS ADMINISTRATIVE ORDER NO. 5-2001, THE FOLLOWING AMENDED RULES AND REGULATIONS ARE HEREBY PROMULGATED:

I. OBJECTIVE

To provide clear and transparent procedures for the resolution of formal protest cases arising from valuation and classification issues resolved by the Valuation and Classification Review Committee (VCRC) pursuant to CMO (on New Cargo Clearance Procedure).

II. PROCEDURAL FLOW

Collector of Customs

1. Upon the final determination of the Customs Value and/or the tariff classification by the VCRC, the importer adversely affected may file a formal protest with the office of the Collector of Customs through the

Law Division of the port concerned or its equivalent unit in order to dispute the assessment at the time when payment of the amount claimed to be due the government is made and/or upon receipt of the notice of the decision of the VCRC, as the case maybe, by the importer, or within fifteen (15) days thereafter.

2. The importer shall state in his formal protest the reasons therefor, and shall pay the corresponding docket fee, the rate of which is to be fixed by Customs Administrative Order No. 1-96A.
3. The Collector shall form a panel of experts to hear the case. The panel shall be composed of a hearing officer from the law division, a COO V and a COO III from the assessment unit.
4. The Collector shall ensure that those involved in the initial assessment of the subject importation shall not be chosen as members of the above expert's panel.
5. The Panel shall hear all parties to the case, and for this purpose, it shall be authorized to issue the necessary notice of hearings, subpoenas and other interlocutory orders, and likewise to receive evidence from all parties.
6. The Panel shall, within 30 days from the first hearing, terminate the proceedings and recommend through the Chief of the Law Division a decision to the Collector of Customs for approval.
7. If for meritorious reason, the protest cannot be resolved within 30 days, the panel shall request the Collector of Customs for additional time not exceeding thirty (30) days within which to resolve the case.
8. The Collector of Customs shall render a final decision on the Protest within 15 days from receipt of the recommended decision and shall, thereupon, notify the importer in writing of such decision.
9. If the Collector renders a decision adverse to the government, such decision together with the entire records of the case shall be automatically elevated to the Commissioner of Customs for automatic review within five (5) days from the promulgation thereof.
10. On the other hand, if the importer is not satisfied with the Collector's decision, he may, within fifteen (15) days after notification in writing by the Collector of his action or decision, file a notice of appeal with the Collector with a copy thereof furnished the Commissioner of Customs.

11. Thereupon, the Collector shall immediately transmit all the records of the protest together with the assailed decision, to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision.

Commissioner of Customs

12. An appeal to the Commissioner of Customs shall only be perfected upon: a) filing of notice of appeal; b) payment of appeal docket fee in accordance with the prescribed rates; and c) Memorandum of Appeal at the option of the appellant within fifteen (15) days from receipt of the notice of decision.
13. The appeal, regular or an automatic review shall be deliberated on by a permanent board of three (3) to be created by the Commissioner of Customs. The board shall be chaired by a lawyer from the Appellate Division, Legal Service and two (2) Valuation Experts from the Import and Assessment Service, as members who shall fill up the positions on a rotation basis.
14. The board shall recommend a decision to the Commissioner through proper channels.
15. The Commissioner shall render a decision within thirty (30) days from receipt of the records of the case from the Collector and shall notify the appellant or aggrieved party in writing.
16. If within thirty (30) days from receipt of the record of the case no decision by the Commissioner is rendered, it shall be deemed that the Commissioner upheld the Collector's decision. If the decision is adverse to the government, the case shall likewise be elevated to the Secretary of Finance for automatic review.
17. If the Commissioner decides in favor of the government and no appeal is perfected within the reglementary period with the Court of Tax Appeals, the decision of the Commissioner shall become final and executory.

Secretary of Finance

18. If the Commissioner renders a decision which is adverse to the government, such decision shall be elevated to the Secretary of Finance

for automatic review and the records of proceedings shall accordingly be forwarded to the latter's office within five (5) days from the promulgation of the decision.

19. As provided under Section 2315 of the TCCP, if within thirty (30) days from receipt of the record of the case by the Secretary of Finance, no decision is rendered, the decision under review shall be final and executory.
20. The decision of the Secretary of Finance shall be final and executory, if no appeal is perfected within the period as herein provided.

Court of Tax Appeals

21. If the importer is not satisfied by the decision of the Commissioner of Customs or the Secretary of Finance, as the case may be, he may file an appeal with the Court of Tax Appeals, within thirty (30) days from receipt of a notice of such decision.

III. 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.

IV. REPEALING CLAUSE

All Orders, Memorandums, Circulars or parts thereof which are inconsistent with this Memorandum are hereby deemed repealed and/or modified accordingly.

V. EFFECTIVITY

This order shall take effect immediately upon signing hereof.


TITUS B. VILLANUEVA
Commissioner

Date signed: 2 Jan. 2002