



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA 1099

DEC 22 1997

CUSTOMS MEMORANDUM ORDER

NO. 39-97

The Deputy Commissioners, IEG & RMG
The Directors, CISS & ESS
All District Collectors
Chiefs, ACDD
All Others Concerned

**Subject : Rules and Regulations on the IPSO FACTO Forfeiture of
Misdeclared/Undeclared Goods Implementing Sec. 2503 of
the TCCP, as amended**

1.0 Objectives

- 1.1 To fully implement the provision of Sec. 2503 of the TCCP as amended by RA 7651 on the IPSO FACTO forfeiture of any misdeclared or undeclared imported item.
- 1.2 To derive optimum revenue for the government from such goods.

2.0 Scope

This Order shall apply to the whole or a portion of a shipment found to have been misdeclared or undeclared because of which they have been recommended seized and, by operation of law, IPSO FACTO FORFEITED in favor of government.

Shipment recommended seized for having quantities in excess of the declared quantities shall not be covered by this Order.

3.0 General Provisions

- 3.1 It shall be the responsibility of the head of the apprehending unit (ex. Chief, CIID; Director ESS, Deputy Commissioner, Intelligence and Enforcement Group; Chief, Anti-Circumvention Unit, Office of the Commissioner or the District Collector of Customs) to make a determination as to whether or not a shipment or a portion thereof has been misdeclared or undeclared by reason of which the IPSO FACTO provision of Sec.2503 of the TCCP as amended governs.

- 3.2 In making such a determination, opportunity must be given by the apprehending unit to the consignee to submit written explanation why the goods is not subject to IPSO FACTO FORFEITURE. The following elements must obtain for an article/item to be undeclared/misdeclared and therefore subject to the IPSO FACTO FORFEITURE provision of the TCCP :
- 3.2.1 The item is not declared/listed in the import entry
 - 3.2.2 If the non-declaration/misdeclaration or non-listing in the entry were not discovered, the government would either have been deprived of its rightful revenue at a level evidencing prima facie fraud or that a prohibited/non-importable item would have been introduced into the country contrary to law.
- 3.3 The Customs Officer in 3.1 above shall, if the elements in 3.2 are present recommend the seizure of the misdeclared/undeclared goods and that the elements in 3.2 are obtaining by reason of which the goods are IPSO FACTO forfeited by operation of law. The same officer shall recommend the immediate disposal of the goods. Copies for their recommendation must be furnished the Commissioner of Customs and the Chief, Auction and Cargo Disposal of the Port concerned for proper monitoring and control.
- 3.4 In case of apprehensions by the Collection District, the District Collector shall order the Chief of the Law Division or similar office of the port to make the determination required under 3.2 and make the recommendation provided for in 3.3.
- 3.5 The District Collector, if in agreement with the recommendation in 3.3 or 3.4 issue a Warrant of Seizure and Detention and at the same time ORDER the IMMEDIATE DISPOSAL pursuant to law. The format of the Order shall conform to Annex "A" hereof.
- 3.6 Should only a portion of a shipment recommended for seizure be subject to the IPSO FACTO FORFEITURE provision, two warrants shall be issued, i.e., one for those subject to the IPSO FACTO FORFEITURE and one for the rest of the shipment recommended seized. The warrants must have the same number except that the one covering those IPSO FACTO FORFEITURE must have the suffix "A".

3

CMO-39-97

4.0 Administrative Provisions

4.1 All District Collectors shall submit to the Commissioner of Customs, a monthly report of shipments proceeded against pursuant to this ORDER stating the following :

- 4.1.1 Recommendation Received for the Month
- 4.1.2 IPSO FACTO FORFEITURES Ordered for the Month
- 4.1.3 Disposal Made for the Month, the Amount of Proceeds and Status of Each Forfeiture (with balance or completed)

4.2 The Apprehending Units must submit to the Commissioner, (Attn: The Chief, Auction and Cargo Disposal Division, OCOM) a monthly report of IPSO FACTO RECOMMENDATIONS, stating the following :

- 4.2.1 Undisposed/Partially Disposed IPSO FACTO FORFEITED shipment at the start of the month.
- 4.2.2 Recommendations made for the month
- 4.2.3 Disposals Made for the Month
- 4.2.4 Undisposed/Partially Disposed shipment End of the Month

4.3 It shall be the responsibility of the Chief, Auction and Cargo Disposal Division, OCOM to monitor the proper disposal of shipments covered by this Order and to advise the Commissioner on proper implementation of this ORDER.

- 4.3.1 Recommendation Made in the Month
- 4.3.2 IPSO FACTO FORFEITURES received for the month

4

CMO-39-97

4.33 Status of undisposed/partially disposed IPSO FACTO Forfeited goods stating reason for non-disposal/incomplete disposal and recommended course of action.

5.0 Any Customs personnel who will violate the provisions of this Order shall be deemed to have violated the specific instructions of the Commissioner of Customs and shall be proceeded against accordingly.

6.0 This Order shall take effect 15 days from publication hereof.

7.0 All Orders inconsistent with this Order are hereby deemed modified and/or amended accordingly.


GUILLERMO L. PARAYNO, JR.
Commissioner