



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA

May 5, 1995

CUSTOMS MEMORANDUM ORDER
NUMBER 3-95-C

To: All Collectors of Customs
All Service Chiefs/Division Chief
All Examiners/Appraisers
All Importers/Customs Brokers
SGS-MLO
All others concerned

Subject: Full Implementation of CMO 3-95

In view of the completion and installation of the computer system referred to in CMO 3-95, the authority to act on the application for tentative release of shipments in the Port of Manila (POM), Manila International Container Port (MICP) and the NAIA Customshouse, whose CRF value and/or classification is under question is now lodged with the Appeals Committee Secretariat (ACS) thru its Executive Director conformably with Section III 3.1.1 of the said CMO 3-95.

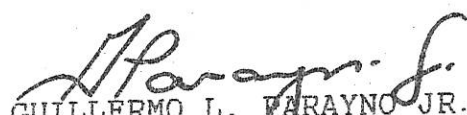
In the outports, the authority to act on requests for tentative release of CRF-questioned shipments shall be with the District Collector of Customs or his duly designated representative upon the evaluation and recommendation of the Chief, Formal Entry Division or equivalent unit as provided for in Section III 3.1.2, CMO 3-95. The tentative release approval together with pertinent photocopy of supporting documents required in CMO 3-95, as well as receipt of payment of filing fee, shall be forwarded to the ACS office for appropriate action. The approving authority must strictly observe the provisions of CMO 3-95 and CMO 3-95-B on the nature of guaranty to be put up by the applicant for allowing the tentative release of his shipment.

In the processing of requests for tentative release, the approving authority shall be guided by the pertinent provisions of CMO 3-95, as amended by CMO 3-95-B particularly, Section III 3.2.1; 3.2.2; 3.2.2.1; 3.2.2.2 and 3.2.3.

Attached are the procedural guidelines in the application of tentative release of shipments under CMO 3-95, 3-95-B and 3-95-C for importers/customs brokers and Customs personnel for the guidance of all concerned.

The processing of NO-CRF shipments however shall be governed by CMO 9-95.

This Order shall take effect on 15 May 1995.


GUILLERMO L. PARAYNO JR.
Commissioner

GUIDELINES IN THE APPLICATION
FOR TENTATIVE RELEASE
OF SHIPMENTS UNDER CMO 3-95,
as amended by CMO 3-95 B and 3-95 C
(FOR IMPORTERS/CUSTOMS BROKERS)

"2"

CMO-3-95-c

METRO MANILA PORTS :

A. Secure Referral Sheet and Comparative Table Forms from the Appeals Committee Secretariat Office, Room 308-310, Port of Manila Building, Port Area, Manila. Telephone Number : 48-33-73; 48-41-61 loc. 255.

B. Submit to Chief, Evaluating Officer the following :

1. Fully accomplished Referral Sheet.
2. Comparative Table giving complete description of articles and unit value(s) thereof based on CRF, Invoice, and Importer's evidence.
3. Position Paper/Letter summarizing basis of CRF challenge.
4. Import Entry and Documentary evidence provided for in Section III 3.2.3 of CMO 3-95

N.B. Incomplete submission is a ground for returning the application to the applicant without action. Consult Chief, E.O. for any clarification.

C. If B are complete and accepted, receiving clerk to log it as officially received. Importer to secure Reference Number for follow-up/tracer.

D. Final action on the application will be indorsed to the Entry Processing Division for filing of entry.

E. Applicant to coordinate with FED for examination and with Cash Division for payment of duties and taxes, and for putting up of the required guaranty as determined by Cash Division pursuant to CMO 3-95 B, as well as for payment of filing fee under CMO 48-94.

F. Applicant to make sure Provisional Receipt (Security) and Official Receipt for filing fee are forwarded to Secretariat so that the covering appeals case may be calendared.

G. Importers are not notified of Committee hearings anymore because upon presentation of the prima facie proof required for the tentative release of the shipment, the case is deemed submitted for resolution. Accordingly, Committee deliberation is summary in character. The appeals remedy under CMO 3-95, as amended, is a special remedy. The regular remedy available to a party who feels aggrieved by customs assessment based on SGS report is payment under protest addressed to the District Collector of the port of entry concerned as provided for in Section 2308 of the Tariff Code, as amended. Importer may however, appear before the Committee which holds meetings every Thursdays on a first-

CMO-3-95-C
"3"

come-first-served basis, if he wants to elaborate on his position/theory. Otherwise, the Committee will resolve the case ex-parte.

- H. Importer should without awaiting notice replace his guaranty before it reaches 150th day or the same will be subject to automatic deposit by the Cash Division conformably with Section 3.5.4 of CMO 3-95.
- I. Importer shall be notified of the Committee decision in writing but they may get in touch with the ACS to secure copy of said resolution. Importer is enjoined to coordinate with the Cash Division of the port of entry concerned for the implementation of the Committee resolution.

FOR OUTPORTS :

The procedural requirements are the same except only that the authority to act on tentative releases is lodged with the District Collector of Customs upon recommendation of the Chief, Formal Entry Division or equivalent unit. The approval together with copy of the import documents/guaranty/filing fee, etc. shall be forwarded to the Appeals Committee thru the Appeals Committee Secretariat. However, the provisions of CMO 3-95, as amended, on prima facie proof requirement, as well as on the nature of the guaranty required shall be strictly observed.

RF

PROCEDURAL GUIDELINES IN
THE TENTATIVE RELEASE OF SHIPMENT
UNDER THE
CRF-DISPUTE SETTLEMENT SYSTEM "4"
(For Customs Use Only)

CMO-3-95-C

Step 1

Chief, Evaluating Officer to check completeness of

1. Referral Sheet (RS) data entry
2. Position Paper
3. Import Entry and Documentary evidence
4. Comparative Table

If incomplete, RS will be returned to applicant.

Step 2

If complete, receiving clerk to log application for tentative release by consignee and CRF number and stamp applicant's RS copy "received". Applicant to wait and secure Reference Number for follow-up/tracer.

Step 3

Chief, Evaluating Officer to assign RS to the Evaluating Officer (EO).

Step 4

EO to check disputed CRF unit value/classification as against CRF - Dispute Settlement System or CRF - DSS Program and generate Evaluation Sheet (ES). EO also to open valuation file for query on published/established or library value. Each RS is assigned a reference number in the CRF-DSS. (see Annex "A", Guideline for EO)

Step 5

EO to forward ES together with his recommendation to the Executive Director (Ex. Dir.).

Step 6

Ex. Dir. to approve or disapprove application for Tentative Release. If disapprove, the DSS will generate a standard return indorsement to the District Collector, Attn: Chief, Entry Processing Division.

Step 7

If approved, Ex. Dir. to simultaneously

1. Indorse RS and attached documents to the District Collector Attn: Chief, Entry Processing Division, thru a computer-generated return-indorsement, for filing of entry.
2. Furnish SGS copy of RS/Position Paper/Documentary evidence for that Office to prepare a report on what was the basis of its CRF FMV/Classification, to check/comment on the accuracy of the importer's comparative table, and

to verify genuineness and veracity of importer's documentary evidence, such as previous CRF, printed price list, certification, and the like. The SGS report/comment/verification should be as far as practicable be ready by the time the case is calendared to enable the Committee to immediately resolve the case.

Step 8

EPD to FED which will:

1. Examine shipment.
2. Prepare withdrawal indorsement if any of the conditions in 3.3 of CMO 3-95 exists.
3. Check importer's comparative table as against the result of actual examination by indicating the description of the article in column B of the comparative table as actually found upon examination.
4. Specify clearly condition of the shipment, whether prime quality, off-grade, etc., especially, if the condition is in dispute.
5. Secure sample/brochure/literature or take picture if practicable.
6. Compute amount of guaranty.
7. Forward RS/Entry and other important documents to Cash Division for determination of guaranty.
8. Indorse copy of RS/Entry/Position Paper/Document Evidence/Sample Brochure/Literature/Comparative table and other important documents to Appeals Committee Secretariat (ACS). (Please identify the Reference Number, CRF Number and Entry Number in the forwarding indorsement) FED to prepare a standard indorsement format.

Step 9

Cash Division to evaluate nature of guaranty, to collect duties and taxes on uncontested portion of CRF, secure guaranty for the difference between the CRF and the uncontested portion of the CRF value/classification. Importer to pay filing fee based on CAO 8-94.

Step 10

Cash Division to immediately transmit thru a special messenger to Appeals Committee Secretariat (ACS) copy of Provisional Receipt for the guaranty put up and Official Receipt of filing fee paid. Case will not be calendared unless these 2 requirements are officially received by ACS.

Step 11

ACS to calendar case and the Appeals Committee to deliberate. Appeals proceedings are summary in character and the Committee may decide on the basis of the records on hand without the importer being present.

CMO-3-95-C
"6"

Step 12

Disposition Form to encoder for keying-in in the decision file. ACS to notify importer of decision.

Step 13

Decision is forwarded to Cash Division copy furnished FED and assigned appraisers at the Cash Division under the Greenlane System to make final computation based on Appeals Committee resolution. Cash Division to secure payment of additional duties and taxes, if any is collectible based on the final computation.

IMPORTANT:

1. Committee meets every Thursday and Friday. Cases calendared are deliberated upon as they appear in the Agenda without need to notify importers who may appear if they want to elaborate on their position on a first-come-first-served basis.
2. Importers should without awaiting notice replace the guaranty before the same reaches its 150th day from date of issue, otherwise the same shall be subject to automatic deposit by the Cash Division in accordance with Section 3.5.4 of CMO 3-95.

39

gf

ANNEX "A"

CMO-3-95-C
"7"

Pointers for the
Evaluating Officer

1. Encoder or E.O. to key in the data from the accomplished Referral Sheet in the Referral Sub-system.
2. The Referral Sub-system will generate the Evaluation Worksheet which will indicate whether there exists a previous Committee decision on the article subject matter of the present request for tentative release.
3. E.O. to study the evaluating sheet, comparative table submitted by the importer, and access the VALSEE for applicable published, established or library value. Value information obtained from decision file or valuation file, assuming there is a match-up between the present article(s) and the articles covered by these files, will be processed applying the formula in Section III 3.2.2.1; 3.2.2.2 E.O. to initial comparative table if the same contains sufficient description of the article(s) in question and the competing unit values indicated therein are accurate. Otherwise, E.O. will prepare his own comparative table and initial it.
4. If either 3.2.2.1 or 3.2.2.2 is applicable, tentative release is deniable. It is important that the E.O. familiarize himself with the elements making up 3.2.2.1 and 3.2.2.2.
5. If neither 3.2.2.1 nor 3.2.2.2 is applicable then tentative release is allowable provided the importer has prima facie proof presented.
6. E.O. submits recommendation together with a brief digest of the comparative values/tariff heading as well as respective bases of these competing values/tariff heading.