



ALC 042001

CUSTOMS MEMORANDUM ORDER  
NO. 36-2001

TO : All Collectors of Customs  
Chiefs, Auction and Cargo Disposal Division/Office  
All Others Concerned

SUBJECT : Supplemental/Amendatory Rules and Regulations to CMO No. 12-94, CMO No. 55-93, CMO No. 59-90 and CAO No. 5-90 Implementing Executive Memorandum Order No. 25 dated 27 September 1989 Relative to the Disposition of Forfeited Cargoes and Such Other Cargoes under Customs Custody as Enumerated in Section 2601 of the Tariff and Customs Code of the Philippines, as Amended.

Section I. OBJECTIVES

1. To optimize revenue generation from confiscated/forfeited goods in customs custody.
2. To establish the system for setting floor prices of goods for public auction and the mechanism for their adjustment in the event of a failed auction.
3. To ensure widest participation under a free market condition in the auction sales.
4. To provide protection to local industries which may be adversely affected by undue competition by such dispositions in effect preventing market disruptions.
5. To provide a smooth, orderly and efficient system of disposition of forfeited goods.

Section II. COVERAGE

This Order shall cover the sale or disposition of goods in customs custody as enumerated under Section 2601 of the Tariff and Customs Code of the Philippines.

Section III. GENERAL PROVISIONS

A. SETTING OF THE FLOOR PRICE

In pursuance to the specific provisions of Section 2610 of the TCCP, articles subject to sale at public auction shall be sold at a price not less than the wholesale value or price in the domestic market of these or similar articles in the usual wholesale quantities and in the ordinary course of trade.

Basis for the setting of the floor price shall be any of the following whichever is higher, to wit:

1. The price at which the same, like or similar item was auctioned not more than three months ago.
2. The price recommended by an industry association or by experts in the commodity.
3. The average of at least three canvassed domestic wholesale prices.

4. The derived wholesale price thru backward computation using the average of three retail prices.
5. The total landed cost of the shipment plus taxes and 25% mark up.

#### B. PROCEDURES AND REQUIREMENTS OF AUCTION SALE

1. Notice of Sale – A notice of sale in the form as Annex 'A' shall be posted at the port and advertised in a national newspaper of general circulation at least ten (10) days prior to the date of sale in pursuance to Section 2603 of the TCCP except that for perishable goods, such posting or advertisement shall not exceed three (3) days. It shall indicate therein the specific date or dates when and the specific place where the goods to be auctioned shall be available for public viewing. It shall also indicate that in the event of a failed bidding unsold lots shall be re-offered the next succeeding business day with a floor price reduced by 20%.

No such notice shall be issued/advertised however, unless prior clearance from the Commissioner on the proposed floor prices shall have first been secured. Requests for such clearance shall be supported with the following documents, to wit:

- 1.1 Checklist of Supporting Documents – Annex 'B'
- 1.2 Brief History of Lots on Sale - Annex 'C'
- 1.3 Detailed Inventory/Appraisal Reports
- 1.4 Value Information on Floor Prices/Canvass Reports
- 1.5 Certificate of Finality of Decision of Forfeiture/Declaration of Abandonment
- 1.6 Committee Report on Auction Sale
- 1.7 Commissioner's Clearance of Last Auction Sale
- 1.8 Notice/s of Duly Cleared Auction Sale and Proof of Publication

Documents 1.6, 1.7 and 1.8 are additional requirements where lots are re-auctioned or offered in a negotiated sale after a failed bidding.

2. Registration – Upon registration, a registration fee of Php2,000.00 shall be collected and paid. Registrants are required to post a duly receipted cash bond for Php20,000.00 which may be refunded to the losing bidder after the closing of the auction sale.
3. Open Bidding System - To ensure active and highly competitive participation of all bidders and to maximize the proceeds of the sale, the open bidding system shall be adopted in the auction sale. For that purpose and to avoid a protracted auction process, only bids raised by at least three (3) percent from the last bid shall be considered.
4. Awarding of Sale – At the end of each bidding and to discourage entry of nuisance bidders, the highest bidder shall be required then and there to immediately pay 50% of the bid price. Only then will bidding for the next lot proceed.

Should he fail to pay, the bid shall be declared void and the bidder shall be disqualified from participating further in the sale without

prejudice to the forfeiture of his cash bond and the imposition of other sanctions where warranted.

The lot shall be re-auctioned with the second highest bid as the minimum price unless there is no higher bid in which case the second highest bidder shall be declared the winner.

C. RE-OFFERING OF UNSOLD LOTS AND ADJUSTMENT OF FLOOR PRICE

Lots unsold on its first auction sale for want of bidders or lack of an acceptable bid shall be re-auctioned the succeeding business day with the original floor price reduced by 20% which shall be announced during the auction sale.

In case of a second failed bidding, the unsold lots shall again be re-offered with the floor price reduced further by another 20% not later than ten (10) days from publication of the sale.

After a third failed bid, it shall be immediately announced on the floor that the lot shall be offered for negotiated sale upon publication with the following mechanics, to wit:

1. There shall be no minimum prices and offers shall be tendered in SEALED envelopes and be opened in public by the Auction Committee.
2. The highest offer will be immediately announced and shall serve as benchmark for purposes of the negotiation upon referral to the Commissioner of Customs and the Secretary of Finance for approval.
3. A guarantee deposit in cash or manager's check equivalent to 20% of the highest offer shall be paid prior to its referral for the Commissioner's approval.
4. Fifty (50) percent of the offer shall be paid within forty eight (48) hours from receipt by the party concerned of the notice of the Secretary's approval, and the full amount fifteen (15) days therefrom in pain of forfeiture of his initial payments.
5. The provisions of Section III B hereof, where applicable, shall be applied to Negotiated Sales.
6. No assignment of accepted/approved offer shall be allowed.

Section IV. REPEALING CLAUSE

All customs rules and regulations inconsistent with this Order are deemed amended/repealed accordingly.

Section V. EFFECTIVITY

This Order shall take effect immediately.



TITUS B. VILLANUEVA  
Commissioner

ANNEX "A"



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

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END-36-2001

NOTICE OF SALE

Pursuant to the provisions of Section 2601 and other related provisions of the Tariff and Customs Code of the Philippines, there will be a Public Auction Sale to be conducted at \_\_\_\_\_ on \_\_\_\_\_ of the hereunder articles in lots. Said goods shall be available for public viewing on \_\_\_\_\_. For further inquiry, please contact the following telephone numbers \_\_\_\_\_.

In the event of a failed bidding for want of bidders or lack of an acceptable bid, the unsold lots shall be re-auctioned the next succeeding business day at the floor price reduced by 20 %.

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Sale Lot No. _____	: Description
SAKI CO.	:
Abandoned/Forfeited :	:
1 <sup>st</sup> Ad	: Container Nos. _____
	: Conditions, if any _____
Floor Price _____	: Location _____

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District Collector  
Port of \_\_\_\_\_

	the COUNT
	%

~~ANNEX "B"~~



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

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CMO-36-2001

CHECKLIST OF ATTACHMENTS

- \_\_\_\_\_ 1. Inventory/Appraisal Report – Itemized values
- \_\_\_\_\_ 2. Value Information on Floor Prices/Canvass Reports – Names, addresses and phone numbers of value sources indicated
- \_\_\_\_\_ 3. Certificate of Finality of Decision of Forfeiture/Declaration of Abandonment
- \_\_\_\_\_ 4. Committee Report on Auction Sale
- \_\_\_\_\_ 5. Commissioner's Clearance of Last Auction Sale
- \_\_\_\_\_ 6. Notice/s of Duly Cleared Auction Sales and Proof of Publication

Note: Items 4, 5 and 6 are additional requirements where lots are re-auctioned or offered in a negotiated sale after a failed bidding.

sale
ACCOUNT
%

CMO - 25 2001

### ANNEX "C"

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#### History of Lots on Sale

Lot No.	1 <sup>st</sup> Ad / 1 <sup>st</sup> Auction - Floor Price				2 <sup>nd</sup> Auction - Floor Price		2 <sup>nd</sup> Ad/3 <sup>rd</sup> Auction - Floor Price			3 <sup>rd</sup> Ad / Negotiated Sale			
	DATE	DATE	AMOUNT	*BASIS	DATE	AMOUNT	DATE	DATE	AMOUNT	DATE	DATE	AMOUNT	%

- \*Basis of Valuation
1. The price at which such item was auctioned 3 months at most.
  2. The recommended price by industry experts/association.
  3. The average of 3 canvassed wholesale prices.
  4. Backward computation using average of 3 retail prices.
  5. Total landed cost plus taxes and 25 % mark up.

Chief, ACDD  
Port of \_\_\_\_\_