

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

November 13, 1991

CUSTOMS MEMORANDUM ORDER 92-91 Number\_

To:

All Collectors of Customs

Service/Division/Section Chiefs

Appraisers, Examiners, Importers/Brokers

And All Others Concerned -

Subject:

Rules and Regulations Governing Alert Orders for

100% Examination and Spot-Checking of Shipments

and the Issuance/Lifting of Hold Orders

### 1. OBJECTIVES:

- 1. In order to enhance the police powers of this Bureau for the protection of government revenue.
- 2. In order to protect legitimate importers against unnecessary delay in the release of their lawful importations.

## II. ADMINISTRATIVE PROVISIONS:

Section 1 - Coverage

1.1 As distinguished from the regular 100% examination required under existing regulations, this Order shall apply to 100% examination where the Commissioner of Customs, Deputy Commissioner of Customs, District Collector of Customs, Chief, Enforcement and Security Service (ESS), or the Chief, Customs Intelligence and Investigation Service (CIIS), alerts a shipment and directs, that the 100% examination thereof be conducted in the presence of his galvader M. Knion agent/officer/representative.

1.2 This Order shall likewise govern the procedures and conduct of spotchecking of shipments and the issuance/lifting of Hold Orders.

Section 2 - Designation of Officer-On Case and Action Men

For effective coordination and immediate/speedy action on Alert Orders issued pursuant to this Order, designations shall be made as follows:

2.1 Officer-On-Case- the office issuing the Alert Order shall designate its representative/agent/officer as Officer-On-Case who shall be primarily responsible for carrying out the Alert Order and pursuing the case until subject shipment is either released or a Warrant of Seizure and Detention is issued therefor.

Subject to the exigencies of the service, such Officer-On-Case shall not be given additional/similar assignment until the shipment subject of the Alert Order is allowed to be released or Warrant of Scizure and Detention is issued therefor.

- 2.2 Action Man The District Collector of Customs shall designate an Action Man each in the following Divisions for equivalent Division/Units:
  - 2.2.1 Piers and Inspection Division (PID) Customs Container Control Division (CCCD)/Aircraft Operations Division (AOD);
  - 2.2.2 Formal Entry Divisions (FED);
  - 2.2.3 Warehousing Assessment Division (WAD); and
  - 2.2.4 Informal Entry Division (IED)

The Action Men shall have the responsibility and authority to ensure that the Mission Order is acted upon properly and speedily.

The names of Action Men or any changes thereof shall be immediately submitted by the District Collector of Customs to the Commissioner of Customs for proper dissemination.

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Section 3 - Priority

Priority attention shall be given by all concerned relative to shipments/entries covered by this Order and which shall have precedence over any other pending matters.

Any undue delay or inaction within the period as provided for shall be deemed prima facie an intent, on the part of the officer/employee concerned, to prejudice/cause injury to the interests of the government and/or the importer/consignee and shall be ground for administrative disciplinary action against such officer/employee.

Section 4 - Custody/Accomplishment of Pre-Numbered and Accountable Forms

For purposes of administrative convenience and efficiency, all forms herein prescribed and attached thereto as annexes shall be prenumbered and accountable, and the accomplishment/filling in the blanks thereof partially and/or fully, as indicated shall be undertaken by the office issuing the order.

#### III. OPERATIONAL PROVISIONS:

Section 1 - Alert Order for 100% Examination/Re-examination in the presence of Officer-On-Case

- 1.1 When allowed- A 100% examination of an alerted shipment in the presence of an Officer-On-Case shall be allowed only where the regular Customs examination has not yet been conducted or where a re-examination is justified on the basis of findings following a spot-checking.
- 1.2 Who may Issue An Alert Order for 100% examination of a shipment may be issued only by the Commissioner of Customs, Deputy Commissioners of Customs, District Collector of Customs, the Chief, ESS, or the Chief, CIIS. Except if issued by the Commissioner of Customs, the Alert Order shall be in the prenumbered and accountable form per Annex A hereof.

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- 1.3 Basis Except if issued by the Commissioner of Customs, an Alert Order for 100% examination shall be accompanied by a written justification per format shown in Annex A-1 hereof specifying the following, as applicable, to wit:
  - 1.3.1 If for reason of undervaluation the basis of the higher value shall be indicated.
  - 1.3.2 If for reason of classification, the recommended classification and the rate of duty as well as the reason for the change in classification shall be indicated.
  - 1.3.3 If for reason of misdeclaration, the suspected description or model/specifications shall be indicated.
  - 1.3.4 If for reasons other than the above, such reasons shall be categorically stated with a citation of the law, rules and regulations violated.
- Office shall see to it that carbon/xerox copies thereof are furnished/delivered simultaneously, as feasible, to the Deputy Commissioner for Intelligence and Enforcement, the FID-CCCD/ADD. Where such simultaneous delivery be not feasible, the Chief, PID-CCCD/ADD shall be the first to be furnished his copy.
- 1.5 Implementing/Coordination Procedures the Following rules and procedures shall be observed and strictly complied with:
  - 1.5.1 Step 1: Upon receipt of the Alert Order, the Officer-On-Case assigned shall immediately present the original thereof to the Action Man of the PIC-CCCD/ADD.
  - 1.5.2 Step 2: Upon being presented with the Alert Order, the Action Man shall indicate the name of the Wharfinger concerned on the lower portion thereof in coordination with the Chief, PIC-CCCD/ADD and affix his signature thereto.

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The Action Man, PID-CCCD/ADD shall maintain a logbook where he shall enter/record the Alert Order number, name of the issuing Office, Entry Number, consignee/importer's name, broker's name and address, names of the assigned Examiner, Wharfinger, Officer-On-Case, and the date/time the Alert Order was presented to him.

1.5.3 Step 3: The Officer-On-Case shall immediately proceed to the Wharfinger to coordinate the fixing of the date, time and place of examination.

The Wharfinger shall have the responsibility and authority to fix such date, time and place of examination to be conducted as soon as possible not later than twenty-four (24) working hours from the time the Alert Order was presented to him. He shall likewise be responsible for placing the shipment/merchandise in a condition ready for examination/stripping and for ensuring that the same be not moved out of the Customs zone.

1.5.4 Step 4: The Officer-On-Case shall immediately proceed to the Chief, PID/ADD, to present the Alert Order and the accompanying Notice from (Annex "B").

The Chief, PID/ADD, signs, as a matter of ministerial function, the Notice and returns the same to the Officer-On-Case.

1.5.5 Step 5: The Officer-On-Case shall immediately proceed to the Action Man of the FED, WAD, or IED, as the case may be.

The Action Man shall coordinate with the Division Chief who will designate the Examiner who shall conduct the 100% examination, indicating the Examiner's name in the Notice; Provided that, in case of a 100% re-examination ordered to be conducted following a spot-checking, the Examiner to be designated shall be other than the Examiner who conducted the regular Customs examination of subject shipment.

1.5.6 Step 6: The Officer-On-Case shall immediately, thereafter serve the Notice to the importer/consignee at the address shown in the Customs Registry per CMO No. 12-89 or in the absence thereof, at the address indicated in the entry/shipping documents; Provided that, he may serve the Notice wherever the importer/consignee/broker or authorized representative may be found.

The Notice shall likewise be served to the assigned Examiner and carbon/xerox copies thereof furnished to the District Collector of Customs and the Deputy Commissioner for Intelligence and Enforcement.

15.7 Step 7: The assigned Examiner shall conduct the 100% examination/stripping on the date, time and place fixed in the Notice notwithstanding the absence of any of the parties who were notified; Provided that, the absence of the Examiner without prior advice to his Division Chief/Action Man shall be ground for administrative disciplinary action against such Examiner.

No postponement of the date/time of examination shall be allowed. However, the importer/consignee or authorized representative may agree to an earlier/immediate examination which shall be coordinated by the Officer-On-Case and the Action Man of the PID-CCCD/ADD.

Once commenced, the examination shall be conducted continuously during working hours until completed, subject to Weather conditions that may be injurious to the shipment/merchandise; Provided that, the Action Man, PID-CCCD/ADD may authorize the examination to proceed outside of office hours, including Saturdays, Sundays and Holidays upon prior approval by the Collector for overtime.

- 1.5.8 Step 8: As witness too, and immediately after the completion of the examination, the Officer-On-Case shall inscribe on the entry near or adjacent to the Examiner's Return, with his full signature over his printed name, either any of the following text/notation:
  - 1.5.8.1 NO OBJECTION, if he finds no discrepancy/violation; or
  - 1.5.8.2 ADVERSE REPORT WILL FOLLOW, if finds discrepancy in value, quantity, classification, description, or violation of law, rules and regulations.
- 1.5.9 Step 9: Following the completion of the examination, the Officer-On-Case shall immediately submit, in case he found any discrepancy/violation relative to the subject shipment, a written report per format shown in Annex C hereof of his findings to the official who issued the Mission Order, copy furnished the Deputy Commissioner for Intelligence and Enforcement and the District Collector subject to the following requirement/sanctions:
  - 1.5.9.1 Where the violation/discrepancy does not warrant the issuance of a Warrant of Seizure and Detention (WSD), a copy of the report shall immediately be furnished to the assigned Examiner; or
  - 1.5.9.2 Where the violation/discrepancy would warrant the issuance of a WSD, the recommendation shall include a recommendation for the issuance of a Hold Order and/or WSD.
  - 1.5.9.3 Failure on the part of the Officer-On-Case to immediately furnish a copy of his report, after the same has been duly noted/indorsed by his Service Chief/Official issuing the Mission Order, to the assigned Examiner, the District Collector and the Deputy Commissioner for Intelligence and Enforcement shall be ground for administrative/disciplinary action against such Officer-On-Case.

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- 1.5.9.4 The right, on the part of the Office issuing the Alert Order, to question and/or interpose any objection to the processing of the entry and release of the shipment shall be deemed waived, if the Examiner, the District Collector of Customs, and the Deputy Commissioner for Intelligence and Enforcement, be not furnished a copy of the report of the Officer-On-Case within forty-eight (48) hours after completion of the examination.
- 1.5.9.5 In case the said period of forty-eight (48) hours is not sufficient to resolve the matter, the case shall be elevated immediately by the Officer-Un-Case to the Deputy Commissioner for Intelligence and Enforcement who may extend the period to submit report or lift the Alert Order.
- 1.5.10 Step 10: The Assigned Examiner shall proceed with the processing of the entry which he shall thereafter transmit to the appraiser where the Officer-On-Case finds no discrepancy/violation, without prejudice to the Examiner's duty to indicate his own findings.

In case the Officer-On-Case inscribed the notation, ADVERSE REPORT WILL FOLLOW, the Examiner has forty-eight (48) hours or longer in case the Deputy Commissioner for Intelligence and Enforcement extends the period, to await the adverse report within said period, he shall proceed with the processing of the entry which he shall thereafter transmit to the appraiser.

Section 2 - Alert Order for Spot-Checking of Shipment/Cargo

2.1 When Allowed - Alert Order for spot-checking of any shipment shall be allowed only where the shipment has already undergone regular Customs examination.

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- 2.2 Who may Issue An Alert Order for spot-checking of any shipment/cargo may be issued only by the Customs Commissioner, Deputy Commissioner of Customs, District Collector of Customs, the Chief, ESS, or the Chief, CIIS. Except if issued by the Commissioner of Customs, the Alert Order shall be in the prenumbered and accountable form per Annex A hereof.
- 2.3 Basis Except if issued by the Commissioner of Customs, an Alert Order for spotchecking shall be accompanied by a Justification Sheet (Annex A-1) which shall specify the following, as applicable, to wit:
  - 2.3.1 If for reason of undervaluation, the basis of the higher value shall be indicated.
  - 2.3.2 If for reason of classification, the recommended classification and the rate of duty as well as the reason for the change in classification shall be indicated.
  - 2.3.3 If for reason of misdeclaration, the suspected description or model/specifications shall be indicated.
  - 2.3.4 If for reasons other than the above, such reasons shall be categorically stated with a citation of the law, rules and regulations violated.
- 2.4 Copies It shall be accomplished in quadruplicate and the issuing Office shall see to it that carbon/xerox copies thereof are furnished/delivered simultaneously, as feasible, to the Deputy Commissioner for Intelligence and Enforcement, and the PID-CCCD/ADD. Where such simultaneous delivery be not feasible, the Chief, PID-CCCD/ADD shall be the first to be furnished his copy.
- 2.5 Implementing/Coordination Procedure The following rules and procedure shall be complied with in the implementation/execution of an Alert Order to conduct spotchecking:

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- 2.5.1 Step 1: Upon receipt of the Alert Order, the assigned Officer-On-Case shall immediately furnish the Deputy Commissioner for Intelligence and Enforcement and the District Collector of Customs copies of both the Alert Order and Justification Sheet and immediately proceed to the Wharfinger. He shall furnish copies of the Alert Order and the Justification Sheet to the Action Man, PID-CCCD/ADD.
- 2.5.2 Step 2: Upon location of the shipment/cargo in coordination with the Wharfinger, the Officer-On-Case immediately conducts the spot-checking in the presence of the wharfinger.

The Wharfinger shall maintain a Logbook where he shall enter/record the Alert Order No., name of the issuing office, entry number, consignee/importer's name, name of the Officer-On-Case, the date/time the Alert Order was presented to him and the date/time the spot-checking was conducted/completed and shall provide a space for the Officer-On-Case to indicate his findings.

- 2.5.3 Step 3: After completion of the spot-checking, the Officer-On-Case shall inscribe in the Wharfinger's Logbook the following text/notation, as the case may be:
  - NO DISCREPANCY NOTED, PROCEED WITH THE PROCESSING OF THE ENTRY/RELEASE OF SHIPMENT; or
  - DISCREPANCY/VIOLATION NOTED, 100% RE-EXAMINATION AND TRANSFER TO SECURITY WAREHOUSE RECOMMENDED.

The Officer-On-Case shall affix his full signature over his printed name on the Wharfinger's Logbook accordingly.

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- 2.5.4 Step 4: The Officer-On-Case shall thereafter immediately render his report (Annex "C"), copy furnished the Deputy Commissioner for Intelligence and Enforcement and the District Collector, to his Service Chief/Official issuing the Mission Order for notation if no discrepancy/violation noted or for approval of the recommendation for 100% reexamination if discrepancy/violation was noted in the course of spot-checking.
- 2.5.5 Step 5: If recommendation for 100% re-examination is approved, the Officer-On-Case shall strictly comply with the pertinent provisions outlined in the implementing/coordination procedures, step 1 10 in Section 1.3.1 to 1.3.10, Title III hereof, more particularly the following:
  - 2.5.4.1 Notice requirements
  - 2.5.4.2 Appropriate Inscription on entry near or adjacent to the Examiner's Return
  - 2.5.4.3 Submission of waitten report to issuing Office, the Deputy Commissioner for Intelligence and Enforcement and the District Collector.
  - 2.5.4.4 Elevation of the matter to the Deputy Commissioner for Intelligence and Enforcement in case the period of forty eight (48) hours is not sufficient to resolve the matter.
- 2.6 Immediate Spot-Checking Where time is of the assence, as where the shipment/cargo subject of the Alert Order is about to be moved out or is actually being moved out of the Customs zone, in case of verified fake or spurious documents used in the processing of the entry or for the release/transfer of the shipment or under similar circumstances, the Officer-On-Case may immediately conduct the spot-checking: Provided that, he

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shall identify himself and display his current Customs ID to the importer/consignee/broker or representative accompanying the shipment/cargo and shall affix his full signature over his printed name upon the available document (e. g., PDIG, Gatepass, etc.) related to the shipment and which may be in the possession of the accompanying importer/consignee/representative or truck driver.

This rule shall apply when, under similar circumstance, the spot-checking is to be conducted outside of office hours, including Saturdays, Sundays and holidays.

After the spot-checking, the Officer-On-Case shall proceed as follows:

- 2.6.1 Step 1: Allow the continuation of the release/transfer of subject shipment/cargo, if he finds no discrepancy/violation; or
- 2.6.2 Step 2: Immediately cause transfer of the shipment/cargo to the Security Warehouse, if he finds discrepancy/violation.
- 2.6.3 Step 3: Submit immediately thereafter his report (Annex "C"), copy furnished the Deputy Commissioner for Intelligence and Enforcement and the District Collector, to his Service Chief/Official issuing the Alert Order for notation if no discrepancy/violation noted or for approval of the 100% re-examination if discrepancy/violation noted in the course of the spot-checking.
- 2.6.4 Step 4: If recommendation for 100% re-examination is approved, strict compliance with the pertinent provisions outlined in the implementing/coordination procedures in Section 1.3 Title III hereof.

### Section 3 - Hold Orders

3.1 When Allowed - A Hold Order preventing the release/transfer of any shipment shall be issued subject to the following rules and procedures:

Allowed - A Hold Order preventing the release/transfer of any shipment shall be issued subject to the following rules and procedures:

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- 3.1.1 Authority to Issue Hold Order Only the Commissioner of Customs and the District Collector of Customs shall have the authority to issue a Hold Order (Annex "D").
- 3.1.2 Basis A Hold Order may be issued only on the basis of actual findings established in the course of:
  - 3.1.2.1 a 100% examination; or
  - 3.1.2.2 a 100% re-examination conducted on the basis of findings made during a spot-checking pursuant to this order.

### 3.2 Implementing/Coordination Procedures

- 3.2.1 Within forty-eight (48) hours after completion of 100% examination, Officer-On-Case shall submit a written report (Annex C hereof) of his findings to the official who issued the Alert Order, recommending for issuance of Hold-Order, only if warranted, and attaching the results of 100% examination or 100% re-examination, furnishing the Examiner, the District Collector and the Office of the Deputy Commissioner for Intelligence and Enforcement, copies thereof.
- 3.2.2 If the recommendation for Hold-Order is meritorious, the same shall be forwarded to the District Collector for immediate approval and issuance of WSD and transfer of cargoes to Security Warehouse.
- 3.2.3 The Chief, PID-CCCD/ADD and the Wharfinger concerned shall immediately be furnished a copy of the duly issued Hold-Order to prevent the release/transfer of any shipment.

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# Section 4 - Lifting of Alert and Hold Orders

# 4.1. Alert Orders for 100% Examination and Spot-Checking

- 4.1.1 If the Officer-On-Case finds no discrepancy/violation and such finding is reflected at the entry near or adjacent to the Examiner's Return, the processing of the entry shall proceed without the need of a further clearance/lifting order by the Commissioner of Customs, the Deputy Commissioner, the District Collector of the Service Chief/Official issuing the Alert Order.
  - 4.1.2 If the Alert Order is not lifted within two (2) days from issuance, the same shall be brought by the Officer-On-Case to the attention of the Deputy Commissioner for Intelligence and Enforcement, citing the reason therefor.

### 4.2 Hold Orders

- 4.2.1 A Hold-Order may be lifted only by the Commissioner of Customs.
- 4.2.2 A Hold-order may be lifted on the basis of the evaluation by the issuing office of the result/report of the 100% examination or 100% re-examination.
- 4.2.3 Where the Hold-Order was issued by the Commissioner of Customs, the recommendation for the lifting thereof shall be coursed thru the District Collector of Customs for the Commissioner's clearance/approval.

## IV. Miscellaneous Provisions:

Section 1 - Weekly Report - All Alert Orders and Hold-Orders issued pursuant to this Order shall be reported to the Commissioner of Customs, copy furnished the Deputy Commissioner for Intelligence and Enforcement, in a

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Weekly Report per format shown in Annex E hereof showing the justifications and the results of the examination or spot-checking, among others. Justification Sheets for the individual Alert Orders shall be kept ready, on call, for submission to the Commissioner of Customs when deemed necessary.

- Section 2 Expenses Expenses that may be incurred by the Arrastre contractor for the 100% examination/re-examination/stripping shall be billed thru the Office issuing the Alert Order and shall be for the account of the Bureau of Customs.
- Section 3 Office Responsibility It shall be the responsibility of the office issuing the Alert Order/Hold Order to see to it that it is based on careful and logical evaluation that justifies the request such order.
- Section 4 Unauthorized Alert Any other "alerts" and/or "listing of shipments ostensibly on alert" by any officer other that those mentioned herein is not authorized. Any official or employee responsible for such unauthorized "alert" list shall be subject to disciplinary action.
- Section 5 Repealing Clause- The provisions of CMO NO. 65-89 dated July 12, 1989, and all other orders, rules and regulations inconsistent with this Order are hereby repealed, superseded or modified accordingly.
- Section 6 Effectivity This Order shall take effect Nov 14, 1991

SALVADOR M. MISON Commissioner



# CMO-92-91

District Collector of Customs

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Indorsement/Approval

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TO: The Wharfinger-in-Charge All Others Concerned

You are hereby directed (i) to HOLD the release/transfer to the importer/consignee and (2) to cause the transfer immediately of the hereunder described shipment/cargo to the Security Warehouse.

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