

TREATMENT OF PERISHABLE GOODS PURSUANT TO SECTION 2607 OF THE TARIFF AND CUSTOMS CODE AS AMENDED

BOC CUSTOMS MEMORANDUM ORDER NO. 9-97, April 04, 1997

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I.

OBJECTIVES :

1. To protect the interest of the government as well as the claimant on importations of perishable goods undergoing seizure proceedings.
2. To provide a smooth, orderly and efficient system of disposing perishable goods pending seizure proceedings.

II.

SCOPE :

This Order shall cover goods liable to perish or be wasted under Section 2607 of the TCCP, as amended.

III.

GENERAL PROVISIONS :

A. Goods liable to perish or be wasted are eligible for immediate disposition pursuant to Section 2607 of the TCCP when certified to by the Customs Examiner/Appraiser under the following conditions:

1. Live animals under Chapter 01 of the HS Code which may die due to:
 - 1.1 Exposure to extreme temperature.
 - 1.2 Inadequate holding area facilities.
2. Goods covered by Chapters 02-23 of the HS Code which may spoil due to :
 - 2.1 Growth of micro-organism.
 - 2.2 Enzyme action.
 - 2.3 Oxidation.
 - 2.4 Dehydration.
 - 2.5 Insufficiency or absence of ideal storage facilities.
3. Chemicals and pharmaceuticals which may spoil or lose its potency and thus cannot be used for the purpose for which it was originally intended due to :
 - 3.1 Insufficiency or absence of ideal storage facilities.

3.2 Improper handling

3.3 Original packing or container has been destroyed.

3.4 Expiry date is six months or shorter based on the expiry date in the immediate packing.

B. Proceeds of the auction sale under Section 2607 shall be held in trust which shall be awarded to the winning party in the seizure case.

IV.

OPERATIONAL PROVISIONS :

1. Apprehending Office

1.1 Upon apprehension of perishable goods, the apprehending office shall request the Assessment Office of the Port concerned to conduct a thorough examination and to submit a detailed inventory and appraisal report. The representative(s) of the consignee, if available, shall sign as witness (es) of the inventory as in Annex "A" which shall form as an integral part of this Order.

2. Assessment Division of the Port Concerned

2.1 The assigned Customs Operations Officer III shall immediately conduct a thorough examination and inventory. A certification that the goods are liable to perish or be wasted and should be disposed pursuant to Section 2607 of the TCCP shall be accomplished as in Annex "A".

2.2 The certification shall be based on previous certifications issued and sale (s) of the goods as perishables, as listed in Annex "B", "C" to C.1" and "D to D-4" which shall form as an integral part of this Order.

3. Law Division of the Port Concerned

3.1 After issuance of the Warrant of Seizure and Detention, the District Collector of Customs, motu proprio or upon recommendation of the Law Division shall approve the disposition of said goods pending seizure proceedings pursuant to Section 2607 of the TCCP.

3.2 Upon approval by the District Collector, the Law Division shall immediately inform the ACDD so that auction sale can be scheduled as soon as possible.

4. The Auction and Cargo Disposal Division of the Port Concerned

4.1 It shall determine and set the reasonable floor price of the perishable items based on the inventory and appraisal report furnished by the Assessment Office as reference.

4.2 It shall dispose these perishable goods at auction pursuant to CMO 42-93.

4.3 It shall inform the apprehending office of the proceeds of the auction sale of goods liable to perish or be wasted.

V. REPEALING CLAUSE :

All Customs Memorandum Order, rules and regulations inconsistent with this Order are hereby repealed and/or amended accordingly.

VI.EFFECTIVITY CLAUSE :

This Order shall take effect immediately.

Adopted 04 April 1997

(SGD.) GUILLERMO L. PARAYNO, JR.
Commissioner

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