

REVISED PROCEDURES ON THE TENTATIVE RELEASE OF SHIPMENTS LACKING THE REQUIRED SGS-CRF

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I

Objectives

1. To avoid delays in the processing and releasing of shipment arising from the lack of SGS-CRF in relation to Joint Order No. 1-91, as amended.
2. To further facilitate and provide adequate security to government revenue.
3. To enable the prompt collection of revenue due the government.

II

Coverage

This order shall cover all shipments requiring Pre-Shipment Inspections under the CISS scheme which entered the country without the required SGS-CRF.

III

General Provisions

1. Shipments requiring Pre-Shipment Inspections under the CISS which arrived in the country and entered in a Customhouse but without the requisite CRF (NON-CRF SHIPMENTS or NCS) must be treated as shipments made in circumvention of CISS and therefore seized pursuant to CMO 71-90, unless otherwise cleared following the provisions of this memorandum order.

2. The importer/broker concerned must, in availing of the TENTATIVE RELEASE scheme for lack of requisite CRF, explain under oath why the shipment must not be seized. The explanation must, among others, touch on the following:

2.1

Why Customs should not consider the violation as Intentional and meant to circumvent the CISS;

2.2

Whether or not the importer obtained an Import Advice Notice (IAN). If there is no IAN, why was it not obtained.

2.3

Who was responsible for making shipment without the CRF. If it is the shipper, attach a certification in the shipper's letterhead and by a responsible official of the shipper's company why they are nor the improper was responsible; and

2.4

How many times the importer has committed this infraction.

3. The Chief, FED of the Port must evaluate whether to allow Tentative Release or recommend the shipment for seizure. Seizure must be the action whenever the circumstance of the case points to a deliberate circumvention of CISS.

4. Circumvention must be considered deliberate whenever any of the following are obtained:

4.1

There is misdeclaration, undervaluation or misclassification evidencing prima facie fraud;

4.2

The importer cannot prove that the failure to obtain an IAN/CRF was unintentional; and

4.3

The firm is a recidivist (three or more offenses).

5. Approval of Tentative Release for lack of CRF must comply with the following terms and conditions:

5.1

One hundred percent (100%) examination in the presence of representatives from SGS and the concerned local industry (if any).

5.2

Payment of full duty, tax and penalty based on the value information available in VALSEE.

5.3

Posting of a bank guaranty in an amount equivalent to 120% of landed cost of shipment.

5.4

Payment of a CISS inspection fee to the Bureau of Customs.

6. On the basis of 5.1 and 5.4 above, the SGS Manila Liaison Officer must refer the case of their concern abroad for value verification.

IV

Administrative Provision

1. The Chief, Formal Entry Division (FED) or equivalent unit, shall be authorized to approve request for tentative release of shipments. Subject to the compliance with all the requirements, conditions and procedural steps

prescribed under this order.

2. To secure government revenue, the importer shall be required to issue a bank guaranty payable to the Bureau of Customs, which shall be deposited with the Cash Division under a provisional receipt. The bank guaranty shall be equivalent to that provided for in par. 5.3 of the General Provisions.

3. Where the valuation and classification results of the SGS-CRF are contested by the importer, he can proceed with tentative liquidation under CMO 3-95 provided:

3.1

The cost incurred in securing an SGS-CRF to cover said shipments has been fully paid.

3.2

The shipment conforms with the requirements of administrative provision no. 3.2 of CMO 3-95.

V

Operational Provisions

1. In cases where the value of shipment is over \$500 and lacks the requisite SGS-CRF, the following steps shall be observed:

Step 1

- The importer shall accomplish and execute under oath the Importer's Referral/Information Sheet shown in Annex "A"[*] hereof, the requirements therein being demand as forming an integral part of this Order and submit the same to the Chief, FED/equivalent unit.

Step 2

- The Chief, FED/equivalent unit, upon receipt of the accomplished importer's Referral/ Information Sheet, shall immediately accomplish the Memorandum shown in Annex "B"[*] and "C"[*] hereof, requiring/instructing, to wit:

2.1 The Entry Receiving to:

2.1.1 Immediately allow the filing and acceptance of the import entry; and

2.1.2 Immediately forward the entry together with all copies of the Order of Payment (OP) to the Examiner/Appraiser, through the Section Chief concerned.

2.2 The Examiner/Appraiser to:

2.2.1 Immediately conduct a 100% examination of the shipment;

2.2.2 Secure one sample per item and/or take photographs of said item if the size/weight makes it impractical said items.

2.2.3 Submit all samples to the Valuation Center and Library for preliminary valuation as basis in the computation of duties and taxes, penalty and cost of securing an SGS-CRF which will be the basis for the value of the bank guaranty.

2.2.4 Verify the correctness/sufficiency of the amount of the cash bond/bank guaranty per Valuation Center and Library's importer/broker's computation indicated in the Importer's Referral/Information Sheet.

2.2.5 Submit to the Chief, FED/equivalent unit, the entry and all copies of the OP; and

2.2.6 Render a report to the Chief, FED/equivalent units, under a joint Inspection Report the findings of the examination.

Step 3

- The Chief, FED/equivalent unit, after the examination of the shipment and upon receipt of the Examiner/Appraiser's report (2nd Indorsement), shall make a determination whether to approve the tentative release of the shipment taking into consideration the following:

3.1

If, on the basis of the joint inspection of SGS/BOC Examiner/Appraiser's report a discrepancy is found or established, tentative release shall only be allowed if the uncovered is found or established, tentative release shall only be allowed if the uncovered discrepancy or violation does not merit the issuance of a Warrant of Seizure and Detention (WSD), otherwise the matter shall be referred to the District Collector.

3.2

If no discrepancy is found except the lack of the requisite SGS-CRF, the tentative release of the shipment shall be allowed.

3.3.

All approvals by the various parts of tentative releases of shipment without the requisite SGS-CRF shall be transmitted to the Commissioner of Customs for review as to whether or not requirements under the guidelines set forth under CMO No. 12-93 had been met.

Step 4 - The Chief, FED/equivalent unit, in granting the tentative release of the shipment, shall:

4.1

Require the importer to submit Bank guaranty in the amount described in 3.2 and verified by the Examiner/Appraiser.

4.2

Stamp on the face of the import entry and all copies of the OP, the following text:

TENTATIVE RELEASE ALLOWED
PER CMC NO. 9-95
(this Order).

and, thereupon, issue to the importer his copy of the OP.

4.3

Forward the entry and all related documents to the Cash Division.

4.4

Submit a copy of the importer's Referral/Information sheet, letter to SGS, Examination Findings and all representative samples of entry subject articles to SGS-MLO for transmittal to the SGS affiliate concerned for issuance of the requisite SGS-CRF.

Step 5 - SGS-MLO shall, upon receipt of the required documents and samples, forward the same by airfreight to the SGS affiliate on the country of exportation to process SGS-CRF pertaining to the said shipment using the data and samples available as if inspection has taken place, and transmit the electronic data to SGS-MLO for issuance of the SGS-CRF.

2. In cases of shipments valued at less than \$500, the provisions of CMO 23-93 shall govern.

VI.

Cancellation of Security Bond

In the event that the importer agrees with the SGS-CRF, the importer shall surrender it to the Cash Division for cancellation and liquidation of shipment after payment of the proper duties, taxes, penalties, and all costs incurred in processing the SGS-CRF.

VII.

Repealing Clause

All orders, rules, and regulations inconsistent herewith are deemed repealed and/or modified accordingly.

VIII.

Effectivity

This Order shall take effect on 18 May 1995.

Adopted: 3 May 1995

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

[*] See Appendix 5 and 6, page 351.

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