

[BOC (DOF) CUSTOMS MEMORANDUM ORDER NO. 12-93, March 09, 1993]

SUPPLEMENTARY GUIDELINES IN THE IMPLEMENTATION OF CMO 51-92 ON TENTATIVE RELEASE OF SHIPMENTS

I

Objectives

- A. To strengthen the Post-Dated Check (PDC) system in securing government revenue.
- B. To speed up collection on PDCs put up as security in case of BOC-SGS Appeals Committee (The Committee) resolution adverse to the importer.

II

Administrative Provisions

A. Tentative Release

1. When allowable — Requests for tentative release may be allowed if an importer has a prima facie proof that the CRF finding is either inaccurate or totally wrong. Such proof may include, but is not limited to, any of the following:

- 1.1 Printed Domestic Price List in the country of origin.
- 1.2 Value information from the Philippine Commercial Attaché in the country of supply.
- 1.3 Printed schedule of discount.
- 1.4 Proof that questioned item is not being sold domestically in the country of origin.
- 1.5 Previous Clean Report of Findings (CRF) on the same or similar article from the same country of origin.
- 1.6 Customs, DOF, Tariff Commission rulings.
- 1.7 Court rulings.
- 1.8 Customs' published value which is not based on export value information.
- 1.9 Previous Committee decisions.

Upon filing of the request for tentative release, together with the position paper and

supporting proof the case shall be deemed submitted for resolution, without prejudice to submission upon prior permission by the Committee of additional proof at any time before the Committee renders a decision on the case.

The resolution of cases shall be summary in character and the Committee may decide ex parte on the basis of documentary evidence on record without need of the importer being present, except when the Committee would like to raise clarificatory questions.

2. In No-CRF cases, tentative release shall be allowed if upon examination, no other violation of law or regulation is established (other than the lack of CRF) which would warrant seizure and forfeiture of the shipment.

3. When not allowable —

3.1 When importer cannot present any documentary proof whether original or photocopy in support of the issue he raised against the CRF findings.

3.2 Importer presents no issue/explanation as to why he thinks the CRF is either inaccurate or totally wrong.

4. When the importers presents a theory but without any supporting proof or in any other case where doubt exists as to the merit of a given request for tentative release under CMO 51-92, the same shall immediately be referred to the Chairman, BOC-SGS Appeals Committee for appropriate disposition.

B. Sworn Undertaking

In addition to existing requirements in the avilment of tentative release under CMO 51-92, the importer thru its president or general manager as the case may be shall be required to submit a sworn undertaking the format of which is hereto attached as Annex "A"*.

C. Alternative Security

To secure government revenue, the Cash Division despite the approval of the tentative release by the Chief, Formal Entry Division may require the importer to put up in lieu of the PDC, a Manager's Check or Cash Bond, to be receipted for by the Collecting Officer conformably with the Form indicated in Annex "B"*.

In the determination of the type of security to be required, the following shall be considered:

1. When importer is a first-timer (with no tract record)

2. Financial Position of the importer taking into account its duly audited financial statement and income tax statement in relation to the value of shipment and amount of guaranty being issued.

3. In case of doubt, the matter shall be referred to the Chief, Collection Service for appropriate disposition.