

[BOC MEMORANDUM ORDER NO. 9-95, May 03, 1995]

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

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 may 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 point to a deliberate circumvention of CISS.
4. Circumvention must be considered deliberate whenever any of the following are obtains:
 - 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 SGS Manila Liason Officer must refer the case of their concerned 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