

**[BOC CUSTOMS MEMORANDUM ORDER NO. 64-93,
December 08, 1993]**

**GUIDELINES IN THE IMPLEMENTATION OF CUSTOMS
ADMINISTRATIVE ORDER 10 -93 DATED NOVEMBER 16, 1993
REGARDING THE IMPOSITION OF SURCHARGE UNDER SECTION
2503 OF THE TARIFF AND CUSTOMS CODE AS AMENDED BY
REPUBLIC ACT 7651**

To ensure a uniform application and more effective implementation of Customs Administrative Order 10-93 relative to the imposition of surcharge on imported articles due to undervaluation, misclassification and misdeclaration, the following guidelines as prescribed under Customs Memorandum Order 2-86 are hereby republished incorporating thereto the amendments as provided for under Republic Act 7651.

I

**Percentage Difference in Undervaluation Misclassification and
Misdeclaration**

For purposes of determining the amount of surcharge due to undervaluation, misclassification and misdeclaration, the computation of the percentage difference shall be in accordance with Customs Memorandum Order No. 23-84, dated March 12, 1984.

II

Amount of Surcharge

The Collector of Customs shall impose the surcharge in accordance with the following:

- a) For Misclassification. — Where the percentage difference in misclassification is ten per cent (10%) or more but not exceeding thirty per cent (30%) the amount of surcharge shall be as follows:
 - a.1 When the percentage difference is ten per cent (10%) or more but not exceeding twenty per cent (20%), a one time surcharge of the difference in customs duty shall be imposed.
 - a.2 When the percentage difference is twenty per cent (20%) or more but not exceeding thirty per cent (30%) a two times surcharge of the difference in customs duty shall be imposed.

b) For Undervaluation Misdeclaration in Weight, Measurement or Quantity. - When the percentage difference in undervaluation/misdeclaration in weight, measurement or quantity is ten per cent (10%) or more, but not exceeding thirty per cent (30%), the amount of surcharge shall be as follows:

b.1 When the percentage difference is ten per cent (10%) or more but not exceeding twenty per cent (20%), a one time surcharge of the difference in customs duty shall be imposed.

b.2 When the percentage difference is twenty per cent (20%) or more but not exceeding thirty per cent (30%) a two times surcharge of the difference in customs duty shall be imposed.

When the percentage difference exceeds thirty per cent (30%), the existence of fraud is presumed and the imported articles shall be subject to seizure proceedings under Section 2530 of the Tariff and Customs Code, as amended.

III

Non-Imposition of Surcharge

1. Misclassification

1.1 Surcharge shall not be imposed when the declared or entered classification is based on rulings by the following government agencies which are still enforced at the time of entry:

1.1.a. Bureau of Customs in the form of:

1.1.a.1. Customs Tariff Circulars

1.1.a.2. Customs Information & Valuation Classification Circulars

1.1.a.3. Request for Value Classification Information

1.1.b. National Economic Development Authority through the Philippine Standard Commodity Classification

1.1.c. Tariff Commission - issued pursuant to Section 1313-a of the TCCP, as amended

1.1.d. Department of Finance

1.1.e. Board of Investment - through Certificates of Prior Authorization

Provided however, that the description of the article is found correct upon examination and provided further, that based on the result of the examination, the article is found essentially the same as that described in the ruling.

1.2 When the imported article is described in sufficient detail to enable the same to be identified for tariff classification, provided that if specifically classified in the