

§§ 538, 539. Repealed. June 17, 1930, ch. 497, title IV, § 651(a)(1), 46 Stat. 762, eff. June 18, 1930

Sections, act Sept. 21, 1922, ch. 356, title IV, §§ 622, 623, 42 Stat. 988, related to extensions of time and general rules and regulations.

Provisions of Tariff Act of 1930 corresponding to section 538, see section 1318 of this title; section 539, see section 1624 of this title.

§ 540. President may use suitable vessels for enforcing customs laws

In the execution of laws providing for the collection of duties on imports and tonnage, the President, in addition to the Coast Guard vessels in service, may employ in aid thereof such other suitable vessels as may, in his judgment, be required.

(R.S. § 5318; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Aug. 4, 1949, ch. 393, § 1, 20, 63 Stat. 496, 561.)

CODIFICATION

R.S. § 5318 derived from act July 13, 1861, ch. 3, § 7, 12 Stat. 257.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

“Coast Guard vessels” substituted in text for “revenue-cutters”, the Revenue Cutter Service and the Life-Saving Service having been combined to form the Coast Guard by section 1 of act Jan. 28, 1915. That act was repealed by section 20 of act Aug. 4, 1949, section 1 of which reestablished the Coast Guard by enacting Title 14, Coast Guard.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Treasury of authority vested in President by this section, see section 1(i) of Ex. Ord. No. 10289, Sept. 17, 1951, 16 F.R. 9499, as amended, set out as a note under section 301 of Title 3, The President.

§§ 541, 542. Repealed. Aug. 2, 1956, ch. 887, § 4(a)(29), (30), 70 Stat. 948

Section 541, R.S. § 2763, authorized use of small boats for use of customs officials.

Section 542, act Feb. 10, 1913, ch. 35, 37 Stat. 665, authorized Secretary of the Treasury to use the motor-boat provided for Corpus Christi, Texas.

PART 6—GENERAL PROVISIONS

§§ 571 to 573. Repealed. June 17, 1930, ch. 497, title IV, § 651(a)(1), 46 Stat. 762, eff. June 18, 1930

Sections, act Sept. 21, 1922, ch. 356, title III, §§ 320, 321, title IV, § 641, 42 Stat. 947, 989, related to provisions as to effect of repeals, Treaty with Cuba and certain laws unaffected.

Provisions of Tariff Act of 1930 corresponding to section 571, see section 1651(c) of this title; section 572, see section 1316 of this title; section 573, none.

§ 574. Exemption from taking other oaths

Nothing contained in title 34 of the Revised Statutes shall be construed to exempt the mas-

ters or owners of vessels from making and subscribing any oaths required by any laws of the United States not immediately relating to the collection of the duties on the importation of merchandise into the United States.

(R.S. § 3094.)

REFERENCES IN TEXT

Title 34 of the Revised Statutes, referred to in text, was in the original “this Title”, meaning title 34 of the Revised Statutes, consisting of R.S. §§ 2517 to 3129. For complete classification of R.S. §§ 2517 to 3129 to the Code, see Tables.

CODIFICATION

R.S. § 3094 derived from act Mar. 2, 1799, ch. 22, § 110, 1 Stat. 703.

§§ 575, 576. Repealed. June 17, 1930, ch. 497, title IV, § 651(a)(1), 46 Stat. 762, eff. June 18, 1930

Sections, act Sept. 21, 1922, ch. 356, title IV, §§ 645, 647, 42 Stat. 990, related to effect of partial invalidity and citation of chapter.

Provisions of Tariff Act of 1930 corresponding to section 575, see section 1652 of this title.

§ 577. Repealed. Oct. 31, 1951, ch. 655, § 56(d), 65 Stat. 729

Section, act Mar. 8, 1902, ch. 140, § 8, 32 Stat. 55, made, “except as otherwise provided by law”, the provisions of subtitle IV of this chapter applicable to all articles coming into the United States from the “Philippine Archipelago”. Prior to this repeal, it had been omitted in view of the independence of the Philippines.

SAVINGS PROVISION

Act Oct. 31, 1951, ch. 655, § 56(l), 65 Stat. 730, provided that the repeal of this section shall not affect any rights or liabilities existing hereunder on the effective date of such repeal [Oct. 31, 1951].

§ 578. Repealed. June 17, 1930, ch. 497, title IV, § 651(a)(1), 46 Stat. 762, eff. June 18, 1930

Section, act May 29, 1928, ch. 852, § 708, 45 Stat. 881, related to definition of motor boat.

§ 579. Repealed. Aug. 2, 1956, ch. 887, § 4(a)(32), 70 Stat. 948

Section, R.S. § 960, provided that in a suit on bond for the recovery of duties the court should grant judgment unless defendant made an oath that an error was committed in the liquidation of the duties demanded. See section 1514 of this title.

§ 580. Interest in suits on bonds for recovery of duties

Upon all bonds, on which suits are brought for the recovery of duties, interest shall be allowed, at the rate of 6 per centum a year, from the time when said bonds became due.

(R.S. § 963.)

CODIFICATION

R.S. § 963 derived from act Mar. 2, 1799, ch. 22, § 65, 1 Stat. 676.

Section was formerly classified to section 787 of Title 28 prior to the general revision and enactment of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, § 1, 62 Stat. 869.

CHAPTER 4—TARIFF ACT OF 1930

SUBTITLE I—HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Sec. 1202. Harmonized Tariff Schedule.

Sec.		Sec.	
	SUBTITLE II—SPECIAL PROVISIONS	1401a.	Value.
	PART I—MISCELLANEOUS	1402.	Repealed.
1301 to 1303.	Repealed or Omitted.		SUBPART B—NATIONAL CUSTOMS AUTOMATION PROGRAM
1304.	Marking of imported articles and containers.	1411.	National Customs Automation Program.
1304a.	Technical assistance to U.S. Customs and Border Protection.	1412.	Program goals.
1305.	Immoral articles; importation prohibited.	1413.	Implementation and evaluation of Program.
1306.	Repealed.	1414.	Remote location filing.
1307.	Convict-made goods; importation prohibited.	1415.	Mandatory advance electronic information for cargo and other improved customs reporting procedures.
1308.	Prohibition on importation of dog and cat fur products.		PART II—REPORT, ENTRY, AND UNLOADING OF VESSELS AND VEHICLES
1309.	Supplies for certain vessels and aircraft.	1431.	Manifests.
1310.	Free importation of merchandise recovered from sunken and abandoned vessels.	1431a.	Documentation of waterborne cargo.
1311.	Bonded manufacturing warehouses.	1432, 1432a.	Repealed.
1312.	Bonded smelting and refining warehouses.	1433.	Report of arrival of vessels, vehicles, and aircraft.
1313.	Drawback and refunds.	1434.	Entry; vessels.
1313a.	Appropriations for refunds, drawbacks, bounties, etc.	1435 to 1435b.	Repealed or Transferred.
1314.	Repealed.	1436.	Penalties for violations of arrival, reporting, entry, and clearance requirements.
1315.	Effective date of rates of duty.	1436a.	Report on violations of arrival, reporting, entry, and clearance requirements and falsity or lack of manifest.
1316.	Omitted.	1437.	Repealed.
1317.	Tobacco products; supplies for certain vessels and aircraft.	1438.	Unlawful return of foreign vessel's papers.
1318.	Emergencies.	1439, 1440.	Repealed.
1319.	Duty on coffee imported into Puerto Rico.	1441.	Exceptions to vessel entry and clearance requirements.
1319a.	Duty on coffee; ratification of duties imposed by Legislature of Puerto Rico.	1442.	Residue cargo.
1320.	Repealed.	1443 to 1445.	Repealed.
1321.	Administrative exemptions.	1446.	Supplies and stores retained on board.
1322.	International traffic and rescue work; United States-Mexico Boundary Treaty of 1970.	1447.	Place of entry and unloading.
1323.	Conservation of fishery resources.	1448.	Unloading.
	PART II—UNITED STATES INTERNATIONAL TRADE COMMISSION	1449.	Unloading at port of entry.
1330.	Organization of Commission.	1450.	Unloading on Sundays, holidays, or during overtime hours.
1331.	General powers.	1451.	Extra compensation.
1332.	Investigations.	1451a.	Repealed.
1332a.	Importation of red cedar shingles.	1452.	Lading on Sundays, holidays, or at night.
1333.	Testimony and production of papers.	1453.	Lading and unloading of merchandise or baggage; penalties.
1334.	Cooperation with other agencies.	1454.	Unloading of passengers; penalty.
1335.	Rules and regulations.	1455.	Boarding and discharging inspectors.
1336.	Equalization of costs of production.	1456.	Compensation and expenses of inspectors between ports; reimbursement.
1337.	Unfair practices in import trade.	1457.	Time for unloading.
1337a.	Repealed.	1458.	Bulk cargo, time for unloading.
1338.	Discrimination by foreign countries.	1459.	Reporting requirements for individuals.
1339.	Trade Remedy Assistance Office.	1460.	Repealed.
1340.	Omitted.	1461.	Inspection of merchandise and baggage.
1341.	Interference with functions of Commission.	1462.	Forfeiture.
	PART III—PROMOTION OF FOREIGN TRADE	1463.	Sealed vessels and vehicles.
1351.	Foreign trade agreements.	1464.	Penalties in connection with sealed vessels and vehicles.
1352.	Equalization of costs of production.	1465.	Repealed.
1352a.	Repealed.	1466.	Equipment and repairs of vessels.
1353.	Indebtedness of foreign countries, effect on.	1467.	Special inspection, examination, and search.
1354.	Notice of intention to negotiate agreement; opportunity to be heard; President to seek information and advice.		PART III—ASCERTAINMENT, COLLECTION, AND RECOVERY OF DUTIES
1355 to 1356j.	Repealed or Omitted.	1481.	Invoice; contents.
1356k.	Importation of coffee under International Coffee Agreement, 1983; Presidential powers and duties.	1482, 1483.	Repealed.
1356l.	"Coffee" defined.	1484.	Entry of merchandise.
1356m to 1359.	Repealed.	1484a.	Articles returned from space not to be construed as importation.
1360.	Investigation before trade negotiations.	1484b.	Deferral of duty on large yachts imported for sale at United States boat shows.
1361.	Action by President; reports to Congress.	1485.	Declaration.
1362 to 1365.	Repealed.	1486.	Administration of oaths.
1366.	General Agreement on Tariff and Trade unaffected.	1487.	Value in entry; amendment.
1367.	Repealed.	1488, 1489.	Repealed.
	SUBTITLE III—ADMINISTRATIVE PROVISIONS	1490.	General orders.
	PART I—DEFINITIONS AND NATIONAL CUSTOMS AUTOMATION PROGRAM	1491.	Unclaimed merchandise; disposition of forfeited distilled spirits, wines and malt liquor.
	SUBPART A—DEFINITIONS		
1401.	Miscellaneous.		

Sec.		Sec.	
1492.	Destruction of abandoned or forfeited merchandise.	1582.	Search of persons and baggage; regulations.
1493.	Proceeds of sale.	1583.	Examination of outbound mail.
1494.	Expense of weighing and measuring.	1583a.	Development of technology to detect illicit narcotics.
1495.	Partnership bond.	1584.	Falsity or lack of manifest; penalties.
1496.	Examination of baggage.	1585.	Repealed.
1496a.	Clearance restrictions of individuals returning from abroad; special circumstances; "baggage and effects" defined.	1586.	Unlawful unloading or transshipment.
1497.	Penalties for failure to declare.	1587.	Examination of hovering vessels.
1498.	Entry under regulations.	1588.	Transportation between American ports via foreign ports.
1499.	Examination of merchandise.	1589.	Repealed.
1500.	Appraisalment, classification, and liquidation procedure.	1589a.	Enforcement authority of customs officers.
1501.	Voluntary reliquidations by U.S. Customs and Border Protection.	1590.	Aviation smuggling.
1502.	Regulations for appraisalment and classification.	1591.	Repealed.
1503.	Dutiable value.	1592.	Penalties for fraud, gross negligence, and negligence.
1503a.	Repealed.	1592a.	Special provisions regarding certain violations.
1504.	Limitation on liquidation.	1593.	Repealed.
1505.	Payment of duties and fees.	1593a.	Penalties for false drawback claims.
1506.	Allowance for abandonment and damage.	1594.	Seizure of conveyances.
1507.	Tare and draft.	1595.	Searches and seizures.
1508.	Recordkeeping.	1595a.	Aiding unlawful importation.
1509.	Examination of books and witnesses.	1596 to 1598.	Repealed.
1510.	Judicial enforcement.	1599.	Officers not to be interested in vessels or cargo.
1511.	Repealed.	1600.	Application of the customs laws to other seizures by customs officers.
1512.	Deposit of duty receipts.	1601, 1601a.	Repealed.
1513.	Customs officer's immunity.	1602.	Seizure; report to customs officer.
1514.	Protest against decisions of Customs Service.	1603.	Seizure; warrants and reports.
1515.	Review of protests.	1604.	Seizure; prosecution.
1516.	Petitions by domestic interested parties.	1605.	Seizure; custody; storage.
1516a.	Judicial review in countervailing duty and antidumping duty proceedings.	1606.	Seizure; appraisalment.
1517.	Procedures for investigating claims of evasion of antidumping and countervailing duty orders.	1607.	Seizure; value \$500,000 or less, prohibited articles, transporting conveyances.
1518, 1519.	Repealed.	1608.	Seizure; claims; judicial condemnation.
1520.	Refunds and errors.	1609.	Seizure; summary forfeiture and sale.
1521, 1522.	Repealed or Omitted.	1610.	Seizure; judicial forfeiture proceedings.
1523.	Examination of accounts.	1611.	Seizure; sale unlawful.
1524.	Deposit of reimbursable charges.	1612.	Seizure; summary sale.
1525.	Repealed.	1613.	Disposition of proceeds of forfeited property.
1526.	Merchandise bearing American trade-mark.	1613a.	Repealed.
1527.	Importation of wild mammals and birds in violation of foreign law.	1613b.	Customs Forfeiture Fund.
1528.	Taxes not to be construed as duties.	1614.	Release of seized property.
1529.	Collection of fees on behalf of other agencies.	1615.	Burden of proof in forfeiture proceedings.
PART IV—TRANSPORTATION IN BOND AND WAREHOUSING OF MERCHANDISE		1616.	Repealed.
1551.	Designation as carrier of bonded merchandise.	1616a.	Disposition of forfeited property.
1551a.	Bonded cartmen or lightermen.	1617.	Compromise of Government claims by Secretary of the Treasury.
1552.	Entry for immediate transportation.	1618.	Remission or mitigation of penalties.
1553.	Entry for transportation and exportation; lottery material from Canada.	1619.	Award of compensation to informers.
1553-1.	Report on in-bond cargo.	1620.	Acceptance of money by United States officers.
1553a.	Recordkeeping for merchandise transported by pipeline.	1621.	Limitation of actions.
1554.	Transportation through contiguous countries.	1622.	Foreign landing certificates.
1555.	Bonded warehouses.	1623.	Bonds and other security.
1556.	Bonded warehouses; regulations for establishing.	1624.	General regulations.
1557.	Entry for warehouse.	1625.	Interpretive rulings and decisions; public information.
1558.	No remission or refund after release of merchandise.	1626.	Steel products trade enforcement.
1559.	Warehouse goods deemed abandoned after 5 years.	1627.	Repealed.
1560.	Leasing of warehouses.	1627a.	Unlawful importation or exportation of certain vehicles; inspections.
1561.	Public stores.	1628.	Exchange of information.
1562.	Manipulation in warehouse.	1628a.	Exchange of information related to trade enforcement.
1563.	Allowance for loss, abandonment of warehouse goods.	1629.	Inspections and preclearance in foreign countries.
1564.	Liens.	1630.	Authority to settle claims.
1565.	Cartage.	1631.	Use of private collection agencies.
PART V—ENFORCEMENT PROVISIONS		PART VI—MISCELLANEOUS PROVISIONS	
1581.	Boarding vessels.	1641.	Customs brokers.
		1642.	Omitted.
		1643.	Application of customs reorganization act.
		1644.	Application of section 1644a(b)(1) of this title and section 1518(d) of title 33.
		1644a.	Ports of entry.

Sec.
1645. Transportation and interment of remains of deceased employees in foreign countries; travel or shipping expenses incurred on foreign ships.
1646. Repealed.
1646a. Supervision by customs officers.
1646b. Random customs inspections for stolen automobiles being exported.
1646c. Export reporting requirement.
1647. Repealed.
1648. Uncertified checks, United States notes, and national bank notes receivable for customs duties.
1649. Change in designation of customs attachés.
1650. Transferred.
1651. Repeals.
1652. Separability.
1653. Effective date of chapter.
1653a. Transferred.
1654. Short title.

SUBTITLE IV—COUNTERVAILING AND ANTIDUMPING DUTIES

PART I—IMPOSITION OF COUNTERVAILING DUTIES

1671. Countervailing duties imposed.
1671a. Procedures for initiating a countervailing duty investigation.
1671b. Preliminary determinations.
1671c. Termination or suspension of investigation.
1671d. Final determinations.
1671e. Assessment of duty.
1671f. Treatment of difference between deposit of estimated countervailing duty and final assessed duty under countervailing duty orders.
1671g. Effect of derogation of Export-Import Bank financing.
1671h. Conditional payment of countervailing duties.

PART II—IMPOSITION OF ANTIDUMPING DUTIES

1673. Imposition of antidumping duties.
1673a. Procedures for initiating an antidumping duty investigation.
1673b. Preliminary determinations.
1673c. Termination or suspension of investigation.
1673d. Final determinations.
1673e. Assessment of duty.
1673f. Treatment of difference between deposit of estimated antidumping duty and final assessed duty under antidumping duty order.
1673g. Conditional payment of antidumping duty.
1673h. Establishment of product categories for short life cycle merchandise.
1673i. Repealed.

PART III—REVIEWS; OTHER ACTIONS REGARDING AGREEMENTS

SUBPART A—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

1675. Administrative review of determinations.
1675a. Special rules for section 1675(b) and 1675(c) reviews.
1675b. Special rules for injury investigations for certain section 1303 or section 1671(c) countervailing duty orders and investigations.
1675c. Repealed.

SUBPART B—CONSULTATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

1676. Required consultations.
1676a. Required determinations.

PART IV—GENERAL PROVISIONS

1677. Definitions; special rules.

Sec.
1677-1. Upstream subsidies.
1677-2. Calculation of countervailable subsidies on certain processed agricultural products.
1677a. Export price and constructed export price.
1677b. Normal value.
1677b-1. Currency conversion.
1677c. Hearings.
1677d. Countervailable subsidy practices discovered during a proceeding.
1677e. Determinations on basis of facts available.
1677f. Access to information.
1677f-1. Sampling and averaging; determination of weighted average dumping margin and countervailable subsidy rate.
1677g. Interest on certain overpayments and underpayments.
1677h. Drawback treatment.
1677i. Downstream product monitoring.
1677j. Prevention of circumvention of antidumping and countervailing duty orders.
1677k. Third-country dumping.
1677l. Antidumping and countervailing duty collections.
1677m. Conduct of investigations and administrative reviews.
1677n. Antidumping petitions by third countries.

SUBTITLE V—REQUIREMENTS APPLICABLE TO IMPORTS OF CERTAIN CIGARETTES AND SMOKELESS TOBACCO PRODUCTS

1681. Definitions.
1681a. Requirements for entry of certain cigarettes and smokeless tobacco products.
1681b. Enforcement.

SUBTITLE VI—SOFTWOOD LUMBER

1683. Definitions.
1683a. Establishment of softwood lumber importer declaration program.
1683b. Scope of softwood lumber importer declaration program.
1683c. Export charge determination and publication.
1683d. Reconciliation.
1683e. Verification.
1683f. Penalties.
1683g. Reports.

SUBTITLE I—HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

CODIFICATION

Titles I and II of act June 17, 1930, ch. 497, 46 Stat. 590, 672, which comprised the dutiable and free lists for articles imported into the United States, were formerly classified to sections 1001 and 1201 of this title, and were stricken by Pub. L. 87-456, title I, §101(a), May 24, 1962, 76 Stat. 72. The Revised Tariff Schedules, which were classified to section 1202 of this title, were stricken by Pub. L. 100-418, title I, §1204(a), Aug. 23, 1988, 102 Stat. 1148, and were replaced by the Harmonized Tariff Schedule of the United States. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

CHANGE OF NAME

United States Tariff Commission renamed United States International Trade Commission by Pub. L. 93-618, title I, §171, Jan. 3, 1975, 88 Stat. 2009, which is classified to section 2231 of this title.

ENACTMENT OF HARMONIZED TARIFF SCHEDULE

Pub. L. 100-418, title I, §1204(a), Aug. 23, 1988, 102 Stat. 1148, provided that: "The Tariff Act of 1930 [this chapter] is amended by striking out title I and inserting a new title I entitled 'Title I—Harmonized Tariff Schedule of the United States' (hereinafter in this subtitle [subtitle B, §§1201 to 1217, of title I, see Tables for classification] referred to as the 'Harmonized Tariff Schedule') which—

“(1) consists of—

- “(A) the General Notes;
- “(B) the General Rules of Interpretation;
- “(C) the Additional U.S. Rules of Interpretation;
- “(D) sections I to XXII, inclusive (encompassing chapters 1 to 99, and including all section and chapter notes, article provisions, and tariff and other treatment accorded thereto); and
- “(E) the Chemical Appendix to the Harmonized Tariff Schedule;

all conforming to the nomenclature of the Convention and as set forth in Publication No. 2030 of the Commission entitled ‘Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes’ and Supplement No. 1 thereto; but

“(2) does not include the statistical annotations, notes, annexes, suffixes, check digits, units of quantity, and other matters formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), nor the table of contents, footnotes, index, and other matters inserted for ease of reference, that are included in such Publication No. 2030 or Supplement No. 1. thereto.”

[For effective date of Harmonized Tariff Schedule as Jan. 1, 1989, see section 1217(b) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.]

TARIFF CLASSIFICATION ACT OF 1962; ADOPTION OF REVISED TARIFF SCHEDULES; ADMINISTRATIVE AND SAVINGS PROVISIONS

Titles I and II of Pub. L. 87-456, May 24, 1962, 76 Stat. 72-75, as amended by Pub. L. 87-794, title II, §257(g), Oct. 11, 1962, 76 Stat. 882; Pub. L. 100-418, title I, §1213(b), Aug. 23, 1988, 102 Stat. 1155, provided for adoption of Revised Tariff Schedules of the United States and administrative and saving provisions.

§ 1202. Harmonized Tariff Schedule

PUBLICATION OF HARMONIZED TARIFF SCHEDULE

The Harmonized Tariff Schedule of the United States is not published in the Code. A current version of the Harmonized Tariff Schedule is maintained and published periodically by the United States International Trade Commission and is available at their website and for sale by the Superintendent of Documents, U.S. Government Publishing Office, Washington, D.C. 20402.

REFERENCE TO TARIFF SCHEDULES TO BE TREATED AS REFERENCE TO HARMONIZED TARIFF SCHEDULE

Reference in any law to “Tariff Schedules of the United States”, “the Tariff Schedules”, “such Schedules”, and any other general reference to the old Schedules to be treated as reference to Harmonized Tariff Schedule, see section 3012 of this title.

SUBTITLE II—SPECIAL PROVISIONS

PART I—MISCELLANEOUS

§ 1301. Repealed. Apr. 30, 1946, ch. 244, title V, § 511(1), 60 Stat. 158

Section, act June 17, 1930, ch. 497, title III, §301, 46 Stat. 685, related to duties and taxes on Philippine articles coming to the United States and United States articles imported into the Philippine Islands. Subject matter is covered by Philippine Trade Act of 1946 (see Short Title note set out under section 1354 of Title 22, Foreign Relations and Intercourse).

EFFECTIVE DATE OF REPEAL

Repeal effective May 1, 1946, see section 512 of act Apr. 30, 1946, set out as an Effective Date note under section 1354 of Title 22, Foreign Relations and Intercourse.

§ 1301a. Repealed. Pub. L. 87-456, title III, § 301(a), May 24, 1962, 76 Stat. 75

Section, act June 17, 1930, ch. 497, title III, §301, as added Sept. 1, 1954, ch. 1213, title IV, §401, 68 Stat. 1139, related to rates of duty upon articles coming into the United States from its insular possessions.

§ 1302. Omitted

CODIFICATION

Section, acts June 17, 1930, ch. 497, title III, §302, 46 Stat. 686; May 17, 1932, ch. 190, 47 Stat. 158, was incorporated as section 3361(b) of the Internal Revenue Code of 1939. See section 7653 of Title 26, Internal Revenue Code.

§ 1303. Repealed. Pub. L. 103-465, title II, § 261(a), Dec. 8, 1994, 108 Stat. 4908

Section, acts June 17, 1930, ch. 497, title III, §303, 46 Stat. 687; Jan. 3, 1975, Pub. L. 93-618, title III, §331(a), 88 Stat. 2049; Apr. 3, 1979, Pub. L. 96-6, §1, 93 Stat. 10; July 26, 1979, Pub. L. 96-39, title I, §§103, 105(a), 93 Stat. 190, 193, provided for the levy of countervailing duties.

EFFECTIVE DATE OF REPEAL

Pub. L. 103-465, title II, §261(a), Dec. 8, 1994, 108 Stat. 4908, provided that this section is repealed “effective on the effective date of this title [Jan. 1, 1995, see Effective Date of 1994 Amendment note set out under section 1671 of this title]”.

SAVINGS PROVISION

Pub. L. 103-465, title II, §261(b), (c), Dec. 8, 1994, 108 Stat. 4908, 4909, provided that:

“(b) SAVINGS PROVISIONS.—

“(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, and other administrative actions—

“(A) which have been issued pursuant to an investigation conducted under section 303 of the Tariff Act of 1930 [19 U.S.C. 1303], and

“(B) which are in effect on the effective date of this title [Jan. 1, 1995, see Effective Date of 1994 Amendment note set out under section 1671 of this title], or were final before such date and are to become effective on or after such date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, the International Trade Commission, or a court of competent jurisdiction, or by operation of law. Except as provided in paragraph (3), such orders or determinations shall be subject to review under section 751 of the Tariff Act of 1930 [19 U.S.C. 1675] and, to the extent applicable, investigation under section 753 of such Act [19 U.S.C. 1675b] (as added by this title).

“(2) PROCEEDINGS NOT AFFECTED.—The provisions of subsection (a) shall not affect any proceedings, including notices of proposed rulemaking, pending before the administering authority or the International Trade Commission on the effective date of this title with respect to such section 303 [19 U.S.C. 1303]. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, in accordance with such section 303 as in effect on the day before the effective date of this title and, except as provided in paragraph (3), shall be subject to review under section 751 of the Tariff Act of 1930 [19 U.S.C. 1675] and, to the extent applicable, investigation under section 753 of such Act [19 U.S.C. 1675b]. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to pro-

hibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

“(3) SUITS NOT AFFECTED.—The provisions of subsection (a) shall not affect the review pursuant to section 516A of the Tariff Act of 1930 [19 U.S.C. 1516a] of a countervailing duty order issued pursuant to an investigation conducted under section 303 of such Act [19 U.S.C. 1303] or a review of a countervailing duty order issued under section 751 of such Act [19 U.S.C. 1675], if such review is pending or the time for filing such review has not expired on the effective date of this title.

“(c) DEFINITION OF ADMINISTERING AUTHORITY.—For purposes of this section, the term ‘administering authority’ has the meaning given such term by section 771(1) of the Tariff Act of 1930 [19 U.S.C. 1677(1)].”

REFERENCES TO FORMER SECTION 1303

Pub. L. 103-465, title II, §261(d)(1)(C), Dec. 8, 1994, 108 Stat. 4910, provided that: “Any reference to section 303 [19 U.S.C. 1303] in any other Federal law, Executive order, rule, or regulation shall be treated as a reference to section 303 of the Tariff Act of 1930 as in effect on the day before the effective date of title II of this Act [Jan. 1, 1995, see Effective Date of 1994 Amendment note set out under section 1671 of this title].”

References to section 1303 in chapter 4 of this title defined to mean section 1303 as in effect on the day before Jan. 1, 1995, see section 1677(26) of this title.

§ 1304. Marking of imported articles and containers

(a) Marking of articles

Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. The Secretary of the Treasury may by regulations—

(1) Determine the character of words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling, or by any other reasonable method, and a conspicuous place on the article (or container) where the marking shall appear;

(2) Require the addition of any other words or symbols which may be appropriate to prevent deception or mistake as to the origin of the article or as to the origin of any other article with which such imported article is usually combined subsequent to importation but before delivery to an ultimate purchaser; and

(3) Authorize the exception of any article from the requirements of marking if—

(A) Such article is incapable of being marked;

(B) Such article cannot be marked prior to shipment to the United States without injury;

(C) Such article cannot be marked prior to shipment to the United States, except at an expense economically prohibitive of its importation;

(D) The marking of a container of such article will reasonably indicate the origin of such article;

(E) Such article is a crude substance;

(F) Such article is imported for use by the importer and not intended for sale in its imported or any other form;

(G) Such article is to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such article and in such manner that any mark contemplated by this section would necessarily be obliterated, destroyed, or permanently concealed;

(H) An ultimate purchaser, by reason of the character of such article or by reason of the circumstances of its importation, must necessarily know the country of origin of such article even though it is not marked to indicate its origin;

(I) Such article was produced more than twenty years prior to its importation into the United States;

(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: *Provided*, That this subdivision shall not apply after September 1, 1938, to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of sections 1351, 1352, 1353, 1354 of this title, as extended; or

(K) Such article cannot be marked after importation except at any expense which is economically prohibitive, and the failure to mark the article before importation was not due to any purpose of the importer, producer, seller, or shipper to avoid compliance with this section.

(b) Marking of containers

Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a). If articles are excepted from marking requirements under clause (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements of this section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin.

(c) Marking of certain pipe and fittings

(1) Except as provided in paragraph (2), no exception may be made under subsection (a)(3)

with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, engraving, or continuous paint stenciling.

(2) If, because of the nature of an article, it is technically or commercially infeasible to mark it by one of the five methods specified in paragraph (1), the article may be marked by an equally permanent method of marking or, in the case of small diameter pipe, tube, and fittings, by tagging the containers or bundles.

(d) Marking of compressed gas cylinders

No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

(e) Marking of certain castings

No exception may be made under subsection (a)(3) with respect to inlet frames, tree and trench grates, lampposts, lamppost bases, cast utility poles, bollards, hydrants, utility boxes, manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, engraving, or an equally permanent method of marking in a location such that it will remain visible after installation.

(f) Marking of certain coffee and tea products

The marking requirements of subsections (a) and (b) shall not apply to articles described in subheadings 0901.21, 0901.22, 0902.10, 0902.20, 0902.30, 0902.40, 2101.10, and 2101.20 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

(g) Marking of spices

The marking requirements of subsections (a) and (b) shall not apply to articles provided for under subheadings 0904.11, 0904.12, 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10, 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91, 1404.90, and 3302.10, and items classifiable in categories 0712.90.60, 0712.90.8080, 1209.91.2000, 1211.90.2000, 1211.90.8040, 1211.90.8050, 1211.90.8090, 2006.00.3000, 2918.13.2000, 3203.00.8000, 3301.90.1010, 3301.90.1020, and 3301.90.1050 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

(h) Marking of certain silk products

The marking requirements of subsections (a) and (b) shall not apply either to—

(1) articles provided for in subheading 6214.10.10 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1997; or

(2) articles provided for in heading 5007 of the Harmonized Tariff Schedule of the United States as in effect on January 1, 1997.

(i) Additional duties for failure to mark

If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. The compensation and expenses of customs officers and employees assigned to supervise the exportation, destruction, or marking to exempt articles from the application of the duty provided for in this subsection shall be reimbursed to the Government by the importer.

(j) Delivery withheld until marked

No imported article held in customs custody for inspection, examination, or appraisal shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (i) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

(k) Treatment of goods of NAFTA country

(1) Application of section

In applying this section to an article that qualifies as a good of a NAFTA country (as defined in section 3301(4) of this title) under the regulations issued by the Secretary to implement Annex 311 of the North American Free Trade Agreement—

(A) the exemption under subsection (a)(3)(H) shall be applied by substituting “reasonably know” for “necessarily know”;

(B) the Secretary shall exempt the good from the requirements for marking under subsection (a) if the good—

(i) is an original work of art, or

(ii) is provided for under subheading 6904.10, heading 8541, or heading 8542 of the Harmonized Tariff Schedule of the United States; and

(C) subsection (b) does not apply to the usual container of any good described in sub-

section (a)(3)(E) or (I) or subparagraph (B)(i) or (ii) of this paragraph.

(2) Petition rights of NAFTA exporters and producers regarding marking determinations

(A) Definitions

For purposes of this paragraph:

(i) The term “adverse marking decision” means a determination by the Customs Service which an exporter or producer of merchandise believes to be contrary to Annex 311 of the North American Free Trade Agreement.

(ii) A person may not be treated as the exporter or producer of merchandise regarding which an adverse marking decision was made unless such person—

(I) if claiming to be the exporter, is located in a NAFTA country and is required to maintain records in that country regarding exportations to NAFTA countries; or

(II) if claiming to be the producer, grows, mines, harvests, fishes, traps, hunts, manufactures, processes, or assembles such merchandise in a NAFTA country.

(B) Intervention or petition regarding adverse marking decisions

If the Customs Service makes an adverse marking decision regarding any merchandise, the Customs Service shall, upon written request by the exporter or producer of the merchandise, provide to the exporter or producer a statement of the basis for the decision. If the exporter or producer believes that the decision is not correct, it may intervene in any protest proceeding initiated by the importer of the merchandise. If the importer does not file a protest with regard to the decision, the exporter or producer may file a petition with the Customs Service setting forth—

(i) a description of the merchandise; and

(ii) the basis for its claim that the merchandise should be marked as a good of a NAFTA country.

(C) Effect of determination regarding decision

If, after receipt and consideration of a petition filed by an exporter or producer under subparagraph (B), the Customs Service determines that the adverse marking decision—

(i) is not correct, the Customs Service shall notify the petitioner of the determination and all merchandise entered, or withdrawn from warehouse for consumption, more than 30 days after the date that notice of the determination under this clause is published in the weekly Custom Bulletin shall be marked in conformity with the determination; or

(ii) is correct, the Customs Service shall notify the petitioner that the petition is denied.

(D) Judicial review

For purposes of judicial review, the denial of a petition under subparagraph (C)(ii) shall

be treated as if it were a denial of a petition of an interested party under section 1516 of this title regarding an issue arising under any of the preceding provisions of this section.

(I) Penalties

Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this chapter shall—

(1) upon conviction for the first violation of this subsection, be fined not more than \$100,000, or imprisoned for not more than 1 year, or both; and

(2) upon conviction for the second or any subsequent violation of this subsection, be fined not more than \$250,000, or imprisoned for not more than 1 year, or both.

(June 17, 1930, ch. 497, title III, §304, 46 Stat. 687; June 25, 1938, ch. 679, §3, 52 Stat. 1077; Aug. 8, 1953, ch. 397, §4(c), 67 Stat. 509; Pub. L. 98-573, title II, §207, Oct. 30, 1984, 98 Stat. 2976; Pub. L. 99-514, title XVIII, §1888(1), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-418, title I, §1907(a)(1), Aug. 23, 1988, 102 Stat. 1314; Pub. L. 103-182, title II, §207(a), Dec. 8, 1993, 107 Stat. 2096; Pub. L. 104-295, §14(a), (b), Oct. 11, 1996, 110 Stat. 3521, 3522; Pub. L. 106-36, title II, §2423(a), (b), June 25, 1999, 113 Stat. 180; Pub. L. 114-125, title IX, §917(a), Feb. 24, 2016, 130 Stat. 279.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsecs. (f) to (h) and (k)(1)(B)(ii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

Provisions dealing with the subject matter of this section and former section 133 of this title were contained in act Oct. 3, 1913, ch. 16, §IV, F, subsecs. 1 and 2, 38 Stat. 194, superseding similar provisions of previous tariff acts. Those subsections were superseded by act Sept. 21, 1922, ch. 356, title III, §304(a), 42 Stat. 947, and repealed by §321 of that act. Section 304(a) of the act of 1922 was superseded by section 304 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2016—Subsec. (e). Pub. L. 114-125, §917(a)(3), inserted before period at end “in a location such that it will remain visible after installation”.

Pub. L. 114-125, §917(a)(2), which directed insertion of “inlet frames, tree and trench grates, lampposts, lamppost bases, cast utility poles, bollards, hydrants, utility boxes,” before “manhole rings,” was executed by making the insertion before “manhole rings or frames,” to reflect the probable intent of Congress.

Pub. L. 114-125, §917(a)(1), substituted “castings” for “manhole rings or frames, covers, and assemblies thereof” in heading.

1999—Subsecs. (h), (i). Pub. L. 106-36, §2423(a), added subsec. (h) and redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 106-36, §2423(a)(1), (b), redesignated subsec. (i) as (j) and substituted “subsection (i)” for “subsection (h)”. Former subsec. (j) redesignated (k).

Subsecs. (k), (l). Pub. L. 106-36, §2423(a)(1), redesignated subsecs. (j) and (k) as (k) and (l), respectively.

1996—Subsecs. (f) to (h). Pub. L. 104-295, §14(a), added subsecs. (f) and (g) and redesignated former subsec. (f)

as (h). Former subsecs. (g) and (h) redesignated (i) and (j), respectively.

Subsec. (i). Pub. L. 104-295, §14(a)(1), (b), redesignated subsec. (g) as (i) and substituted “subsection (h) of this section” for “subsection (f) of this section”.

Subsecs. (j), (k). Pub. L. 104-295, §14(a)(1), redesignated subsecs. (h) and (i) as (j) and (k), respectively.

1993—Subsec. (c)(1). Pub. L. 103-182, §207(a)(1), substituted “engraving, or continuous paint stenciling” for “or engraving”.

Subsec. (c)(2). Pub. L. 103-182, §207(a)(2), substituted “five methods” for “four methods” and struck out “such as paint stenciling” after “method of marking”.

Subsec. (e). Pub. L. 103-182, §207(a)(3), substituted “engraving, or an equally permanent method of marking” for “or engraving”.

Subsecs. (h), (i). Pub. L. 103-182, §207(a)(4), (5), added subsec. (h) and redesignated former subsec. (h) as (i).

1988—Subsec. (h). Pub. L. 100-418 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “If any person shall, with intent to conceal the information given thereby or contained therein, deface, destroy, remove, alter, cover, obscure, or obliterate any mark required under the provisions of this chapter, he shall, upon conviction, be fined not more than \$5,000 or imprisoned not more than one year, or both.”

1986—Subsec. (c). Pub. L. 99-514 substituted “(1) Except as provided in paragraph (2), no” for “No” and added par. (2).

1984—Subsecs. (c) to (h). Pub. L. 98-573 added subsecs. (c) to (e), redesignated former subsecs. (c) to (e) as (f) to (h), respectively, and in subsec. (g), as redesignated, substituted “subsection (f) of this section” for “subsection (c) of this section”.

1953—Subsec. (a)(3)(K). Act Aug. 8, 1953, added cl. (K).

1938—Act June 25, 1938, amended section generally.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-125, title IX, §917(b), Feb. 24, 2016, 130 Stat. 279, provided that: “The amendments made by subsection (a) [amending this section] take effect on the date of the enactment of this Act [Feb. 24, 2016] and apply with respect to the importation of castings described in such amendments on or after the date that is 180 days after such date of enactment.”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-36, title II, §2423(c), June 25, 1999, 113 Stat. 180, provided that: “The amendments made by this section [amending this section] apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act [June 25, 1999].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-295, §14(c), Oct. 11, 1996, 110 Stat. 3522, provided that: “The amendments made by this section [amending this section] apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act [Oct. 11, 1996].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-418, title I, §1907(a)(2), Aug. 23, 1988, 102 Stat. 1314, provided that:

“(A) The amendment made by paragraph (1) [amending this section] applies with respect to acts committed on or after the date of the enactment of this Act [Aug. 23, 1988].

“(B) The conviction of a person under section 304(h) of the Tariff Act of 1930 [19 U.S.C. 1304(h)] for an act committed before the date of the enactment of this Act

shall be disregarded for purposes of applying paragraph (2) of such subsection (as added by the amendment made by paragraph (1) of this subsection[]).”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-573, title II, §214, Oct. 30, 1984, 98 Stat. 2988, provided that:

“(a) For purposes of this section, the term ‘15th day’ means the 15th day after the date of the enactment of this Act [Oct. 30, 1984].

“(b) Except as provided in subsections (c), (d), and (e), the amendments made by this title [enacting sections 58b, 1339, and 1627a of this title, amending sections 81c, 81o, 1313, 1330, 1431, 1498, 1555, 2192, 2251, 2253, and 2703 of this title, section 925 of Title 18, Crimes and Criminal Procedure, and section 162 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 2, 81c, 81o, and 1339 of this title, and section 162 of Title 26] shall take effect on the 15th day.

“(c)(1) The amendment made by section 204 [amending section 1441 of this title] shall apply with respect to vessels returning from the British Virgin Islands on or after the 15th day.

“(2) The amendments made by section 207 [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day; except for such of those articles that, on or before the 15th day, had been taken on board for transit to the customs territory of the United States.

“(3)(A) The amendment made by section 208 [amending section 1466 of this title] shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day.

“(B) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act [Oct. 30, 1984], any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

“(i) made before the 15th day but not liquidated as of January 1, 1983, or

“(ii) made before the 15th day but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

“(iii) with respect to which there would have been no duty if the amendment made by section 208 applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the 15th day.

“(4) The amendments made by section 209 [enacting section 1484a of this title and amending section 1202 of this title] shall apply with respect to articles launched into space from the customs territory of the United States on or after January 1, 1985.

“(5)(A) The amendment made by section 210(a) [amending section 1505 of this title] shall take effect on the 30th day after the date of the enactment of this Act [Oct. 30, 1984].

“(B) The amendment made by section 210(b) [amending section 1520 of this title] shall apply with respect to determinations made or ordered on or after the date of the enactment of this Act [Oct. 30, 1984].

“(d)(1) The amendments made by section 212 [amending sections 1520, 1564, and 1641 of this title and sections 1581, 1582, 2631, 2636, 2640, and 2643 of Title 28, Judiciary and Judicial Procedure] shall take effect upon the close of the 180th day following the date of the enactment of this Act [Oct. 30, 1984] with the following exceptions:

“(A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by such section [19 U.S.C. 1641(c)(1)(B), (2)], shall take effect three years after the date of the enactment of this Act [Oct. 30, 1984].

“(B) The amendments made to the Tariff Act of 1930 by subsection (c) of section 212 [no subsec. (c) of section 212 was enacted] shall take effect on such date of enactment [Oct. 30, 1984].

“(2) A license in effect on the date of enactment of this Act [Oct. 30, 1984] under section 641 of the Tariff

Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of section 212 and such licenses shall be accepted as permits for the district or districts covered by that license.

“(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act [Oct. 30, 1984] shall continue and be governed by the law in effect at the time the proceeding was instituted.

“(4) If any provision of section 212 or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

“(e) The amendments made by section 213 [enacting sections 1589a, 1613b, and 1616a of this title, amending sections 1602, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1618, and 1619 of this title and repealing section 7607 of Title 26, Internal Revenue Code] shall take effect October 15, 1984.”

EFFECTIVE DATE OF 1953 AMENDMENTS, ENACTMENTS, AND REPEALS

Act Aug. 8, 1953, ch. 397, §1, 67 Stat. 507, provided that such act [see Short Title of 1953 Amendment note set out under section 1654 of this title] is effective, except as otherwise specifically provided for, on and after the thirtieth day following the date of its enactment [Aug. 8, 1953].

The exception “except as otherwise specifically provided for” apparently refers to the amendments made to the provisions preceding subd. (1) of section 1308 of this title, and to section 1557(b) of this title, for which separate effective dates were provided as explained in notes under such sections.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

SAVINGS PROVISION

Act Aug. 8, 1953, ch. 397, §23, 67 Stat. 521, provided: “Except as may be otherwise provided for in this Act [see Short Title of 1953 Amendment note set out under section 1654 of this title], the repeal of existing law or modifications thereof embraced in this Act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal case prior to such repeal or modification, but all liabilities under such laws shall continue, except as otherwise specifically provided in this Act, and may be enforced in the same manner as if such repeal or modification had not been made.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(l), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all other officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and

employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Customs officers and employees, referred to in text, were under Department of the Treasury.

MARKING REQUIREMENTS FOR ARTICLES QUALIFYING AS GOODS OF NAFTA COUNTRY

Pub. L. 103-182, title II, §207(b), Dec. 8, 1993, 107 Stat. 2097, provided that: “Articles that qualify as goods of a NAFTA country under regulations issued by the Secretary in accordance with Annex 311 of the Agreement [North American Free Trade Agreement] are exempt from the marking requirements promulgated by the Secretary of the Treasury under section 1907(c) of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418 [102 Stat. 1315]), but are subject to the requirements of section 304 of the Tariff Act of 1930 (19 U.S.C. 1304).”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1304a. Technical assistance to U.S. Customs and Border Protection

The Secretary of Agriculture shall make available to U.S. Customs and Border Protection technical assistance related to the identification of produce represented as grown in the United States when it is not in fact grown in the United States.

(Pub. L. 113-79, title XII, §12309(a), Feb. 7, 2014, 128 Stat. 991.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 2014, and not as part of the Tariff Act of 1930 which comprises this chapter.

§ 1305. Immoral articles; importation prohibited

(a) Prohibition of importation

All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the

appropriate customs officer that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further*, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes: *Provided further*, That effective January 1, 1993, this section shall not apply to any lottery ticket, printed paper that may be used as a lottery ticket, or advertisement of any lottery, that is printed in Canada for use in connection with a lottery conducted in the United States.

(b)¹ Enforcement procedures

Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the appropriate customs officer to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Court of International Trade from the decision of such customs officer. Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—

- (1) the office at which such seizure took place; or
- (2) the place to which such book or matter is addressed;

and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits.

(c)¹ Institution of forfeiture proceedings

Notwithstanding the provisions of subsections (a) and (b), whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30

days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

(d) Stay of forfeiture proceedings

Upon motion of the United States, a court shall stay such civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter.

(b)¹ Coordination of forfeiture proceedings with criminal proceedings

(1) Notwithstanding subsection (a), whenever the Customs Service is of the opinion that criminal prosecution would be appropriate or that further criminal investigation is warranted in connection with allegedly obscene material seized at the time of entry, the appropriate customs officer shall immediately transmit information concerning such seizure to the United States Attorney² of the district of the addressee's residence. No notice to the addressee or consignee concerning the seizure is required at the time of such transmittal.

(2) Upon receipt of such information, such United States attorney shall promptly determine whether in such attorney's opinion the referral of the matter for forfeiture under this section would materially affect the Government's ability to conduct a criminal investigation with respect to such seizure.

(3) If the United States attorney is of the opinion that no prejudice to such investigation will result from such referral, such attorney shall immediately so notify the Customs Service in writing. The appropriate customs officer shall immediately notify in writing the addressee or consignee of the seizure and shall transmit information concerning such seizure to the United States Attorney² of the district in which is situated the office at which such seizure has taken place. The actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 14 days of the seizure unless the United States Attorney² of the district of the addressee's residence certifies in writing and includes specific, articulable facts demonstrating that the determination required in paragraph (2) of this subsection could not be made in sufficient time to comply with this deadline. In such cases, the actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 21 days of seizure.

(4) If the United States attorney for the district of the addressee's residence concludes that material prejudice to such investigation will result from such referral, such United States attorney shall place on file, within 14 days of the date of seizure, a dated certification stating that it is the United States attorney's judgment that referral of the matter for forfeiture under this section would materially affect the Government's ability to conduct a criminal investigation with respect to the seizure. The certifi-

¹ So in original. Two subsecs. (b) and (c) have been enacted. Second subsecs. (b) and (c) probably should be designated (e) and (f), respectively.

² So in original. Probably should not be capitalized.

cation shall set forth specific, articulable facts demonstrating that withholding referral for forfeiture is necessary.

(5)(A) As soon as the circumstances change so that withholding of referral for forfeiture is no longer necessary for purposes of the criminal investigation, the United States attorney shall immediately so notify the Customs Service in writing and shall furnish a copy of the certification described in paragraph (4) above to the Customs Service.

(B) In any matter referred to a United States attorney for possible criminal prosecution wherein subparagraph (5)(A) does not apply, the United States attorney shall immediately notify the Customs Service in writing concerning the disposition of the matter, whether by institution of a prosecution or a letter of declination, and shall also furnish a copy of the certification described in paragraph (4) of this subsection to the Customs Service.

(C) Upon receipt of the notification described in subparagraph (A) or (B) of this paragraph, the appropriate customs officer shall immediately notify the addressee or consignee of the seizure and shall transmit information concerning the seizure, including a copy of the certification described in paragraph (4) above and a copy of the notification described in subparagraph (A) or (B) of this paragraph, to the United States attorney of the district in which is situated the office at which such seizure has taken place, who shall institute forfeiture proceedings in accordance with subsection (a) hereof within 14 days of the date of the notification described in subparagraph (A) or (B) above. A copy of the certification described in paragraph (4) above and a copy of the notification described in subparagraph (A) or (B) of this paragraph shall be affixed to the complaint for forfeiture.

(c)¹ Stay on motion

Upon motion of the United States, a court, for good cause shown, shall stay civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter whether in the same or in a different district.

(June 17, 1930, ch. 497, title III, § 305, 46 Stat. 688; June 25, 1948, ch. 645, § 21, 62 Stat. 862; June 25, 1948, ch. 646, § 1, 62 Stat. 869; Pub. L. 91-271, title III, § 301(a), June 2, 1970, 84 Stat. 287; Pub. L. 91-662, § 1, Jan. 8, 1971, 84 Stat. 1973; Pub. L. 96-417, title VI, § 601(2), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 100-418, title I, § 1901(a), Aug. 23, 1988, 102 Stat. 1312; Pub. L. 100-449, title II, § 206, Sept. 28, 1988, 102 Stat. 1864; Pub. L. 100-690, title VII, § 7522(e)[d], Nov. 18, 1988, 102 Stat. 4500.)

AMENDMENT OF SECTION

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

PRIOR PROVISIONS

Provisions in substantially the same language as those in this section were made by act Oct. 3, 1913, ch. 16, § IV, subsections 1, 2, and 3, 38 Stat. 194, superseding similar provisions of previous tariff acts. Those subsections were superseded by act Sept. 21, 1922, ch. 356, title III, § 305, 42 Stat. 937, and repealed by section 321 of that act. Section 305 of act Sept. 21, 1922, was superseded by section 305 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-449 temporarily inserted proviso at end of first par. directing that, “effective January 1, 1993, this section shall not apply to any lottery ticket, printed paper that may be used as a lottery ticket, or advertisement of any lottery, that is printed in Canada for use in connection with a lottery conducted in the United States”. See Effective and Termination Dates of 1988 Amendment note below.

Pub. L. 100-418, § 1901(a)(1), designated second par. of subsec. (a) as subsec. (b) “Enforcement procedures”.

Subsec. (b). Pub. L. 100-690, § 7522(e), added subsec. (b) relating to coordination of forfeiture proceedings with criminal proceedings.

Pub. L. 100-418, § 1901(a)(1), (2), designated second par. of subsec. (a) as subsec. (b) “Enforcement procedures” and amended second sentence generally. Prior to amendment, second sentence read as follows: “Upon the seizure of such book or matter such customs officer shall transmit information thereof to the United States attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.”

Subsec. (c). Pub. L. 100-690, § 7522(e), added subsec. (c) relating to stay on motion.

Pub. L. 100-418, § 1901(a)(3), added subsec. (c) relating to institution of forfeiture proceedings.

Subsec. (d). Pub. L. 100-418 added subsec. (d) relating to stay of forfeiture proceedings.

1980—Subsec. (a). Pub. L. 96-417, in second undesignated par., redesignated the United States Customs Court as the United States Court of International Trade.

1971—Subsec. (a). Pub. L. 91-662 struck out “for the prevention of conception or” before “for causing unlawful abortion”.

1970—Subsec. (a). Pub. L. 91-271 substituted references to the appropriate customs officer for references to the collector wherever appearing.

1948—Subsec. (b). Act June 25, 1948, eff. Sept. 1, 1948, repealed subsec. (b) which related to penalties against government officers. See section 552 of Title 18, Crimes and Criminal Procedure.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted “United States attorney” for “district attorney”. See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

Pub. L. 100-418, title I, § 1901(b), Aug. 23, 1988, 102 Stat. 1312, provided that: “The amendments made by subsection (a) [amending this section] apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Aug. 23, 1988].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-662 effective Jan. 9, 1971, see section 7 of Pub. L. 91-662, set out as a note under section 552 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all other officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Customs officers, referred to in text, were under Department of the Treasury.

IMPORTATION OF RU-486

Memorandum of President of the United States, Jan. 22, 1993, 58 F.R. 7459, provided:

Memorandum for the Secretary of Health and Human Services

In Import Alert 66-47, the Food and Drug Administration ("FDA") excluded the drug Mifepristone—commonly known as RU-486—from the list of drugs that individuals can import into the United States for their "personal use," although the drugs have not yet been approved for distribution by the FDA. (See FDA Regulatory Procedures Manual, Chapter 9-71.) Import Alert 66-47 effectively bans the importation into this Nation of a drug that is used in other nations as a nonsurgical means of abortion.

I am informed that in excluding RU-486 from the personal use importation exemption, the FDA appears to have based its decision on factors other than an assessment of the possible health and safety risks of the drug. Accordingly, I hereby direct that you promptly instruct the FDA to determine whether there is sufficient evidence to warrant exclusion of RU-486 from the list of drugs that qualify for the personal use importation exemption. Furthermore, if the FDA concludes that RU-486 meets the criteria for the personal use importation exemption, I direct that you immediately take steps to rescind Import Alert 66-47.

In addition, I direct that you promptly assess initiatives by which the Department of Health and Human Services can promote the testing, licensing, and manufacturing in the United States of RU-486 or other antiprogestins.

You are hereby authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 1306. Repealed. Pub. L. 107-171, title X, § 10418(a)(5), May 13, 2002, 116 Stat. 507

Section, June 17, 1930, ch. 497, title III, § 306, 46 Stat. 689; Pub. L. 85-867, Sept. 2, 1958, 72 Stat. 1685; Pub. L. 90-201, § 18, Dec. 15, 1967, 81 Stat. 600; Pub. L. 100-449, title III, § 301(f)(5), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103-182, title III, § 361(d)(1), Dec. 8, 1993, 107 Stat. 2123; Pub. L. 103-465, title IV, § 431(g), Dec. 8, 1994, 108 Stat. 4969, prohibited the importation of cattle, sheep, swine, and meats in certain cases.

§ 1307. Convict-made goods; importation prohibited

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision.

"Forced labor", as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily. For purposes of this section, the term "forced labor or/and indentured labor" includes forced or indentured child labor.

(June 17, 1930, ch. 497, title III, § 307, 46 Stat. 689; Pub. L. 106-200, title IV, § 411(a), May 18, 2000, 114 Stat. 298; Pub. L. 114-125, title IX, § 910(a)(1), Feb. 24, 2016, 130 Stat. 239.)

PRIOR PROVISIONS

Provisions in the same language as the provisions in this section were made by act Oct. 3, 1913, ch. 16, § IV, I, 38 Stat. 195, superseding similar provisions of previous tariff acts. That subdivision was superseded by act Sept. 21, 1922, ch. 356, title III, § 307, 42 Stat. 937, and repealed by section 321 of that act. Section 307 of act Sept. 21, 1922, was superseded by section 307 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2016—Pub. L. 114-125 struck out "The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States." after "enforcement of this provision."

2000—Pub. L. 106-200 inserted at end "For purposes of this section, the term 'forced labor or/and indentured labor' includes forced or indentured child labor."

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-125, title IX, § 910(a)(2), Feb. 24, 2016, 130 Stat. 239, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the date that is 15 days after the date of the enactment of this Act [Feb. 24, 2016]."

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-200, title IV, § 411(b), May 18, 2000, 114 Stat. 298, provided that: "The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [May 18, 2000]."

PROHIBITION ON USE OF FUNDS TO PREVENT ENFORCEMENT OF BAN ON IMPORTATION OF CONVICT-MADE GOODS

Pub. L. 108-90, title V, § 514, Oct. 1, 2003, 117 Stat. 1154, provided that: "For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security shall be available for any activity or for paying the salary of any Government employee where funding an activity or

paying a salary to a Government employee would result in a determination, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).”

PROHIBITION ON USE OF FUNDS TO ALLOW IMPORTATION OF FORCED OR INDENTURED CHILD LABOR

Pub. L. 108-90, title V, §515, Oct. 1, 2003, 117 Stat. 1154, provided that: “For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to allow—

“(1) the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); or

“(2) the release into the United States of any good, ware, article, or merchandise on which there is in effect a detention order under such section 307 on the basis that the good, ware, article, or merchandise may have been mined, produced, or manufactured by forced or indentured child labor.”

REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR UNITED STATES MARKET

Pub. L. 105-261, div. C, title XXXVII, §3702, Oct. 17, 1998, 112 Stat. 2275, provided that:

“(a) **REPORT TO CONGRESS.**—Not later than 1 year after the date of the enactment of this Act [Oct. 17, 1998], the Commissioner of Customs shall prepare and transmit to the Congress a report on products made with forced labor that are destined for the United States market.

“(b) **CONTENTS OF REPORT.**—The report under subsection (a) shall include information concerning the following:

“(1) The extent of the use of forced labor in manufacturing products destined for the United States market.

“(2) The volume of products made with forced labor, destined for the United States market, that is in violation of section 307 of the Tariff Act of 1930 [19 U.S.C. 1307] or section 1761 of title 18, United States Code, and is seized by the United States Customs Service.

“(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor that are destined for the United States market.”

SENSE OF CONGRESS REQUESTING PRESIDENT TO INSTRUCT SECRETARY OF THE TREASURY TO ENFORCE SECTION 1307 WITHOUT DELAY

Pub. L. 100-418, title I, §1906, Aug. 23, 1988, 102 Stat. 1313, related to Congressional findings of deplorable forced labor conditions in former Soviet Union and request of President to instruct Secretary of the Treasury to enforce this section without delay, prior to repeal by Pub. L. 103-199, title II, §204(a), Dec. 17, 1993, 107 Stat. 2322.

§ 1308. Prohibition on importation of dog and cat fur products

(a) Definitions

In this section:

(1) Cat fur

The term “cat fur” means the pelt or skin of any animal of the species *Felis catus*.

(2) Interstate commerce

The term “interstate commerce” means the transportation for sale, trade, or use between any State, territory, or possession of the United States, or the District of Columbia, and any place outside thereof.

(3) Customs laws

The term “customs laws of the United States” means any other law or regulation en-

forced or administered by the United States Customs Service.

(4) Designated authority

The term “designated authority” means the Secretary of the Treasury, with respect to the prohibitions under subsection (b)(1)(A), and the President (or the President’s designee), with respect to the prohibitions under subsection (b)(1)(B).

(5) Dog fur

The term “dog fur” means the pelt or skin of any animal of the species *Canis familiaris*.

(6) Dog or cat fur product

The term “dog or cat fur product” means any item of merchandise which consists, or is composed in whole or in part, of any dog fur, cat fur, or both.

(7) Person

The term “person” includes any individual, partnership, corporation, association, organization, business trust, government entity, or other entity subject to the jurisdiction of the United States.

(8) United States

The term “United States” means the customs territory of the United States, as defined in general note 2 of the Harmonized Tariff Schedule of the United States.

(b) Prohibitions

(1) In general

It shall be unlawful for any person to—

(A) import into, or export from, the United States any dog or cat fur product; or

(B) introduce into interstate commerce, manufacture for introduction into interstate commerce, sell, trade, or advertise in interstate commerce, offer to sell, or transport or distribute in interstate commerce in the United States, any dog or cat fur product.

(2) Exception

This subsection shall not apply to the importation, exportation, or transportation, for noncommercial purposes, of a personal pet that is deceased, including a pet preserved through taxidermy.

(c) Penalties and enforcement

(1) Civil penalties

(A) In general

Any person who violates any provision of this section or any regulation issued under this section may, in addition to any other civil or criminal penalty that may be imposed under title 18 or any other provision of law, be assessed a civil penalty by the designated authority of not more than—

(i) \$10,000 for each separate knowing and intentional violation;

(ii) \$5,000 for each separate grossly negligent violation; or

(iii) \$3,000 for each separate negligent violation.

(B) Debarment

The designated authority may prohibit a person from importing, exporting, transport-

ing, distributing, manufacturing, or selling any fur product in the United States, if the designated authority finds that the person has engaged in a pattern or practice of actions that has resulted in a final administrative determination with respect to the assessment of civil penalties for knowing and intentional or grossly negligent violations of any provision of this section or any regulation issued under this section.

(C) Factors in assessing penalties

In determining the amount of civil penalties under this paragraph, the designated authority shall take into account the degree of culpability, any history of prior violations under this section, ability to pay, the seriousness of the violation, and such other matters as fairness may require.

(D) Notice

No penalty may be assessed under this paragraph against a person unless the person is given notice and opportunity for a hearing with respect to such violation in accordance with section 554 of title 5.

(2) Forfeiture

Any dog or cat fur product manufactured, taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, imported, or exported contrary to the provisions of this section or any regulation issued under this section shall be subject to forfeiture to the United States.

(3) Enforcement

The Secretary of the Treasury shall enforce the provisions of this section with respect to the prohibitions under subsection (b)(1)(A), and the President shall enforce the provisions of this section with respect to the prohibitions under subsection (b)(1)(B).

(4) Regulations

Not later than 270 days after November 9, 2000, the designated authorities shall, after notice and opportunity for comment, issue regulations to carry out the provisions of this section. The regulations of the Secretary of the Treasury shall provide for a process by which testing laboratories, whether domestic or foreign, can qualify for certification by the United States Customs Service by demonstrating the reliability of the procedures used for determining the type of fur contained in articles intended for sale or consumption in interstate commerce. Use of a laboratory certified by the United States Customs Service to determine the nature of fur contained in an item to which subsection (b) applies is not required to avoid liability under this section but may, in a case in which a person can establish that the goods imported were tested by such a laboratory and that the item was not found to be a dog or cat fur product, prove dispositive in determining whether that person exercised reasonable care for purposes of paragraph (6).

(5) Reward

The designated authority shall pay a reward of not less than \$500 to any person who furnishes information that establishes or leads to

a civil penalty assessment, debarment, or forfeiture of property for any violation of this section or any regulation issued under this section.

(6) Affirmative defense

Any person accused of a violation under this section has a defense to any proceeding brought under this section on account of such violation if that person establishes by a preponderance of the evidence that the person exercised reasonable care—

(A) in determining the nature of the products alleged to have resulted in such violation; and

(B) in ensuring that the products were accompanied by documentation, packaging, and labeling that were accurate as to the nature of the products.

(7) Coordination with other laws

Nothing in this section shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the customs laws of the United States.

(d) Publication of names of certain violators

The designated authorities shall, at least once each year, publish in the Federal Register a list of the names of any producer, manufacturer, supplier, seller, importer, or exporter, whether or not located within the customs territory of the United States or subject to the jurisdiction of the United States, against whom a final administrative determination with respect to the assessment of a civil penalty for a knowing and intentional or a grossly negligent violation has been made under this section.

(June 17, 1930, ch. 497, title III, §308, as added Pub. L. 106-476, title I, §1443(a), Nov. 9, 2000, 114 Stat. 2164; amended Pub. L. 113-188, title X, §1001(a), Nov. 26, 2014, 128 Stat. 2022.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(8), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

A prior section 1308, acts June 17, 1930, ch. 497, title III, §308, 46 Stat. 690; June 25, 1938, ch. 679, §4, 52 Stat. 1079; Aug. 8, 1953, ch. 397, §10(a)(1), (b) to (f), 67 Stat. 512; Aug. 28, 1954, ch. 1045, §1, 68 Stat. 914; Aug. 28, 1957, Pub. L. 85-211, §3, 71 Stat. 487; Apr. 16, 1958, Pub. L. 85-379, 72 Stat. 88; May 16, 1958, Pub. L. 85-414, §1, 72 Stat. 118, prescribed articles for temporary free importation under bond for exportation, prior to repeal by Pub. L. 87-456, title III, §301(a), title V, §501(a), May 24, 1962, 76 Stat. 75, 78, effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113-188 struck out subsec. (e) which related to submissions of a plan for enforcement and annual reports on enforcement efforts.

EFFECTIVE DATE

Pub. L. 106-476, title I, §1443(c), Nov. 9, 2000, 114 Stat. 2167, provided that: “The amendments made by this section [enacting this section and amending section 69 of Title 15, Commerce and Trade] shall take effect on the date of the enactment of this Act [Nov. 9, 2000].”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(l), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

FINDINGS AND PURPOSES

Pub. L. 106-476, title I, §1442, Nov. 9, 2000, 114 Stat. 2163, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) An estimated 2,000,000 dogs and cats are slaughtered and sold annually as part of the international fur trade. Internationally, dog and cat fur is used in a wide variety of products, including fur coats and jackets, fur trimmed garments, hats, gloves, decorative accessories, stuffed animals, and other toys.

“(2) The United States represents one of the largest markets for the sale of fur and fur products in the world. Market demand for fur products in the United States has led to the introduction of dog and cat fur products into United States commerce, frequently based on deceptive or fraudulent labeling of the products to disguise the true nature of the fur and mislead United States wholesalers, retailers, and consumers.

“(3) Dog and cat fur, when dyed, is not easily distinguishable to persons who are not experts from other furs such as fox, rabbit, coyote, wolf, and mink, and synthetic materials made to resemble real fur. Dog and cat fur is generally less expensive than other types of fur and may be used as a substitute for more expensive types of furs, which provides an incentive to engage in unfair or fraudulent trade practices in the importation, exportation, distribution, or sale of fur products, including deceptive labeling and other practices designed to disguise the true contents or origin of the product.

“(4) Forensic texts have documented that dog and cat fur products are being imported into the United States subject to deceptive labels or other practices designed to conceal the use of dog or cat fur in the production of wearing apparel, toys, and other products.

“(5) Publicly available evidence reflects ongoing significant use of dogs and cats bred expressly for their fur by foreign fur producers for manufacture into wearing apparel, toys, and other products that have been introduced into United States commerce. The evidence indicates that foreign fur producers also rely on the use of stray dogs and cats and stolen pets for the manufacture of fur products destined for the world and United States markets.

“(6) The methods of housing, transporting, and slaughtering dogs and cats for fur production are generally unregulated and inhumane.

“(7) The trade of dog and cat fur products is ethically and aesthetically abhorrent to United States citizens. Consumers in the United States have a right to know if products offered for sale contain dog or cat fur and to ensure that they are not unwitting participants in this gruesome trade.

“(8) Persons who engage in the sale of dog or cat fur products, including the fraudulent trade practices identified above, gain an unfair competitive advantage over persons who engage in legitimate trade in apparel, toys, and other products, and derive an unfair benefit from consumers who buy their products.

“(9) The imposition of a ban on the sale, manufacture, offer for sale, transportation, and distribution of dog and cat fur products, regardless of their source, is consistent with the international obligations of the United States because it applies equally to domestic and foreign producers and avoids any discrimination among foreign sources of competing products. Such a ban is also consistent with provisions of international agreements to which the United States is a party that expressly allow for measures designed to protect the health and welfare of animals and to enjoin the use of deceptive trade practices in international or domestic commerce.

“(b) PURPOSES.—The purposes of this chapter [chapter 3 (§§1441-1443) of subtitle B of title I of Pub. L. 106-476, see Short Title of 2000 Amendment note set out under section 1654 of this title] are to—

“(1) prohibit imports, exports, sale, manufacture, offer for sale, transportation, and distribution in the United States of dog and cat fur products, in order to ensure that United States market demand does not provide an incentive to slaughter dogs or cats for their fur;

“(2) require accurate labeling of fur species so that consumers in the United States can make informed choices and ensure that they are not unwitting contributors to this gruesome trade; and

“(3) ensure that the customs laws of the United States are not undermined by illicit international traffic in dog and cat fur products.”

§ 1309. Supplies for certain vessels and aircraft**(a) Exemption from customs duties and internal-revenue tax**

Articles of foreign or domestic origin may be withdrawn, under such regulations as the Secretary of the Treasury may prescribe, from any customs bonded warehouse, from continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone free of duty and internal-revenue tax, or from any internal-revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal-revenue tax—

(1) for supplies (not including equipment) of (A) vessels or aircraft operated by the United States, (B) vessels of the United States employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or between Hawaii and any other part of the United States, or between Alaska and any other part of the United States, or (C) aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States; or

(2) for supplies (including equipment) or repair of (A) vessels of war of any foreign nation, or (B) foreign vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where such trade by foreign vessels is permitted; or

(3) for supplies (including equipment), ground equipment, maintenance, or repair of

aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where trade by foreign aircraft is permitted. With respect to articles for ground equipment, the exemption hereunder shall apply only to duties and to taxes imposed upon or by reason of importation.

The provisions for free withdrawals made by this subsection shall not apply to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the United States.

(b) Drawback

Articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone, imported articles, and articles of domestic manufacture or production, laden as supplies upon any such vessel or aircraft of the United States or laden as supplies (including equipment) upon, or used in the maintenance or repair of, any such foreign vessel or aircraft, shall be considered to be exported within the meaning of the drawback provisions of this chapter.

(c) Articles removed in, or returned to, the United States

Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 1317 of this title and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

(d) Reciprocal privileges

The privileges granted by this section and section 1317 of this title in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 1317 shall not apply thereafter in respect of aircraft registered in that foreign country.

(June 17, 1930, ch. 497, title III, § 309, 46 Stat. 690; June 25, 1938, ch. 679, § 5(a), 52 Stat. 1080; July 22, 1941, ch. 314, § 3, 55 Stat. 602; Aug. 8, 1953, ch. 397, § 11(a), 67 Stat. 514; Pub. L. 86-606, § 5(a), July 7, 1960, 74 Stat. 361; Pub. L. 101-382, title III, § 484A(b), Aug. 20, 1990, 104 Stat. 708.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § IV, K, 38 Stat. 197, which superseded a like provision made by an amendment of R.S. § 2982, by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 21, 36 Stat. 88. Section IV, K, of the

act of 1913, and R.S. § 2982 were superseded by act Sept. 21, 1922, ch. 356, title III, § 309, 42 Stat. 938, and respectively repealed by sections 321 and 642 thereof. Section 309 of the act of 1922 was superseded by section 309 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-382 inserted “imported articles,” after “foreign-trade zone.”

1960—Subsec. (a). Pub. L. 86-606 inserted “, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States” after “possessions” wherever appearing, and made the provisions for free withdrawals inapplicable to petroleum products for vessels or aircraft in voyages or flights between Hawaii or Alaska and any airport or Pacific coast seaport of the United States.

1953—Subsec. (a). Act Aug. 8, 1953, extended the exemption from payment of duty and internal revenue tax theretofore available to supplies for certain vessels and aircraft withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere to supplies withdrawn from foreign trade zones; accorded free entry for equipment withdrawn for foreign vessels; and enlarged the classes of vessels and aircraft theretofore covered to include all vessels and aircraft operated by the United States.

Subsec. (b). Act Aug. 8, 1953, made technical changes to conform with the changes made by such act in subsec. (a), including insertion of “or from a foreign-trade zone.”

1941—Subsec. (a). Act July 22, 1941, inserted “or from any internal-revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal-revenue tax” after “internal-revenue tax”.

1938—Act June 25, 1938, amended section generally, adding subsecs. (c) and (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-382, title III, § 484A(c), Aug. 20, 1990, 104 Stat. 708, provided that: “Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the amendments made by this section [amending this section and section 1313 of this title] shall apply to—

“(1) claims filed or liquidated on or after January 1, 1988, and

“(2) claims that are unliquidated, under protest, or in litigation on the date of enactment of this Act [Aug. 20, 1990].”

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-606, § 5(b), July 7, 1960, 74 Stat. 361, provided that: “The amendment made by this section [amending this section] shall apply only with respect to articles withdrawn as provided in section 309(a) of the Tariff Act of 1930, as amended [subsec. (a) of this section], on or after the date of the enactment of this Act [July 7, 1960].”

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

§ 1310. Free importation of merchandise recovered from sunken and abandoned vessels

Whenever any vessel laden with merchandise, in whole or in part subject to duty, has been

sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years and is abandoned by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe.

(June 17, 1930, ch. 497, title III, § 310, 46 Stat. 691.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § IV, L, 38 Stat. 197, superseding similar provisions of previous tariff acts. That section was superseded by act Sept. 21, 1922, ch. 356, title III, § 310, 42 Stat. 938, and repealed by section 321 of that act. Section 310 of act Sept. 21, 1922, was superseded by section 310 of act June 17, 1930, and repealed by section 651(a)(1) of the 1930 act.

§ 1311. Bonded manufacturing warehouses

All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: *Provided further*, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them, shall not be permitted in such manufacturing warehouses.

Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be exported directly therefrom or shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days after June 17, 1930, shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.

Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing ware-

house; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the appropriate customs officer of the port, who shall certify to such shipment and exportation, or lading for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided*, That the by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under the Act of March 24, 1874, ch. 65, 18 Stat. 24, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected by law if such waste or by-products were imported from a foreign country: *Provided*, That all waste material may be destroyed under Government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

A careful account shall be kept by the appropriate customs officer of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officers in charge, shall be made by the manufacturer containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse for the sole purpose of export therefrom: *Provided*, That cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

The provisions of section 3433 of the Revised Statutes shall, so far as may be practicable, apply to any bonded manufacturing warehouse

established under this chapter and to the merchandise conveyed therein.

Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section, and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses.

No article manufactured in a bonded warehouse from materials that are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, may be withdrawn from warehouse for exportation to a NAFTA country, as defined in section 3301(4) of this title, without assessment of a duty on the materials in their condition and quantity, and at their weight, at the time of importation into the United States. The duty shall be paid before the 61st day after the date of exportation, except that upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the article, the customs duty may be waived or reduced (subject to section 1508(b)(2)(B) of this title) in an amount that does not exceed the lesser of—

- (1) the total amount of customs duties paid or owed on the materials on importation into the United States, or
- (2) the total amount of customs duties paid on the article to the NAFTA country.

If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, no article manufactured in a bonded warehouse, except to the extent that such article is made from an article that is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, may be withdrawn from such warehouse for exportation to Canada during the period such Agreement is in operation without payment of a duty on such imported merchandise in its condition, and at the rate of duty in effect, at the time of importation.

No article manufactured in a bonded warehouse from materials that are goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, may be withdrawn from warehouse for exportation to Chile without assessment of a duty on the materials in their condition and quantity, and at their weight, at the time of importation into the United States. The duty shall be paid before the 61st day after the date of exportation, except that the duty may be waived or reduced by—

- (1) 100 percent during the 8-year period beginning on January 1, 2004;

- (2) 75 percent during the 1-year period beginning on January 1, 2012;

- (3) 50 percent during the 1-year period beginning on January 1, 2013; and

- (4) 25 percent during the 1-year period beginning on January 1, 2014.

(June 17, 1930, ch. 497, title III, §311, 46 Stat. 691; June 26, 1936, ch. 830, title IV, §404, 49 Stat. 1960; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 96-39, title VIII, §856(b), July 26, 1979, 93 Stat. 295; Pub. L. 97-446, title II, §202, Jan. 12, 1983, 96 Stat. 2350; Pub. L. 100-449, title II, §204(c)(1), Sept. 28, 1988, 102 Stat. 1862; Pub. L. 103-182, title II, §203(b)(1), Dec. 8, 1993, 107 Stat. 2088; Pub. L. 108-77, title II, §203(b)(1), Sept. 3, 2003, 117 Stat. 925.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 108-77, see Effective and Termination Dates of 2003 Amendment note below.

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

REFERENCES IN TEXT

Act March 24, 1874, referred to in text, which provided that "importers' bonded warehouses, to be used for the storage and cleansing of imported rice intended for exportation to foreign countries, may be established at any port of entry in the United States, under such rules and regulations as the Secretary of the Treasury may prescribe", was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

R.S. §3433, referred to in text, was amended by act Feb. 27, 1877, ch. 69, 19 Stat. 248. The provisions of R.S. §3433 as they existed prior to the amendment by act Feb. 27, 1877, were reenacted as section 10 of act Oct. 1, 1890, ch. 1244, 26 Stat. 614. Section 55 of said act Oct. 1, 1890, repealed all laws and parts of laws inconsistent therewith. The provisions of said section 10 of act Oct. 1, 1890, were incorporated into the Internal Revenue Code of 1939, as subsections (a), (b), (c), and (d)(1) of section 3177. See section 5521 of Title 26, Internal Revenue Code.

Section 204 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in text, is section 204 of Pub. L. 100-449, which is set out in a note under section 2112 of this title.

Section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, referred to in text, is section 203(a) of Pub. L. 108-77, which is set out in a note under section 3805 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, §IV, M, 38 Stat. 197, which was superseded by act Sept. 21, 1922, ch. 356, title III, §311, 42 Stat. 938, and repealed by section 321 thereof. Section 311 of the 1922 act was superseded by section 311 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Section IV, M, of the act of 1913 superseded previous similar provisions of the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §23, 36 Stat. 88, which superseded those of the Dingley Tariff Act of July 24, 1897, ch. 11, §15, 30 Stat. 207. Similar provisions were contained in the Wilson Tariff Act of Aug. 27, 1894, ch. 349, §9, 28 Stat. 548.

AMENDMENTS

2003—Pub. L. 108-77, §§107(c), 203(b)(1), temporarily added par. at end relating to goods subject to Chile FTA drawback. See Effective and Termination Dates of 2003 Amendment note below.

1993—Pub. L. 103-182 amended last par. generally. Prior to amendment, last par. read as follows: "No arti-

cle manufactured in a bonded warehouse, except to the extent that such article is made from an article that is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, may be withdrawn from such warehouse for exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, without payment of a duty on such imported merchandise in its condition, and at the rate of duty in effect, at the time of importation.”

1988—Pub. L. 100-449 temporarily added par. at end relating to articles withdrawn for exportation to Canada on and after Jan. 1, 1994, and to drawback-eligible goods under the United States-Canada Free-Trade Agreement Implementation Act of 1988. See Effective and Termination Dates of 1988 Amendment note below.

1983—Pub. L. 97-446 struck out “at an exterior port” after “bonded warehouse” and “immediate” after “sole purpose of” in eighth par.

1979—Pub. L. 96-39, in par. relating to distilled spirits and wine, struck out provision that no internal revenue tax be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, and that no person rectifying distilled spirits or wines in such warehouses be subject by reason of such rectification to the payment of special tax as rectifier.

1970—Pub. L. 91-271 substituted references to the appropriate customs officer for references to the collector wherever appearing.

1936—Act June 26, 1936, inserted par. at end relating to distilled spirits and wine.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-39, title VIII, §856(b), July 26, 1979, 93 Stat. 295, provided that: “Effective January 1, 1980, the second proviso to the last paragraph of section 311 of the Tariff Act of 1930 [this section] is hereby repealed.”

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of the Treasury and functions of all agencies and employees of

such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Customs officers, referred to in text, are under Department of the Treasury.

WITHDRAWAL OF DISTILLED SPIRITS TO MANUFACTURING BONDED WAREHOUSES; TRANSFERS TO WAREHOUSES PENDING EXPORTATION

Pub. L. 96-39, title VIII, §856(a), July 26, 1979, 93 Stat. 295, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “In the case of articles described in section 5522(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, 26 U.S.C. 5522(a)] (as in effect before its repeal by section 807(a)(50) of the Distilled Spirits Tax Revision Act of 1979 [section 807(50) of Pub. L. 96-39]) the first sentence of the eighth paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) shall be applied as if such first sentence did not include the phrase ‘at an exterior port.’”

§ 1312. Bonded smelting and refining warehouses

(a) Bond; charges against bond

Any plant engaged in smelting or refining, or both, of metal-bearing materials as defined in this section may, upon the giving of satisfactory bond, be designated a bonded smelting or refining warehouse. Metal-bearing materials may be entered into a bonded smelting or refining warehouse without the payment of duties thereon and there smelted or refined, or both, together with metal-bearing materials of domestic or foreign origin. Upon arrival of imported metal-bearing materials at the warehouse they shall be sampled according to commercial methods and assayed, both under customs supervision. The bond shall be charged with a sum equal in amount to the duties which would be payable on such metal-bearing materials in their condition as imported if entered for consumption, and the bond charge shall be adjusted to reflect changes in the applicable rate of duty occurring while the imported materials are still covered by the bond.

(b) Cancellation of charges against bond

The several charges against such bond may be canceled in whole or in part—

(1) upon the exportation from the bonded warehouses which treated the metal-bearing materials, or from any other bonded smelting or refining warehouse, of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c); except that—

(A) in the case of a withdrawal for exportation of such a product to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the

amount of any customs duties paid to the NAFTA country on the product, the duties on the materials may be waived or reduced (subject to section 1508(b)(2)(B) of this title) in an amount that does not exceed the lesser of—

(i) the total amount of customs duties owed on the materials on importation into the United States, or

(ii) the total amount of customs duties paid to the NAFTA country on the product, and

(B) in the case of a withdrawal for exportation of such a product to Chile, if any of the imported metal-bearing materials are goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation, except that the duties may be waived or reduced by—

(i) 100 percent during the 8-year period beginning on January 1, 2004,

(ii) 75 percent during the 1-year period beginning on January 1, 2012,

(iii) 50 percent during the 1-year period beginning on January 1, 2013, and

(iv) 25 percent during the 1-year period beginning on January 1, 2014, or

(2) upon payment of duties on the dutiable quantity of metal contained in the imported metal-bearing materials, or

(3) upon the transfer of the bond charges to another bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), or

(4) upon the transfer of the bond charges to a bonded customs warehouse other than a bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), and upon withdrawal from such other warehouse for exportation or domestic consumption the provisions of this section shall apply; except that—

(A) in the case of a withdrawal for exportation of such a product to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the duties on the materials may be waived or reduced (subject to section 1508(b)(2)(B) of this title)

in an amount that does not exceed the lesser of—

(i) the total amount of customs duties owed on the materials on importation into the United States, or

(ii) the total amount of customs duties paid to the NAFTA country on the product, and

(B) in the case of a withdrawal for exportation of such a product to Chile, if any of the imported metal-bearing materials are goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation, except that the duties may be waived or reduced by—

(i) 100 percent during the 8-year period beginning on January 1, 2004,

(ii) 75 percent during the 1-year period beginning on January 1, 2012,

(iii) 50 percent during the 1-year period beginning on January 1, 2013, and

(iv) 25 percent during the 1-year period beginning on January 1, 2014, or

(5) upon the transfer to another bonded smelting or refining warehouse without physical shipment of metal of bond charges representing a quantity of dutiable metal contained in imported metal-bearing materials less wastage provided for in subsection (c) of the plant of initial treatment of such materials provided there is on hand at the warehouse to which the transfer is made sufficient like metal in any form to satisfy the transferred bond charges.

If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, no charges against such bond may be canceled in whole or part upon an exportation to Canada under paragraph (1) or (4) during the period such Agreement is in operation except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988.

(c) Allowance on bond for wastage of metals

For purposes of paragraphs (1), (3), (4), and (5) of subsection (b), due allowances shall be made for wastage of metals other than copper, lead, and zinc, as ascertained from time to time by the Secretary of the Treasury.

(d) Credit for exportation of product other than refined metal

Upon the exportation of a product of smelting or refining other than refined metal the bond shall be credited with a quantity of metal equivalent to the quantity of metal contained in the product exported less the proportionate part of the deductions allowed for losses in determination of the bond charge being cancelled that would not ordinarily be sustained in production of the specific product exported as ascertained from time to time by the Secretary of the Treasury; except that—

(1) in the case of a withdrawal for exportation to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, charges against the bond shall be paid before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the bond shall be credited (subject to section 1508(b)(2)(B) of this title) in an amount not to exceed the lesser of—

(A) the total amount of customs duties paid or owed on the materials on importation into the United States, or

(B) the total amount of customs duties paid to the NAFTA country on the product; and

(2) in the case of a withdrawal for exportation to Chile, if any of the imported metal-bearing materials are goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, charges against the bond shall be paid before the 61st day after the date of exportation, and the bond shall be credited in an amount equal to—

(A) 100 percent of the total amount of customs duties paid or owed on the materials on importation into the United States during the 8-year period beginning on January 1, 2004,

(B) 75 percent of the total amount of customs duties paid or owed on the materials on importation into the United States during the 1-year period beginning on January 1, 2012,

(C) 50 percent of the total amount of customs duties paid or owed on the materials on importation into the United States during the 1-year period beginning on January 1, 2013, and

(D) 25 percent of the total amount of customs duties paid or owed on the materials on importation into the United States during the 1-year period beginning on January 1, 2014.

If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, no bond shall be credited under this subsection with respect to an exportation of a product to Canada during the period such Agreement is in operation except to the extent that the product is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988.

(e) General bond for two or more warehouses

Two or more smelting or refining warehouses may be included under one general bond and the quantities of each kind of metal subject to duty on hand at all of such warehouses may be aggregated to satisfy the bond obligation.

(f) Definitions

For purposes of this section—

(1) the term “metal-bearing materials” means metal-bearing ores and other metal-

bearing materials provided for in chapter 26 of the Harmonized Tariff Schedule of the United States, metal waste and scrap and unwrought metal to be smelted or refined provided for in chapters 71 through 83 of the Harmonized Tariff Schedule of the United States, and metal compounds to be processed for the recovery of their metal content;

(2) the term “smelting or refining” embraces only pyrometallurgical, hydrometallurgical, electrometallurgical, chemical, or other processes—

(A) for the treatment of metal-bearing materials to reduce the metal content thereof to a metallic state in the course of recovering it in forms which if imported would be classifiable in chapters 71 through 83 of the Harmonized Tariff Schedule of the United States as unwrought metal, or in the form of oxides or other compounds which are obtained directly from the treatment of materials provided for in chapter 26 of the Harmonized Tariff Schedule of the United States, and

(B) for the treatment of unwrought metal or metal waste and scrap to remove impurities or undesired components; and

(3) the term “product of smelting or refining” means metals or metal-bearing materials resulting directly from smelting or refining processes, but does not include metal-bearing ores of chapter 26 of the Harmonized Tariff Schedule of the United States.

(g) Supervision and cost of labor under this section

Labor performed and services rendered pursuant to this section shall be under the supervision of an officer of the customs, to be appointed by the Secretary of the Treasury and at the expense of the manufacturer. The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(June 17, 1930, ch. 497, title III, §312, 46 Stat. 692; Pub. L. 87-456, title III, §301(b), May 24, 1962, 76 Stat. 75; Pub. L. 100-418, title I, §1214(h)(1), Aug. 23, 1988, 102 Stat. 1157; Pub. L. 100-449, title II, §204(c)(2), Sept. 28, 1988, 102 Stat. 1862; Pub. L. 103-182, title II, §203(b)(2), Dec. 8, 1993, 107 Stat. 2088; Pub. L. 108-77, title II, §203(b)(2), Sept. 3, 2003, 117 Stat. 925.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 108-77, see Effective and Termination Dates of 2003 Amendment note below.

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

REFERENCES IN TEXT

Sections 202 and 204 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsecs. (b) and (d), are sections 202 and 204 of Pub. L. 100-449, which are set out in a note under section 2112 of this title.

Section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsecs. (b)(1)(B), (4)(B) and (d)(2), is section 203(a) of Pub. L. 108-77, which is set out in a note under section 3805 of this title.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (f), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, §IV, N, subsection 1, 38 Stat. 198, which was superseded by act Sept. 21, 1922, ch. 356, title III, §312, 42 Stat. 940, and repealed by section 321 thereof. Section 312 of the act of 1922 was superseded by section 312 of act June 17, 1930, and repealed by section 651(a)(1) of the 1930 act.

Provisions more or less similar were contained in the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §24, 36 Stat. 89, the Dingley Tariff Act of July 24, 1897, ch. 11, §29, 30 Stat. 210, the McKinley Tariff Act of Oct. 1, 1890, ch. 1244, §24, 26 Stat. 617, and the Wilson Tariff Act of Aug. 27, 1894, ch. 349, §21, 28 Stat. 551.

Previous provisions for sampling lead ores were contained in act Mar. 2, 1895, ch. 189, §1, 28 Stat. 933, prior to repeal by act Sept. 21, 1922, ch. 356, title III, §321, 42 Stat. 947.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108-77, §§107(c), 203(b)(2)(A), temporarily substituted “except that—” and subpars. (A) and (B) for “except that in the case of a withdrawal for exportation of such a product to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the duties on the materials may be waived or reduced (subject to section 1508(b)(2)(B) of this title) in an amount that does not exceed the lesser of—

“(A) the total amount of customs duties owed on the materials on importation into the United States, or

“(B) the total amount of customs duties paid to the NAFTA country on the product, or”.

See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (b)(4). Pub. L. 108-77, §§107(c), 203(b)(2)(B), temporarily substituted “except that—” and subpars. (A) and (B) for “except that in the case of a withdrawal for exportation of such a product to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the duties on the materials may be waived or reduced (subject to section 1508(b)(2)(B) of this title) in an amount that does not exceed the lesser of—

“(A) the total amount of customs duties owed on the materials on importation into the United States, or

“(B) the total amount of customs duties paid to the NAFTA country on the product, or”.

See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (d). Pub. L. 108-77, §§107(c), 203(b)(2)(C), temporarily substituted “except that—” and pars. (1) and (2) for “except that in the case of a withdrawal for exportation to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, charges against the bond shall be paid before the 61st day after the date

of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the bond shall be credited (subject to section 1508(b)(2)(B) of this title) in an amount not to exceed the lesser of—

“(1) the total amount of customs duties paid or owed on the materials on importation into the United States, or

“(2) the total amount of customs duties paid to the NAFTA country on the product.”

See Effective and Termination Dates of 2003 Amendment note below.

1993—Subsec. (b). Pub. L. 103-182, §203(b)(2)(B), inserted concluding provisions following par. (5).

Subsec. (b)(1). Pub. L. 103-182, §203(b)(2)(A), struck out “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)” after “upon the exportation” and inserted provisions excepting goods withdrawn for exportation to a NAFTA country.

Subsec. (b)(4). Pub. L. 103-182, §203(b)(2)(A), struck out “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)” after “warehouse for exportation” and inserted provisions excepting goods withdrawn for exportation to a NAFTA country.

Subsec. (d). Pub. L. 103-182, §203(b)(2)(C), struck out “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the product is a drawback eligible good under section 204(a) of such Act of 1988)” after “Upon the exportation” and inserted before concluding period provisions excepting goods withdrawn for exportation to a NAFTA country, including pars. (1) and (2), as well as sentence relating to conditions arising should Canada cease to be a NAFTA country.

1988—Subsec. (b)(1), (4). Pub. L. 100-449, §204(c)(2)(A), temporarily inserted “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)” after “exportation”. See Effective and Termination Dates of 1988 Amendment note below.

Subsec. (d). Pub. L. 100-449, §204(c)(2)(B), temporarily inserted “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the product is a drawback eligible good under section 204(a) of such Act of 1988)” after “exportation”. See Effective and Termination Dates of 1988 Amendment note below.

Subsec. (f)(1). Pub. L. 100-418, §1214(h)(1)(A), substituted “chapter 26 of the Harmonized Tariff Schedule of the United States” for “schedule 6, part 1, of the Tariff Schedules of the United States” and “chapters 71 through 83 of the Harmonized Tariff Schedule of the United States” for “schedule 6, part 2, of such schedules” and struck out the quotation marks surrounding “metal waste and scrap” and “unwrought metal”.

Subsec. (f)(2)(A). Pub. L. 100-418, §1214(h)(1)(B), substituted “chapters 71 through 83 of the Harmonized

Tariff Schedule of the United States” for “part 2 of schedule 6” and “chapter 26 of the Harmonized Tariff Schedule of the United States” for “part 1 of schedule 6” and struck out single quotation marks surrounding “unwrought metal”.

Subsec. (f)(3). Pub. L. 100-418, § 1214(h)(1)(C), substituted “of chapter 26 of the Harmonized Tariff Schedule of the United States” for “as defined in part 1 of schedule 6”.

1962—Pub. L. 87-456 amended section generally, and among other changes, substituted “metal-bearing minerals” for “ores or crude metals”, authorized adjustment of the bond charge to reflect changes in the applicable rate of duty occurring while the imported materials are still covered by the bond, permitted two or more warehouses to be included under one general bond, prohibited allowances for wastage of copper, lead, and zinc, and defined “metal-bearing materials”, “smelting or refining”, and “product of smelting or refining”.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-456 effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

§ 1313. Drawback and refunds

(a) Articles made from imported merchandise

Upon the exportation or destruction under customs supervision of articles manufactured or produced in the United States with the use of imported merchandise, provided that those articles have not been used prior to such exportation or destruction, an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l) shall be refunded as drawback, except that duties shall not be so refunded upon the exportation or destruction of flour or by-products produced from imported wheat. Where two or more products re-

sult from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

(b) Substitution for drawback purposes

(1) In general

If imported duty-paid merchandise or merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise is used in the manufacture or production of articles within a period not to exceed 5 years from the date of importation of such imported merchandise, there shall be allowed upon the exportation, or destruction under customs supervision, of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported or destroyed articles, an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l), but only if those articles have not been used prior to such exportation or destruction.

(2) Requirements relating to transfer of merchandise

(A) Manufacturers and producers

Drawback shall be allowed under paragraph (1) with respect to an article manufactured or produced using imported merchandise or other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise only if the manufacturer or producer of the article received such imported merchandise or such other merchandise, directly or indirectly, from the importer.

(B) Exporters and destroyers

Drawback shall be allowed under paragraph (1) with respect to a manufactured or produced article that is exported or destroyed only if the exporter or destroyer received that article, directly or indirectly, from the manufacturer or producer.

(C) Evidence of transfer

Transfers of merchandise under subparagraph (A) and transfers of articles under subparagraph (B) may be evidenced by business records kept in the normal course of business and no additional certificates of transfer or manufacture shall be required.

(3) Submission of bill of materials or formula

(A) In general

Drawback shall be allowed under paragraph (1) with respect to an article manufactured or produced using imported merchandise or other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise only if the person making the drawback claim submits with the claim a bill of materials or formula identifying the merchandise and article by the 8-digit HTS subheading number and the quantity of the merchandise.

(B) Bill of materials and formula defined

In this paragraph, the terms “bill of materials” and “formula” mean records kept in

the normal course of business that identify each component incorporated into a manufactured or produced article or that identify the quantity of each element, material, chemical, mixture, or other substance incorporated into a manufactured article.

(4) Special rule for sought chemical elements

(A) In general

For purposes of paragraph (1), a sought chemical element may be—

(i) considered imported merchandise, or merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise, used in the manufacture or production of an article as described in paragraph (1); and

(ii) substituted for source material containing that sought chemical element, without regard to whether the sought chemical element and the source material are classifiable under the same 8-digit HTS subheading number, and apportioned quantitatively, as appropriate.

(B) Sought chemical element defined

In this paragraph, the term “sought chemical element” means an element listed in the Periodic Table of Elements that is imported into the United States or a chemical compound consisting of those elements, either separately in elemental form or contained in source material.

(c) Merchandise not conforming to sample or specifications

(1) Conditions for drawback

Upon the exportation or destruction under the supervision of the Customs Service of articles or merchandise—

(A) upon which the duties have been paid,

(B) which has been entered or withdrawn for consumption,

(C) which is—

(i) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation, or

(ii) ultimately sold at retail by the importer, or the person who received the merchandise from the importer, and for any reason returned to and accepted by the importer, or the person who received the merchandise from the importer, and

(D) which, within 5 years after the date of importation or withdrawal, as applicable, has been exported or destroyed under the supervision of U.S. Customs and Border Protection,

an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l) shall be refunded as drawback.

(2) Designation of import entries

For purposes of paragraph (1)(C)(ii), drawback may be claimed by designating an entry of merchandise that was imported within 1 year before the date of exportation or destruction of the merchandise described in paragraph (1)(A) and (B) under the supervision of

U.S. Customs and Border Protection. The merchandise designated for drawback must be identified in the import documentation with the same eight-digit classification number and specific product identifier (such as part number, SKU, or product code) as the returned merchandise.

(3) Evidence of transfers

Transfers of merchandise under paragraph (1) may be evidenced by business records kept in the normal course of business and no additional certificates of transfer shall be required.

(d) Flavoring extracts; medicinal or toilet preparations; bottled distilled spirits and wines

Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used.

Upon the exportation of bottled distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid or determined, there shall be allowed, under regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, a drawback equal in amount to the tax found to have been paid or determined on such bottled distilled spirits and wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(e) Imported salt for curing fish

Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish on the shores of the navigable waters of the United States, whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted.

(f) Exportation of meats cured with imported salt

Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than \$100.

(g) Materials for construction and equipment of vessels built for foreigners

The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

(h) Jet aircraft engines

Upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid thereon, in amounts not less than \$100.

(i) Proof of exportation

A person claiming drawback under this section based on the exportation of an article shall provide proof of the exportation of the article. Such proof of exportation—

(1) shall establish fully the date and fact of exportation and the identity of the exporter; and

(2) may be established through the use of records kept in the normal course of business or through an electronic export system of the United States Government, as determined by the Commissioner of U.S. Customs and Border Protection.

(j) Unused merchandise drawback

(1) If imported merchandise, on which was paid any duty, tax, or fee imposed under Federal law upon entry or importation—

(A) is, before the close of the 5-year period beginning on the date of importation and before the drawback claim is filed—

- (i) exported, or
- (ii) destroyed under customs supervision; and

(B) is not used within the United States before such exportation or destruction;

then upon such exportation or destruction an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l) shall be refunded as drawback. The exporter (or destroyer) has the right to claim drawback under this paragraph, but may endorse such right to the importer or any intermediate party.

(2) Subject to paragraphs (4), (5), and (6), if there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law upon entry or importation, any other merchandise (whether imported or domestic), that—

(A) is classifiable under the same 8-digit HTS subheading number as such imported merchandise;

(B) is, before the close of the 5-year period beginning on the date of importation of the imported merchandise and before the drawback claim is filed, either exported or destroyed under customs supervision; and

(C) before such exportation or destruction—

- (i) is not used within the United States, and

- (ii) is in the possession of, including ownership while in bailment, in leased facilities, in transit to, or in any other manner under the operational control of, the party claiming drawback under this paragraph, if that party—

(I) is the importer of the imported merchandise, or

(II) received the imported merchandise, other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise, or any combination of such imported merchandise and such other merchandise, directly or indirectly from the person who imported and paid any duties, taxes, and fees imposed under Federal law upon importation or entry and due on the imported merchandise (and any such transferred merchandise, regardless of its origin, will be treated as the imported merchandise and any retained merchandise will be treated as domestic merchandise);

then, notwithstanding any other provision of law, upon the exportation or destruction of such other merchandise an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l) shall be refunded as drawback. Notwithstanding subparagraph (A), drawback shall be allowed under this paragraph with respect to wine if the imported wine and the exported wine are of the same color and the price variation between the imported wine and the exported wine does not exceed 50 percent. Transfers of merchandise may be evidenced by business records kept in the normal course of business and no additional certificates of transfer shall be required.

(3) The performing of any operation or combination of operations (including, but not limited to, testing, cleaning, repacking, inspecting, sorting, refurbishing, freezing, blending, repairing, reworking, cutting, slitting, adjusting, replacing components, relabeling, disassembling, and unpacking), not amounting to manufacture or production for drawback purposes under the preceding provisions of this section—

(A) the imported merchandise itself in cases to which paragraph (1) applies, or

(B) merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise in cases to which paragraph (2) applies,

shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).

(4)(A) Effective upon the entry into force of the North American Free Trade Agreement, the exportation to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act [19 U.S.C. 3301(4)], of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (8) of section 203(a) of that Act [19 U.S.C. 3333(a)], shall not constitute an exportation for purposes of paragraph (2).

(B) Beginning on January 1, 2015, the exportation to Chile of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (5) of section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, shall not constitute an exportation for purposes of paragraph (2). The preceding sentence shall not be construed to permit the substitution of unused drawback under paragraph (2) of this subsection with respect to merchan-

dise described in paragraph (2) of section 203(a) of the United States-Chile Free Trade Agreement Implementation Act.

(5)(A) For purposes of paragraph (2) and except as provided in subparagraph (B), merchandise may not be substituted for imported merchandise for drawback purposes based on the 8-digit HTS subheading number if the article description for the 8-digit HTS subheading number under which the imported merchandise is classified begins with the term “other”.

(B) In cases described in subparagraph (A), merchandise may be substituted for imported merchandise for drawback purposes if—

(i) the other merchandise and such imported merchandise are classifiable under the same 10-digit HTS statistical reporting number; and

(ii) the article description for that 10-digit HTS statistical reporting number does not begin with the term “other”.

(6)(A) For purposes of paragraph (2), a drawback claimant may use the first 8 digits of the 10-digit Schedule B number for merchandise or an article to determine if the merchandise or article is classifiable under the same 8-digit HTS subheading number as the imported merchandise, without regard to whether the Schedule B number corresponds to more than one 8-digit HTS subheading number.

(B) In this paragraph, the term “Schedule B” means the Department of Commerce Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States.

(k) Liability for drawback claims

(1) In general

Any person making a claim for drawback under this section shall be liable for the full amount of the drawback claimed.

(2) Liability of importers

An importer shall be liable for any drawback claim made by another person with respect to merchandise imported by the importer in an amount equal to the lesser of—

(A) the amount of duties, taxes, and fees that the person claimed with respect to the imported merchandise; or

(B) the amount of duties, taxes, and fees that the importer authorized the other person to claim with respect to the imported merchandise.

(3) Joint and several liability

Persons described in paragraphs (1) and (2) shall be jointly and severally liable for the amount described in paragraph (2).

(l) Regulations

(1) In general

Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe.

(2) Calculation of drawback

(A) In general

Not later than the date that is 2 years after February 24, 2016, the Secretary shall prescribe regulations for determining the

calculation of amounts refunded as drawback under this section.

(B) Claims with respect to unused merchandise

The regulations required by subparagraph (A) for determining the calculation of amounts refunded as drawback under this section shall provide for a refund of equal to 99 percent of the duties, taxes, and fees paid on the imported merchandise, which were imposed under Federal law upon entry or importation of the imported merchandise, and may require the claim to be based upon the average per unit duties, taxes, and fees as reported on the entry summary line item or, if not reported on the entry summary line item, as otherwise allocated by U.S. Customs and Border Protection, except that where there is substitution of the merchandise, then—

(i) in the case of an article that is exported, the amount of the refund shall be equal to 99 percent of the lesser of—

(I) the amount of duties, taxes, and fees paid with respect to the imported merchandise; or

(II) the amount of duties, taxes, and fees that would apply to the exported article if the exported article were imported; and

(ii) in the case of an article that is destroyed, the amount of the refund shall be an amount that is—

(I) equal to 99 percent of the lesser of—

(aa) the amount of duties, taxes, and fees paid with respect to the imported merchandise; and

(bb) the amount of duties, taxes, and fees that would apply to the destroyed article if the destroyed article were imported; and

(II) reduced by the value of materials recovered during destruction as provided in subsection (x).

(C) Claims with respect to manufactured articles into which imported or substitute merchandise is incorporated

The regulations required by subparagraph (A) for determining the calculation of amounts refunded as drawback under this section shall provide for a refund of equal to 99 percent of the duties, taxes, and fees paid on the imported merchandise incorporated into an article that is exported or destroyed, which were imposed under Federal law upon entry or importation of the imported merchandise incorporated into an article that is exported or destroyed, and may require the claim to be based upon the average per unit duties, taxes, and fees as reported on the entry summary line item, or if not reported on the entry summary line item, as otherwise allocated by U.S. Customs and Border Protection, except that where there is substitution of the imported merchandise, then—

(i) in the case of an article that is exported, the amount of the refund shall be equal to 99 percent of the lesser of—

(I) the amount of duties, taxes, and fees paid with respect to the imported merchandise; or

(II) the amount of duties, taxes, and fees that would apply to the substituted merchandise if the substituted merchandise were imported; and

(ii) in the case of an article that is destroyed, the amount of the refund shall be an amount that is—

(I) equal to 99 percent of the lesser of—
(aa) the amount of duties, taxes, and fees paid with respect to the imported merchandise; and

(bb) the amount of duties, taxes, and fees that would apply to the substituted merchandise if the substituted merchandise were imported; and

(II) reduced by the value of materials recovered during destruction as provided in subsection (x).

(D) Exceptions

The calculations set forth in subparagraphs (B) and (C) shall not apply to claims for wine based on subsection (j)(2) and claims based on subsection (p) and instead—

(i) for any drawback claim for wine based on subsection (j)(2), the amount of the refund shall be equal to 99 percent of the duties, taxes, and fees paid with respect to the imported merchandise, without regard to the limitations in subparagraphs (B)(i) and (B)(ii); and

(ii) for any drawback claim based on subsection (p), the amount of the refund shall be subject to the limitations set out in paragraph (4) of that subsection and without regard to subparagraph (B)(i), (B)(ii), (C)(i), or (C)(ii).

(3) Status reports on regulations

Not later than the date that is one year after February 24, 2016, and annually thereafter until the regulations required by paragraph (2) are final, the Secretary shall submit to Congress a report on the status of those regulations.

(m) Source of payment

Any drawback of duties that may be authorized under the provisions of this chapter shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico.

(n) Refunds, waivers, or reductions under certain free trade agreements

(1) For purposes of this subsection and subsection (o)—

(A) the term “NAFTA Act” means the North American Free Trade Agreement Implementation Act [19 U.S.C. 3301 et seq.];

(B) the terms “NAFTA country” and “good subject to NAFTA drawback” have the same respective meanings that are given such terms in sections 2(4) and 203(a) of the NAFTA Act [19 U.S.C. 3301(4), 3333(a)];

(C) a refund, waiver, or reduction of duty under paragraph (2) of this subsection or paragraph (1) of subsection (o) is subject to section 1508(b)(2)(B) of this title; and

(D) the term “good subject to Chile FTA drawback” has the meaning given that term in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act.

(2) For purposes of subsections (a), (b), (f), (h), (p), and (q), if an article that is exported to a NAFTA country is a good subject to NAFTA drawback, no customs duties on the good may be refunded, waived, or reduced in an amount that exceeds the lesser of—

(A) the total amount of customs duties paid or owed on the good on importation into the United States, or

(B) the total amount of customs duties paid on the good to the NAFTA country.

(3) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsections (a), (b), (f), (h), (j)(2), and (q), the shipment to Canada during the period such Agreement is in operation of an article made from or substituted for, as appropriate, a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988 does not constitute an exportation.

(4)(A) For purposes of subsections (a), (b), (f), (h), (j)(2), (p), and (q), if an article that is exported to Chile is a good subject to Chile FTA drawback, no customs duties on the good may be refunded, waived, or reduced, except as provided in subparagraph (B).

(B) The customs duties referred to in subparagraph (A) may be refunded, waived, or reduced by—

(i) 100 percent during the 8-year period beginning on January 1, 2004;

(ii) 75 percent during the 1-year period beginning on January 1, 2012;

(iii) 50 percent during the 1-year period beginning on January 1, 2013; and

(iv) 25 percent during the 1-year period beginning on January 1, 2014.

(o) Special rules for certain vessels and imported materials

(1) For purposes of subsection (g), if—

(A) a vessel is built for the account and ownership of a resident of a NAFTA country or the government of a NAFTA country, and

(B) imported materials that are used in the construction and equipment of the vessel are goods subject to NAFTA drawback,

the amount of customs duties refunded, waived, or reduced on such materials may not exceed the lesser of the total amount of customs duties paid or owed on the materials on importation into the United States or the total amount of customs duties paid on the vessel to the NAFTA country.

(2) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsection (g), vessels built for Canadian account and ownership, or for the Government of Canada, may not be considered to be built for any foreign account and ownership, or for the government of any foreign country, except to the extent that the materials in such vessels are

drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988.

(3) For purposes of subsection (g), if—

(A) a vessel is built for the account and ownership of a resident of Chile or the Government of Chile, and

(B) imported materials that are used in the construction and equipment of the vessel are goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act,

no customs duties on such materials may be refunded, waived, or reduced, except as provided in paragraph (4).

(4) The customs duties referred to in paragraph (3) may be refunded, waived or reduced by—

(A) 100 percent during the 8-year period beginning on January 1, 2004;

(B) 75 percent during the 1-year period beginning on January 1, 2012;

(C) 50 percent during the 1-year period beginning on January 1, 2013; and

(D) 25 percent during the 1-year period beginning on January 1, 2014.

(p) Substitution of finished petroleum derivatives

(1) In general

Notwithstanding any other provision of this section, if—

(A) an article (hereafter referred to in this subsection as the “exported article”) of the same kind and quality as a qualified article is exported;

(B) the requirements set forth in paragraph (2) are met; and

(C) a drawback claim is filed regarding the exported article;

drawback shall be allowed as described in paragraph (4).

(2) Requirements

The requirements referred to in paragraph (1) are as follows:

(A) The exporter of the exported article—

(i) manufactured or produced a qualified article in a quantity equal to or greater than the quantity of the exported article,

(ii) purchased or exchanged, directly or indirectly, a qualified article from a manufacturer or producer described in subsection (a) or (b) in a quantity equal to or greater than the quantity of the exported article,

(iii) imported a qualified article in a quantity equal to or greater than the quantity of the exported article, or

(iv) purchased or exchanged, directly or indirectly, a qualified article from an importer in a quantity equal to or greater than the quantity of the exported article.

(B) In the case of the requirement described in subparagraph (A)(ii), the manufacturer or producer produced the qualified article in a quantity equal to or greater than the quantity of the exported article.

(C) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the exported arti-

cle is exported during the period that the qualified article described in subparagraph (A)(i) or (A)(ii) (whichever is applicable) is manufactured or produced, or within 180 days after the close of such period.

(D) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the specific petroleum refinery or production facility which made the qualified article concerned is identified.

(E) In the case of the requirement of subparagraph (A)(iii) or (A)(iv), the exported article is exported within 180 days after the date of entry of an imported qualified article described in subparagraph (A)(iii) or (A)(iv) (whichever is applicable).

(F) Except as otherwise specifically provided in this subsection, the drawback claimant complies with all requirements of this section, including providing certificates which establish the drawback eligibility of articles for which drawback is claimed.

(G) The manufacturer, producer, importer, transferor, exporter, and drawback claimant of the qualified article and the exported article maintain all records required by regulation.

(3) “Qualified article” defined, etc.

For purposes of this subsection—

(A) The term “qualified article” means an article—

(i) described in—

(I) headings 2707, 2708, 2709.00, 2710, 2711, 2712, 2713, 2714, 2715, 2901, and 2902, and subheadings 2903.21.00, 2909.19.14, 2917.36, 2917.39.04, 2917.39.15, 2926.10.00, 3811.21.00, and 3811.90.00 of the HTS, or

(II) headings 3901 through 3914 of such Schedule (as such headings apply to the primary forms provided under Note 6 to chapter 39 of the HTS), and

(ii) which is—

(I) manufactured or produced as described in subsection (a) or (b) from crude petroleum or a petroleum derivative,

(II) imported duty-paid, or

(III) an article of the same kind and quality as described in subparagraph (B), or any combination thereof, that is transferred in a quantity not greater than the quantity of articles purchased or exchanged.

The transferred merchandise described in subclause (III), regardless of its origin shall be the qualified article for purposes of this section. The party transferring the merchandise shall maintain records kept in the normal course of business to demonstrate the transfer.

(B) An article, including an imported, manufactured, substituted, or exported article, is of the same kind and quality as the qualified article for which it is substituted under this subsection if it is a product that is commercially interchangeable with or referred to under the same eight-digit classification of the HTS as the qualified article. If an article is referred to under the same

eight-digit classification of the HTS as the qualified article on January 1, 2000, then whether or not the article has been reclassified under another eight-digit classification after January 1, 2000, the article shall be deemed to be an article that is referred to under the same eight-digit classification of such Schedule as the qualified article for purposes of the preceding sentence.

(C) The term “drawback claimant” means the exporter of the exported article or the refiner, producer, or importer of either the qualified article or the exported article. Any person eligible to file a drawback claim under this subparagraph may designate another person to file such claim.

(4) Limitation on drawback

The amount of drawback payable under this subsection shall not exceed the amount of drawback that would be attributable to the article—

(A) manufactured or produced under subsection (a) or (b) by the manufacturer or producer described in clause (i) or (ii) of paragraph (2)(A), or

(B) imported under clause (iii) or (iv) of paragraph (2)(A) had the claim qualified for drawback under subsection (j).

(5) Special rules for ethyl alcohol

For purposes of this subsection, any duty paid under subheading 9901.00.50 of the HTS on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol.

(q) Packaging material

(1) Packaging material under subsections (c) and (j)

Packaging material, whether imported and duty paid, and claimed for drawback under either subsection (c) or (j)(1), or imported and duty paid, or substituted, and claimed for drawback under subsection (j)(2), shall be eligible for drawback, upon exportation, in an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l).

(2) Packaging material under subsections (a) and (b)

Packaging material that is manufactured or produced under subsection (a) or (b) shall be eligible for drawback, upon exportation, in an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l).

(3) Contents

Packaging material described in paragraphs (1) and (2) shall be eligible for drawback whether or not it contains articles or merchandise, and whether or not any articles or merchandise it contains are eligible for drawback.

(4) Employing packaging material for its intended purpose prior to exportation

The use of any packaging material for its intended purpose prior to exportation shall not

be treated as a use of such material prior to exportation for purposes of applying subsection (a), (b), or (c), or paragraph (1)(B) or (2)(C)(i) of subsection (j).

(r) Filing drawback claims

(1) A drawback entry shall be filed or applied for, as applicable, not later than 5 years after the date on which merchandise on which drawback is claimed was imported. Claims not completed within the 5-year period shall be considered abandoned. No extension will be granted unless it is established that U.S. Customs and Border Protection was responsible for the untimely filing.

(2) A drawback entry for refund filed pursuant to any subsection of this section shall be deemed filed pursuant to any other subsection of this section should it be determined that drawback is not allowable under the entry as originally filed but is allowable under such other subsection.

(3)(A) U.S. Customs and Border Protection may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

(i) the claimant establishes to the satisfaction of U.S. Customs and Border Protection that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and

(ii) the claimant files a request for such extension with U.S. Customs and Border Protection—

(I) within 1 year from the last day of the 5-year period referred to in paragraph (1), or

(II) within 1 year after October 11, 1996,

whichever is later.

(B) If an extension is granted with respect to a request filed under this paragraph, the period of time for retaining records set forth in section 1508(c)(3) of this title shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

(C) For purposes of this paragraph, the term “major disaster” has the meaning given that term in section 5122(2) of title 42.

(4) All drawback claims filed on and after the date that is 2 years after February 24, 2016, shall be filed electronically.

(s) Designation of merchandise by successor

(1) For purposes of subsection (b), a drawback successor may designate imported merchandise used by the predecessor before the date of succession as the basis for drawback on articles manufactured by the drawback successor after the date of succession.

(2) For purposes of subsection (j)(2), a drawback successor may designate—

(A) imported merchandise which the predecessor, before the date of succession, imported; or

(B) subject to paragraphs (5) and (6) of subsection (j), imported merchandise, other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise, or any combination of such im-

ported merchandise and such other merchandise, that the predecessor received, before the date of succession, from the person who imported and paid any duties, taxes, and fees due on the imported merchandise;

as the basis for drawback on merchandise possessed by the drawback successor after the date of succession.

(3) For purposes of this subsection, the term “drawback successor” means an entity to which another entity (in this subsection referred to as the “predecessor”) has transferred by written agreement, merger, or corporate resolution—

(A) all or substantially all of the rights, privileges, immunities, powers, duties, and liabilities of the predecessor; or

(B) the assets and other business interests of a division, plant, or other business unit of such predecessor, but only if in such transfer the value of the transferred realty, personalty, and intangibles (other than drawback rights, inchoate or otherwise) exceeds the value of all transferred drawback rights, inchoate or otherwise.

(4) No drawback shall be paid under this subsection until either the predecessor or the drawback successor (who shall also certify that it has the predecessor’s records) certifies that the transferred merchandise was not and will not be claimed by the predecessor.

(t) Repealed. Pub. L. 114–125, title IX, § 906(l), Feb. 24, 2016, 130 Stat. 233

(u) Eligibility of entered or withdrawn merchandise

Imported merchandise that has not been regularly entered or withdrawn for consumption shall not satisfy any requirement for use, exportation, or destruction under this section.

(v) Multiple drawback claims

Merchandise that is exported or destroyed to satisfy any claim for drawback shall not be the basis of any other claim for drawback; except that appropriate credit and deductions for claims covering components or ingredients of such merchandise shall be made in computing drawback payments.

(w) Limited applicability for certain agricultural products

(1) In general

No drawback shall be available with respect to an agricultural product subject to the over-quota rate of duty established under a tariff-rate quota, except pursuant to subsection (j)(1).

(2) Application to tobacco

Notwithstanding paragraph (1), drawback shall also be available pursuant to subsection (a) with respect to any tobacco subject to the over-quota rate of duty established under a tariff-rate quota.

(x) Drawbacks for recovered materials

For purposes of subsections (a), (b), (c), and (j), the term “destruction” includes a process by which materials are recovered from imported merchandise or from an article manufactured from imported merchandise. In determining the

amount of duties to be refunded as drawback to a claimant under this subsection, the value of recovered materials (including the value of any tax benefit or royalty payment) that accrues to the drawback claimant shall be deducted from the value of the imported merchandise that is destroyed, or from the value of the merchandise used, or designated as used, in the manufacture of the article.

(y) Articles shipped to the United States insular possessions

Articles described in subsection (j)(1) shall be eligible for drawback under this section if duty was paid on the merchandise upon importation into the United States and the person claiming the drawback demonstrates that the merchandise has entered the customs territory of the United States Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

(z) Definitions

In this section:

(1) Directly

The term “directly” means a transfer of merchandise or an article from one person to another person without any intermediate transfer.

(2) HTS

The term “HTS” means the Harmonized Tariff Schedule of the United States.

(3) Indirectly

The term “indirectly” means a transfer of merchandise or an article from one person to another person with one or more intermediate transfers.

(June 17, 1930, ch. 497, title III, § 313, 46 Stat. 693; May 17, 1932, ch. 190, 47 Stat. 158; June 26, 1936, ch. 830, title IV, §§ 402, 403, 49 Stat. 1960; Aug. 8, 1951, ch. 297, 65 Stat. 175; Aug. 8, 1953, ch. 397, § 12, 67 Stat. 515; Aug. 6, 1956, ch. 1021, § 2, 70 Stat. 1076; Pub. L. 85–673, § 1, Aug. 18, 1958, 72 Stat. 624; Pub. L. 90–630, § 2(b), Oct. 22, 1968, 82 Stat. 1328; Pub. L. 91–692, § 3(a), Jan. 12, 1971, 84 Stat. 2076; Pub. L. 96–609, title II, § 201(a), Dec. 28, 1980, 94 Stat. 3560; Pub. L. 98–573, title II, § 202, Oct. 30, 1984, 98 Stat. 2973; Pub. L. 99–514, title XVIII, § 1888(2), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100–449, title II, § 204(c)(3), Sept. 28, 1988, 102 Stat. 1862; Pub. L. 101–382, title I, § 134(a)(1), (2), title III, § 484A(a), Aug. 20, 1990, 104 Stat. 649, 707; Pub. L. 103–182, title II, § 203(b)(3), (c), title VI, § 632(a), Dec. 8, 1993, 107 Stat. 2089, 2092, 2192; Pub. L. 103–465, title IV, §§ 404(e)(5)(A), 422(d), Dec. 8, 1994, 108 Stat. 4961, 4965; Pub. L. 104–295, §§ 7, 10, 21(e)(4), Oct. 11, 1996, 110 Stat. 3518, 3519, 3530; Pub. L. 106–36, title II, §§ 2404(a), 2419(a), 2420(a)–(d), June 25, 1999, 113 Stat. 169, 178, 179; Pub. L. 106–476, title I, §§ 1422(a)(1), (b), 1462(a), Nov. 9, 2000, 114 Stat. 2156, 2172; Pub. L. 108–77, title II, § 203(b)(3), Sept. 3, 2003, 117 Stat. 927; Pub. L. 108–429, title I, §§ 1556, 1557(a), 1563(a)–(d), title II, § 2004(d)(6), Dec. 3, 2004, 118 Stat. 2579, 2583–2585, 2592; Pub. L. 110–234, title XV, §§ 15334(a), 15421(a), May 22, 2008, 122 Stat. 1517, 1547; Pub. L. 110–246, § 4(a), title XV, §§ 15334(a), 15421(a), June 18, 2008, 122 Stat. 1664, 2279, 2309;

Pub. L. 114–125, title IX, §906(a)–(n), Feb. 24, 2016, 130 Stat. 226–233.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 108–77, see Effective and Termination Dates of 2003 Amendment note below.

For termination of amendment by section 501(c) of Pub. L. 100–449, see Effective and Termination Dates of 1988 Amendment note below.

REFERENCES IN TEXT

Section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsecs. (j)(4)(B), (n)(1)(D), and (o)(3)(B), is section 203(a) of Pub. L. 108–77, which is set out in a note under section 3805 of this title.

The North American Free Trade Agreement Implementation Act, referred to in subsec. (n)(1)(A), is Pub. L. 103–182, Dec. 8, 1993, 107 Stat. 2057, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

Section 204 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsecs. (n)(3) and (o)(2), is section 204 of Pub. L. 100–449, which is set out in a note under section 2112 of this title.

The Harmonized Tariff Schedule of the United States or HTS, referred to in subsecs. (p)(3)(A)(i), (B), (5) and (z)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, §IV, O, 38 Stat. 200, which was superseded by act Sept. 21, 1922, ch. 356, title III, §313, 42 Stat. 940, and repealed by section 321 thereof. Section 313 of the 1922 act was superseded by section 313 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Earlier provisions relating to this subject were made by the Tariff Acts of Oct. 1, 1890, ch. 1244, §25, 26 Stat. 617; Aug. 27, 1894, ch. 349, §22, 28 Stat. 551; July 24, 1897, ch. 11, §30, 30 Stat. 211; and Aug. 5, 1909, ch. 6, §25, 36 Stat. 90, which superseded provisions of a similar nature contained in R.S. §§3019, 3020, 3026, as amended by act Mar. 10, 1880, ch. 37, 21 Stat. 67, and said sections 3019, 3020, and 3026, were also repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

The provisions of section IV, O, of the act of 1913, similar to subdivision (g) of this section concerning materials used in the construction and equipment of vessels built for foreign account, superseded a similar provision of act June 26, 1884, ch. 121, §17, 23 Stat. 57.

The provisions of subsec. (e) of this section concerning imported salt used in curing fish superseded somewhat similar provisions in R.S. §3022, which was repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Section 642 of the act of Sept. 21, 1922, also repealed sections 3015 to 3026, inclusive, 3028 to 3047, inclusive, and 3049 to 3057, inclusive, of the Revised Statutes, which were concerned with the subject of drawback.

R.S. §3048, which was not repealed, read as follows: “So much money as may be necessary for the payment of debentures or drawbacks and allowances which may be authorized and payable, is hereby appropriated for that purpose out of any money in the Treasury, to be expended under the direction of the Secretary of that Department, according to the laws authorizing debentures or drawbacks and allowances. The collectors of the customs shall be the disbursing agents to pay such debentures, drawbacks, and allowances. All debenture certificates issued according to law shall be received in payment of duties at the customhouse where the same have been issued, the laws regulating drawbacks having been complied with.”

Permanent appropriations to pay debentures and other charges arising from duties, drawbacks, bounties, and allowances were also contained in R.S. §3689, incorporated in section 711 of former Title 31, Money and Finance, prior to repeal effective July 1, 1935, by act June 26, 1934, ch. 756, §§1, 2, 48 Stat. 1225.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–125, §906(a), substituted “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l) shall be refunded as drawback, except that” for “the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such”.

Subsec. (b). Pub. L. 114–125, §906(b)(1), (6), designated existing provisions as par. (1), inserted heading, and added pars. (2) to (4).

Subsec. (b)(1). Pub. L. 114–125, §906(b)(2)–(5), substituted “or merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise is” for “and any other merchandise (whether imported or domestic) of the same kind and quality are”, “5 years from the date of importation of such imported merchandise” for “three years from the receipt of such imported merchandise by the manufacturer or producer of such articles”, and “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l), but only if those articles have not been used prior to such exportation or destruction.” for “an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported, but only if those articles have not been used prior to such exportation or destruction; but the total amount of drawback allowed upon the exportation or destruction under customs supervision of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.”

Subsec. (c)(1). Pub. L. 114–125, §906(c)(1)(C), substituted “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l)” for “the full amount of the duties paid upon such merchandise, less 1 percent,” in concluding provisions.

Subsec. (c)(1)(C)(ii). Pub. L. 114–125, §906(c)(1)(A), struck out “under a certificate of delivery” after “from the importer” in two places.

Subsec. (c)(1)(D). Pub. L. 114–125, §906(c)(1)(B), substituted “5 years” for “3 years” and “U.S. Customs and Border Protection” for “the Customs Service”.

Subsec. (c)(2). Pub. L. 114–125, §906(c)(2), substituted “U.S. Customs and Border Protection” for “the Customs Service”.

Subsec. (c)(3). Pub. L. 114–125, §906(c)(3), amended par. (3) generally. Prior to amendment, text read as follows: “For purposes of this subsection, drawback certificates are not required if the drawback claimant and the importer are the same party, or if the drawback claimant is a drawback successor to the importer as defined in subsection (s)(3).”

Subsec. (i). Pub. L. 114–125, §906(d), amended subsec. (i) generally. Prior to amendment, text read as follows: “Unless otherwise provided for in this section, no drawback shall be allowed under the provisions of this section unless the completed article is exported, or destroyed under the supervision of the Customs Service, within five years after importation of the imported merchandise.”

Subsec. (j)(1). Pub. L. 114–125, §906(e)(1)(B), substituted “an amount calculated pursuant to regula-

tions prescribed by the Secretary of the Treasury under subsection (l)” for “99 percent of the amount of each duty, tax, or fee so paid” in concluding provisions.

Subsec. (j)(1)(A). Pub. L. 114-125, §906(e)(1)(A), in introductory provisions, substituted “5-year” for “3-year” and inserted “and before the drawback claim is filed” after “the date of importation”.

Subsec. (j)(2). Pub. L. 114-125, §906(e)(2)(E), in concluding provisions, substituted “an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l) shall be refunded as drawback” for “the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback under this subsection, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee” and “Notwithstanding subparagraph (A), drawback shall be allowed under this paragraph with respect to wine if the imported wine and the exported wine are of the same color and the price variation between the imported wine and the exported wine does not exceed 50 percent. Transfers of merchandise may be evidenced by business records kept in the normal course of business and no additional certificates of transfer shall be required.” for “For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.”

Pub. L. 114-125, §906(e)(2)(A), substituted “paragraphs (4), (5), and (6)” for “paragraph (4)” in introductory provisions.

Subsec. (j)(2)(A). Pub. L. 114-125, §906(e)(2)(B), substituted “classifiable under the same 8-digit HTS subheading number as” for “commercially interchangeable with”.

Subsec. (j)(2)(B). Pub. L. 114-125, §906(e)(2)(C), substituted “5-year” for “3-year” and inserted “and before the drawback claim is filed” after “the imported merchandise”.

Subsec. (j)(2)(C)(ii)(II). Pub. L. 114-125, §906(e)(2)(D), added subcl. (II) and struck out former subcl. (II) which read as follows: “received from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the party the imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise (and any such transferred merchandise, regardless of its origin, will be treated as the imported merchandise and any retained merchandise will be treated as domestic merchandise);”.

Subsec. (j)(3)(B). Pub. L. 114-125, §906(e)(3), substituted “merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise” for “the commercially interchangeable merchandise”.

Subsec. (j)(5), (6). Pub. L. 114-125, §906(e)(4), added pars. (5) and (6).

Subsec. (k). Pub. L. 114-125, §906(f), amended subsec. (k) generally. Prior to amendment, text read as follows:

“(1) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.

“(2) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for a drawback product of the same kind and quality shall be treated as the use of such drawback product if no certificate of delivery or certificate of manufacture and delivery pertaining to such drawback product is issued, other than that which documents the product’s manufacture and delivery. As used in this paragraph, the term ‘drawback product’ means any domestically produced product, manufactured with imported merchan-

dise or any other merchandise (whether imported or domestic) of the same kind and quality, that is subject to drawback.”

Subsec. (l). Pub. L. 114-125, §906(g), amended subsec. (l) generally. Prior to amendment, text read as follows: “Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the authority for the electronic submission of drawback entries and the designation of the person to whom any refund or payment of drawback shall be made.”

Subsec. (p). Pub. L. 114-125, §906(h)(1), substituted “HTS” for “Harmonized Tariff Schedule of the United States” wherever appearing.

Subsec. (p)(3)(A). Pub. L. 114-125, §906(h)(2)(B), in concluding provisions, struck out “, so designated on the certificate of delivery or certificate of manufacture and delivery” after “origin” and substituted “The party transferring the merchandise shall maintain records kept in the normal course of business to demonstrate the transfer.” for “A party who issues a certificate of delivery, or certificate of manufacture and delivery, shall also certify to the Commissioner of Customs that it has not, and will not, issue such certificates for a quantity greater than the amount eligible for drawback and that appropriate records will be maintained to demonstrate that fact.”

Subsec. (p)(3)(A)(ii)(III). Pub. L. 114-125, §906(h)(2)(A), struck out “, as so certified in a certificate of delivery or certificate of manufacture and delivery” after “transferred”.

Subsec. (q)(1). Pub. L. 114-125, §906(i)(1), substituted “in an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l)” for “of 99 percent of any duty, tax, or fee imposed under Federal law on such imported material”.

Subsec. (q)(2). Pub. L. 114-125, §906(i)(2), substituted “in an amount calculated pursuant to regulations prescribed by the Secretary of the Treasury under subsection (l)” for “of 99 percent of any duty, tax, or fee imposed under Federal law on the imported or substituted merchandise used to manufacture or produce such material”.

Subsec. (q)(3). Pub. L. 114-125, §906(i)(3), substituted “it contains” for “they contain” in two places.

Subsec. (r)(1). Pub. L. 114-125, §906(j)(1), substituted “A drawback entry shall be filed or applied for, as applicable, not later than 5 years after the date on which merchandise on which drawback is claimed was imported.” for “A drawback entry and all documents necessary to complete a drawback claim, including those issued by the Customs Service, shall be filed or applied for, as applicable, within 3 years after the date of exportation or destruction of the articles on which drawback is claimed, except that any landing certificate required by regulation shall be filed within the time limit prescribed in such regulation.”, “5-year” for “3-year”, and “U.S. Customs and Border Protection” for “the Customs Service”.

Subsec. (r)(3)(A). Pub. L. 114-125, §906(j)(2)(A)(i), (ii), substituted “U.S. Customs and Border Protection” for “The Customs Service” in introductory provisions and “U.S. Customs and Border Protection” for “the Customs Service” in cls. (i) and (ii).

Subsec. (r)(3)(A)(ii)(I). Pub. L. 114-125, §906(j)(2)(A)(iii), substituted “5-year” for “3-year”.

Subsec. (r)(3)(B). Pub. L. 114-125, §906(j)(2)(B), substituted “the period of time for retaining records set forth in” for “the periods of time for retaining records set forth in subsection (t) of this section and”.

Subsec. (r)(4). Pub. L. 114-125, §906(j)(3), added par. (4).

Subsec. (s)(2)(B). Pub. L. 114-125, §906(k)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise for which the predecessor received, before the date of succession, from the person who imported and paid

any duty due on the imported merchandise a certificate of delivery transferring to the predecessor such merchandise;”.

Subsec. (s)(4). Pub. L. 114-125, §906(k)(2), substituted “certifies that the transferred merchandise was not and will not be claimed by the predecessor.” for “certifies that—

“(A) the transferred merchandise was not and will not be claimed by the predecessor, and

“(B) the predecessor did not and will not issue any certificate to any other person that would enable that person to claim drawback.”

Subsec. (t). Pub. L. 114-125, §906(l), struck out subsec. (t). Text read as follows: “Any person who issues a certificate which would enable another person to claim drawback shall be subject to the recordkeeping provisions of this chapter, with the retention period beginning on the date that such certificate is issued.”

Subsec. (x). Pub. L. 114-125, §906(m), substituted “(c), and (j)” for “and (c)”.

Subsec. (z). Pub. L. 114-125, §906(n), added subsec. (z).

2008—Subsec. (j)(2). Pub. L. 110-246, §15421(a), inserted at end of concluding provisions “For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.”

Subsec. (p)(5). Pub. L. 110-246, §15334(a), added par. (5). 2004—Subsec. (c). Pub. L. 108-429, §1563(a), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “Upon the exportation, or destruction under the supervision of the Customs Service, of merchandise—

“(1) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation;

“(2) upon which the duties have been paid;

“(3) which has been entered or withdrawn for consumption; and

“(4) which, within 3 years after release from the custody of the Customs Service, has been returned to the custody of the Customs Service for exportation or destruction under the supervision of the Customs Service;

the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback.”

Subsec. (i). Pub. L. 108-429, §1563(b), substituted “Unless otherwise provided for in this section, no” for “No” and inserted “, or destroyed under the supervision of the Customs Service,” after “exported”.

Subsec. (j)(1). Pub. L. 108-429, §1557(a)(1), substituted “upon entry or” for “because of its” in introductory provisions.

Subsec. (j)(2). Pub. L. 108-429, §1557(a)(2), in introductory provisions, substituted “upon entry or” for “because of its” and, in concluding provisions, substituted “then, notwithstanding any other provision of law, upon” for “then upon” and “shall be refunded as drawback under this subsection” for “shall be refunded as drawback”.

Subsec. (k). Pub. L. 108-429, §1563(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (n)(1)(B). Pub. L. 108-429, §2004(d)(6), inserted semicolon at end.

Subsec. (q). Pub. L. 108-429, §1563(d), amended heading and text of subsec. (q) generally. Prior to amendment, text related to drawback eligibility of packaging material for articles or merchandise exported or destroyed under subsection (a), (b), (c), or (j) of this section and additional eligibility for packaging material produced in the United States.

Subsec. (y). Pub. L. 108-429, §1556, added subsec. (y).

2003—Subsec. (j)(4). Pub. L. 108-77, §§107(c), 203(b)(3)(A), temporarily designated existing provisions as subpar. (A) and added subpar. (B). See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (n). Pub. L. 108-77, §§107(c), 203(b)(3)(B)(i), temporarily inserted heading. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (n)(1). Pub. L. 108-77, §§107(c), 203(b)(3)(B)(ii), temporarily added subpar. (D). See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (n)(4). Pub. L. 108-77, §§107(c), 203(b)(3)(B)(iii), temporarily added par. (4). See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (o). Pub. L. 108-77, §§107(c), 203(b)(3)(C)(i), temporarily inserted heading. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (o)(3), (4). Pub. L. 108-77, §§107(c), 203(b)(3)(C)(ii), temporarily added pars. (3) and (4). See Effective and Termination Dates of 2003 Amendment note below.

2000—Subsec. (p)(3)(A)(i)(I). Pub. L. 106-476, §1422(a)(1), inserted “2709.00,” after “2708,” and substituted “and 2902, and subheadings 2903.21.00, 2909.19.14, 2917.36, 2917.39.04, 2917.39.15, 2926.10.00, 3811.21.00, and 3811.90.00” for “2902, and 2909.19.14”.

Subsec. (p)(3)(B). Pub. L. 106-476, §1422(b), inserted at end “If an article is referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article on January 1, 2000, then whether or not the article has been reclassified under another eight-digit classification after January 1, 2000, the article shall be deemed to be an article that is referred to under the same eight-digit classification of such Schedule as the qualified article for purposes of the preceding sentence.”

Subsec. (x). Pub. L. 106-476, §1462(a), added subsec. (x).

1999—Subsec. (p)(1). Pub. L. 106-36, §2420(a), substituted concluding provisions for former concluding provisions which read as follows: “the amount of the duties paid on, or attributable to, such qualified article shall be refunded as drawback to the drawback claimant”.

Subsec. (p)(2)(A)(i) to (iii). Pub. L. 106-36, §2420(b)(1)(A), substituted “a qualified article” for “the qualified article”.

Subsec. (p)(2)(A)(iv). Pub. L. 106-36, §2420(b)(1)(B), substituted “a qualified article” for “an imported qualified article”.

Subsec. (p)(2)(G). Pub. L. 106-36, §2420(b)(2), inserted “transferor,” after “importer,”.

Subsec. (p)(3)(A)(i)(I). Pub. L. 106-36, §2419(a), substituted “2902, and 2909.19.14” for “and 2902”.

Subsec. (p)(3)(A)(i)(II). Pub. L. 106-36, §2420(c)(1)(A), substituted “the primary forms provided under Note 6 to chapter 39 of the Harmonized Tariff Schedule of the United States” for “liquids, pastes, powders, granules, and flakes”.

Subsec. (p)(3)(A)(ii). Pub. L. 106-36, §2420(c)(1)(B), added subcl. (III) and concluding provisions.

Subsec. (p)(3)(B). Pub. L. 106-36, §2420(c)(2), substituted “article, including an imported, manufactured, substituted, or exported article,” for “exported article”.

Subsec. (p)(3)(C). Pub. L. 106-36, §2420(c)(3), substituted “either the qualified article or the exported article.” for “such article.”

Subsec. (p)(4)(B). Pub. L. 106-36, §2420(d), inserted “had the claim qualified for drawback under subsection (j)” before period at end.

Subsec. (q). Pub. L. 106-36, §2404(a), designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

1996—Subsec. (j)(2). Pub. L. 104-295, §21(e)(4)(A), realigned margins.

Subsec. (r)(3). Pub. L. 104-295, §7, added par. (3).

Subsec. (s)(2)(B). Pub. L. 104-295, §10, substituted “predecessor” for “successor” in two places.

Subsec. (t). Pub. L. 104-295, §21(e)(4)(B), made technical amendment to reference in original act which appears as reference to this chapter.

1994—Subsec. (w). Pub. L. 103-465, §422(d), designated existing provisions as par. (1), inserted heading, and added par. (2).

Pub. L. 103-465, §404(e)(5)(A), added subsec. (w).

1993—Subsec. (a). Pub. L. 103-182, §632(a)(1), inserted “or destruction under customs supervision” after “Upon the exportation”, “provided that those articles

have not been used prior to such exportation or destruction,” after “use of imported merchandise,” and “or destruction” after “refunded upon the exportation”, and substituted “by-products produced from imported wheat” for “by-products produced from wheat imported after ninety days after June 17, 1930”.

Subsec. (b). Pub. L. 103-182, §632(a)(2), substituted “any other merchandise (whether imported or domestic)” for “duty-free or domestic merchandise”, inserted “, or destruction under customs supervision,” after “there shall be allowed upon the exportation”, substituted “production of the exported or destroyed articles” for “production of the exported articles”, inserted “, but only if those articles have not been used prior to such exportation or destruction” after “merchandise used therein been imported” and “or destruction under customs supervision” after “but the total amount of drawback allowed upon the exportation”.

Subsec. (c). Pub. L. 103-182, §632(a)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Upon the exportation of merchandise not conforming to sample or specifications or shipped without the consent of the consignee upon which the duties have been paid and which have been entered or withdrawn for consumption and, within ninety days after release from customs custody, unless the Secretary authorizes in writing a longer time, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties.”

Subsec. (j). Pub. L. 103-182, §203(c)(1), (2), substituted “Subject to paragraph (4), if” for “If” in par. (2) and added par. (4). See Construction of 1993 Amendment note below.

Pub. L. 103-182, §632(a)(4), amended subsec. (j) generally, substituting present provisions for provisions which authorized drawbacks for imported merchandise which, upon either exportation or destruction, was in the same condition as when imported.

Subsec. (l). Pub. L. 103-182, §632(a)(5), substituted “the authority for the electronic submission of drawback entries” for “the fixing of a time limit within which drawback entries or entries for refund under any of the provisions of this section or section 1309(b) of this title shall be filed and completed.”

Subsecs. (n), (o). Pub. L. 103-182, §203(b)(3), amended subsecs. (n) and (o) generally, substituting present provisions for provisions which related to, in subsec. (n), drawback-eligible goods under United States-Canada Free-Trade Agreement Implementation Act of 1988 and, in subsec. (o), vessels built for Canadian account or for Government of Canada.

Subsec. (p). Pub. L. 103-182, §632(a)(6), amended subsec. (p) generally, substituting present provisions for provisions relating to substitution of crude petroleum or petroleum derivatives.

Subsecs. (q) to (v). Pub. L. 103-182, §632(a)(7), added subsecs. (q) to (v).

1990—Subsec. (n). Pub. L. 101-382, §134(a)(1), inserted “, except an article” before “made from” and substituted comma for “of 1988” before “does not”.

Subsec. (o). Pub. L. 101-382, §134(a)(2), inserted at end “This subsection shall apply to vessels delivered to Canadian account or owner, or to the Government of Canada, on and after January 1, 1994 (or, if later, the date proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988).”

Subsec. (p). Pub. L. 101-382, §484A(a), added subsec. (p).

1988—Subsecs. (n), (o). Pub. L. 100-449 temporarily added subsecs. (n) and (o). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (j)(2), (3). Pub. L. 99-514, §1888(2)(A), redesignated par. (3) as (2) and redesignated par. (4) relating to imported packaging material as (3).

Subsec. (j)(4). Pub. L. 99-514, §1888(2), redesignated par. (4) relating to imported packaging material as (3) and amended par. (4) relating to the performing of incidental operations generally. Prior to amendment, such

par. (4) read as follows: “The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on the imported merchandise itself, not amounting to manufacture or production for drawback purposes under the preceding provisions of this section, shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B).”

1984—Subsec. (j)(2) to (4). Pub. L. 98-573, §202(1), redesignated par. (2), relating to the performing of incidental operations, as (4), and inserted after par. (1) new pars. (3) and (4).

Subsecs. (k) to (m). Pub. L. 98-573, §202(2), (3), added subsec. (k) and redesignated former subsecs. (k) and (l) as (l) and (m), respectively.

1980—Subsecs. (j) to (l). Pub. L. 96-609, §201(a), added subsec. (j) and redesignated former subsecs. (j) and (k) as (k) and (l), respectively.

1971—Subsecs. (h) to (k). Pub. L. 91-692 added subsec. (h) and redesignated former subsecs. (h) to (j) as (i) to (k), respectively.

1968—Subsec. (d). Pub. L. 90-630 permitted, under Treasury regulations, the drawback of tax with regard to distilled spirits exported as ships’ stores where the stamping, restamping, or marking is done after the spirits have been removed from the original bottling plant.

1958—Subsec. (b). Pub. L. 85-673 substituted “merchandise” for “sugar, or metal, or ore containing metal, or flaxseed or linseed, or flaxseed or linseed oil, or printing papers coated or uncoated,” after “duty-paid” and “allowable had the”.

1956—Subsec. (b). Act Aug. 6, 1956, inserted “or printing papers, coated or uncoated,” after “linseed oil,” wherever appearing.

1953—Subsec. (b). Act Aug. 8, 1953, §12(a), extended from one year to three years the period during which substitution for drawback purposes may be made.

Subsec. (c). Act Aug. 8, 1953, §12(b), extended the period during which the merchandise can be returned to customs custody for exportation from thirty days to ninety days or such longer period as the Secretary of the Treasury may allow; and provided for the refunding of duties in cases where the merchandise upon which the duties have been paid was sent to the consignee without his consent.

Subsec. (h). Act Aug. 8, 1953, §12(c), substituted reference to “this section” for “this section or of section 152a of this title (relating to drawback on shipments to the Philippine Islands);” struck out another reference to the Philippine Islands; and substituted “five years” for “three years”.

Subsec. (i). Act Aug. 8, 1953, §12(c), broadened the authority of the Secretary of the Treasury to make such regulations for the administration of the drawback provisions as may be necessary.

1951—Subsec. (b). Act Aug. 8, 1951, extended the provisions of such subsection to flaxseed and linseed, and flaxseed and linseed oil, and omitted “(or shipment to the Philippine Islands)” before “of any such articles”.

1936—Subsec. (d). Act June 26, 1936, inserted second par.

CHANGE OF NAME

“Puerto Rico” substituted in subsec. (j) for “Porto Rico” pursuant to act May 17, 1932, which is classified to section 731a of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-125, title IX, §906(q), Feb. 24, 2016, 130 Stat. 233, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 1508 of this title] shall—

“(A) take effect on the date of the enactment of this Act [Feb. 24, 2016]; and

“(B) except as provided in paragraph (3), apply to drawback claims filed on or after the date that is 2 years after such date of enactment.

“(2) REPORTING OF OPERABILITY OF AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Not later than one year after the date of the enactment of this Act [Feb. 24, 2016], and not later than 2 years after such date of enactment, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on—

“(A) the date on which the Automated Commercial Environment will be ready to process drawback claims; and

“(B) the date on which the Automated Export System will be ready to accept proof of exportation under subsection (i) of section 313 of the Tariff Act of 1930 [19 U.S.C. 1313], as amended by subsection (d) of this section.

“(3) TRANSITION RULE.—During the one-year period beginning on the date that is 2 years after the date of the enactment of this Act, a person may elect to file a claim for drawback under—

“(A) section 313 of the Tariff Act of 1930 [19 U.S.C. 1313], as amended by this section; or

“(B) section 313 of the Tariff Act of 1930, as in effect on the day before the date of the enactment of this Act.”

[For definition of “Automated Commercial Environment” as used in section 906(q) of Pub. L. 114–125, set out above, see section 4301 of this title.]

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title XV, §15334(b), May 22, 2008, 122 Stat. 1517, and Pub. L. 110–246, §4(a), title XV, §15334(b), June 18, 2008, 122 Stat. 1664, 2279, provided that: “The amendment made by this section [amending this section] applies with respect to—

“(1) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008; and

“(2) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, if a duty drawback claim is filed with respect to such imports on or after October 1, 2010.”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 110–234, title XV, §15421(b), May 22, 2008, 122 Stat. 1547, and Pub. L. 110–246, §4(a), title XV, §15421(b), June 18, 2008, 122 Stat. 1664, 2309, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 [19 U.S.C. 1313(j)(2)] on or after the date of the enactment of this Act [June 18, 2008].”

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–429, title I, §1557(b), Dec. 3, 2004, 118 Stat. 2579, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to any drawback claim filed on or after that date and to any drawback entry filed before that date if the liquidation of the entry is not final on that date.”

Pub. L. 108–429, title I, §1563(g)(1), Dec. 3, 2004, 118 Stat. 2587, provided that: “The amendments made by subsections (a), (b), (c), (d), and (f) [amending this sec-

tion and section 1593a of this title] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to—

“(A) any drawback entry filed on and after such date of enactment; and

“(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.”

Pub. L. 108–429, title I, §1571, Dec. 3, 2004, 118 Stat. 2587, provided that: “Except as otherwise provided in this title [amending this section and sections 1401, 1466, 1504, 1593a, 1629, 2463, and 2703 of this title, enacting provisions set out as notes under this section and sections 1401, 1466, 1504, 1629, and 2463 of this title, and repealing provisions set out as a note under section 1629 of this title], the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Dec. 3, 2004].”

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108–77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108–77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–476, title I, §1422(a)(2), Nov. 9, 2000, 114 Stat. 2156, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 9, 2000], and shall apply to—

“(A) any drawback claim filed on or after such date of enactment; and

“(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.”

Pub. L. 106–476, title I, §1462(b), Nov. 9, 2000, 114 Stat. 2173, provided that: “The amendment made by this section [amending this section] shall apply to drawback claims filed on or after the date of the enactment of this Act [Nov. 9, 2000].”

Amendment by title I of Pub. L. 106–476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106–476, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–36, title II, §2404(b), June 25, 1999, 113 Stat. 169, provided that: “The amendment made by this section [amending this section] applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [June 25, 1999].”

Pub. L. 106–36, title II, §2419(b), June 25, 1999, 113 Stat. 178, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [June 25, 1999], and shall apply to drawback claims filed on and after such date.”

Pub. L. 106–36, title II, §2420(e), June 25, 1999, 113 Stat. 179, provided that: “The amendments made by this section [amending this section] shall take effect as if included in the amendment made by section 632(a)(6) of the North American Free Trade Agreement Implementation Act [Pub. L. 103–182, amending this section]. For purposes of section 632(b) of that Act [set out as a note below], the 3-year requirement set forth in section 313(r) of the Tariff Act of 1930 [19 U.S.C. 1313(r)] shall not apply to any drawback claim filed within 6 months after the date of the enactment of this Act [June 25, 1999] for which that 3-year period would have expired.”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title IV, §404(e)(5)(B), Dec. 8, 1994, 108 Stat. 4961, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect on the earlier of the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995] or January 1, 1995.”

Pub. L. 103-465, title IV, §422(e), Dec. 8, 1994, 108 Stat. 4965, provided that: “This section [amending this section and sections 1314i and 1445 of Title 7, Agriculture, and enacting provisions set out as a note under section 1445 of Title 7] and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421 [set out as a note under section 2135 of this title], establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.”

[Proc. No. 6821, Sept. 12, 1995, 60 F.R. 47663, effective Sept. 13, 1995, established tariff-rate quotas on certain tobacco.]

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(b)(3) of Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

Amendment by section 203(c) of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

Pub. L. 103-182, title VI, §632(b), Dec. 8, 1993, 107 Stat. 2197, provided that: “Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the amendment made by paragraph (6) of subsection (a) [amending this section] shall apply to—

“(1) claims filed or liquidated on or after January 1, 1988, and

“(2) claims that are unliquidated, under protest, or in litigation on the date of the enactment of this Act [Dec. 8, 1993].”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 484A(a) of Pub. L. 101-382 applicable to claims filed or liquidated on or after Jan. 1, 1988, and claims that are unliquidated, under protest, or in litigation on Aug. 20, 1990, see section 484A(c) of Pub. L. 101-382, set out as a note under section 1309 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-609, title II, §201(b), Dec. 28, 1980, 94 Stat. 3560, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to articles entered, or withdrawn from ware-

house, for consumption on or after the date of the enactment of this Act [Dec. 28, 1980].”

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 91-692, §3(b), Jan. 12, 1971, 84 Stat. 2076, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to articles exported on or after the date of the enactment of this Act [Jan. 12, 1971].”

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-630, see section 4 of Pub. L. 90-630, set out as a note under section 5008 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-673, §2, Aug. 18, 1958, 72 Stat. 624, provided that: “The amendment made by the first section of this Act [amending this section] shall be effective with respect to articles exported on or after the 30th day after the date of the enactment of this Act [Aug. 18, 1958].”

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 203(c) of Pub. L. 103-182 to be made after amendment by section 632(a) of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1313a. Appropriations for refunds, drawbacks, bounties, etc.

There are appropriated such amounts as hereafter may be necessary for refund or payment of

custom collections or receipts, and payment of debentures or drawbacks, bounties, and allowances, as authorized by law.

(June 30, 1949, ch. 286, title I, 63 Stat. 360.)

CODIFICATION

Section was not enacted as part of the Tariff Act of 1930 which comprises this chapter.

§ 1314. Repealed. June 25, 1938, ch. 679, § 35, 52 Stat. 1092, eff. July 25, 1938

Section, act June 17, 1930, ch. 497, title III, § 314, 46 Stat. 695, related to reimportation of tax-free exports.

§ 1315. Effective date of rates of duty

(a) Articles entered or withdrawn from warehouse for consumption

Except as otherwise specially provided for, the rate or rates of duty imposed by or pursuant to this chapter or any other law on any article entered for consumption or withdrawn from warehouse for consumption shall be the rate or rates in effect when the documents comprising the entry for consumption or withdrawal from warehouse for consumption and any estimated or liquidated duties then required to be paid have been deposited with the Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe, except that—

(1) any article released under an informal mail entry shall be subject to duty at the rate or rates in effect when the preparation of the entry is completed;

(2) any article which is not subject to a quantitative or tariff-rate quota and which is covered by an entry for immediate transportation made at the port of original importation under section 1552 of this title, if entered for consumption at the port designated by the consignee, or his agent, in such transportation entry without having been taken into the custody of the appropriate customs officer under section 1490 of this title, shall be subject to the rate or rates in effect when the transportation entry was accepted at the port of original importation; and

(3) any article for which duties may, under section 1505 of this title, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.

(b) Articles removed from intended place of release

Any article which has been entered for consumption but which, before release from custody of the Customs Service, is removed from the port or other place of intended release because of inaccessibility, overcarriage, strike, act of God, or unforeseen contingency, shall be subject to duty at the rate or rates in effect when the entry for consumption and any required duties were deposited in accordance with subsection (a) of this section, but only if the article is returned to such port or place within ninety days after the date of removal and the identity of the article as that covered by the entry is established in accordance with regulations prescribed by the Secretary of the Treasury.

(c) Quantity of merchandise at time of importation

Insofar as duties are based upon the quantity of any merchandise, such duties shall, except as provided in chapter 98 of the Harmonized Tariff Schedule of the United States and section 1562 of this title (relating respectively to certain beverages and to manipulating warehouses), be levied and collected upon the quantity of such merchandise at the time of its importation.

(d) Effective date of administrative rulings resulting in higher rates

No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the Federal Register of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties, or the imposition of countervailing duties under section 1303 of this title (as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 1671 of this title. This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.

(June 17, 1930, ch. 497, title III, § 315, 46 Stat. 695; June 25, 1938, ch. 679, § 6, 52 Stat. 1081; Aug. 8, 1953, ch. 397, § 3(a), 67 Stat. 508; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 93-618, title III, § 331(c), Jan. 3, 1975, 88 Stat. 2053; Pub. L. 95-410, title I, § 101, title II, § 204, Oct. 3, 1978, 92 Stat. 888, 900; Pub. L. 96-39, title XI, § 1106(e), July 26, 1979, 93 Stat. 312; Pub. L. 100-418, title I, § 1213(c), Aug. 23, 1988, 102 Stat. 1155; Pub. L. 103-182, title VI, § 633, Dec. 8, 1993, 107 Stat. 2198; Pub. L. 103-465, title II, § 261(d)(1)(B)(i), Dec. 8, 1994, 108 Stat. 4909.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States and the Tariff Schedules of the United States, referred to in subsecs. (c) and (d), are not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

For the effective date of title II of the Uruguay Round Agreements Act [Pub. L. 103-465], referred to in subsec. (d), as Jan. 1, 1995, see section 291 of Pub. L. 103-465, set out as an Effective Date of 1994 Amendment note under section 1671 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-465 inserted “(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 1671 of this title” after “section 1303 of this title”.

1993—Subsec. (a). Pub. L. 103-182, § 633(1), substituted “Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe,” for “appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury,” in introductory provisions.

Subsec. (b). Pub. L. 103-182, § 633(2), substituted “custody of the Customs Service” for “customs custody”.

Subsec. (c). Pub. L. 103-182, § 633(3), substituted “chapter 98 of the Harmonized Tariff Schedule of the United States” for “paragraph 813”.

1988—Subsec. (d). Pub. L. 100-418 inserted at end “This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.”

1979—Subsec. (d). Pub. L. 96-39 amended directory language of Pub. L. 93-618, §331(c), to correct a typographical error, and did not involve any change in text. See 1975 Amendment note below.

1978—Subsec. (a)(3). Pub. L. 95-410, §101, added par. (3).

Subsec. (d). Pub. L. 95-410, §204, substituted “publication in the Federal Register” for “publication in the weekly Treasury Decisions”.

1975—Subsec. (d). Pub. L. 93-618, as amended by Pub. L. 96-39, inserted “or the imposition of countervailing duties under section 1303 of this title” after “antidumping duties”.

1970—Subsec. (a). Pub. L. 91-271 substituted reference to the appropriate customs officer for reference to the collector.

1953—Act Aug. 8, 1953, amended section generally by dividing section into subsections, and by changing the provisions set out as subsecs. (a) and (b) to clarify such provisions with respect to effective dates of rates of duty.

1938—Act June 25, 1938, amended section generally, among which changes it inserted provisions set out as subsecs. (c) and (d).

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title II, §261(d)(2), Dec. 8, 1994, 108 Stat. 4910, provided that: “The amendments made by this subsection [amending this section and sections 1337, 1671, 1677i, 2192, and 2194 of this title and provisions set out as a note under section 1303 of this title] shall take effect on the effective date of this title [Jan. 1, 1995, see Effective Date of 1994 Amendment note set out under section 1671 of this title].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93-618, title III, §331(d), Jan. 3, 1975, 88 Stat. 2053, as amended by Pub. L. 103-465, title II, §261(d)(1)(A)(i), Dec. 8, 1994, 108 Stat. 4909, provided that:

“(1) The amendments made by this section [amending this section and sections 1303 and 1516 of this title] shall take effect on the date of the enactment of this Act [Jan. 3, 1975.]”

“(2) For purposes of applying the provisions of section 303(a)(4) of the Tariff Act of 1930 [section 1303(a)(4) of this title] (as amended by subsection (a)) with respect to any investigation which was initiated before the date of the enactment of this Act [Jan. 3, 1975] under section 303 of such Act (as in effect before such date), such investigation shall be treated as having been initiated on the day after such date of enactment under section 303(a)(3)(B) of such Act.”

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise spe-

cifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all other officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Customs officers, referred to in text, were under Department of the Treasury.

§ 1316. Omitted

CODIFICATION

Section, act June 17, 1930, ch. 497, title III, §316, 46 Stat. 695, prohibiting the construction of this chapter so as to abrogate or affect the treaty between the United States and Cuba concluded on Dec. 11, 1902, was omitted in view of the termination of such treaty on Aug. 21, 1963 (see note below), and section 401 of Pub. L. 87-456, title IV, May 24, 1962, 76 Stat. 78, set out as a note under section 1351 of this title. Section 401(d) of Pub. L. 87-456 declares sections 124 and 125 of this title as inapplicable so long as section 401(a) of Pub. L. 87-456, declaring Cuba as a nation dominated or controlled by the foreign government or foreign organization controlling the world communist movement, applies.

TREATY BETWEEN UNITED STATES AND CUBA

The treaty concluded between the United States and the Republic of Cuba on Dec. 11, 1902, referred to in text, was terminated Aug. 21, 1963, pursuant to notice given by the United States on Aug. 21, 1962. See Bevans, Treaties, and Other International Agreements of the United States of America, 1776 to 1949, vol. VI, page 1106.

§ 1317. Tobacco products; supplies for certain vessels and aircraft

(a) Exportation of tobacco products

The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section 2197(a) of title 26, shall be deemed exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

(b) Exportation of supplies for certain vessels and aircraft

The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of any vessel or

aircraft described in subdivision (2) or (3) of section 1309(a) of this title, or for use as ground equipment for any such aircraft, shall be deemed an exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax. With respect to merchandise for use as ground equipment, such shipment or delivery shall not be deemed an exportation within the meaning of the internal-revenue laws relating to taxes other than those imposed upon or by reason of importation.

(June 17, 1930, ch. 497, title III, §317, 46 Stat. 696; June 25, 1938, ch. 679, §5(b), 52 Stat. 1081; Aug. 8, 1953, ch. 397, §11(b), 67 Stat. 514.)

REFERENCES IN TEXT

Section 2197(a) of title 26, referred to in subsec. (a), is a reference to section 2197(a) of the Internal Revenue Code of 1939, which was repealed by section 7851 of Title 26, Internal Revenue Code.

AMENDMENTS

1953—Subsec. (b). Act Aug. 8, 1953, extended to foreign vessels the exemption from payment of duty and internal revenue tax theretofore available for supplies used in the maintenance or repair of aircraft; and provided an exemption for ground equipment for foreign-flag aircraft from duties and taxes imposed on, by reason of, importation.

1938—Act June 25, 1938, amended section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

REPEALS

Insofar as subsec. (a) of this section related exclusively to Internal Revenue it was repealed and incorporated as section 2197(b) of the Internal Revenue Code of 1939. See section 4(a) of enacting sections of Internal Revenue Code of 1939. Section 2197(b) of I. R. C. 1939 was replaced by section 5704(b) of Title 26, Internal Revenue Code.

§ 1318. Emergencies

(a) Whenever the President shall by proclamation declare an emergency to exist by reason of a state of war, or otherwise, he may authorize the Secretary of the Treasury to extend during the continuance of such emergency the time herein prescribed for the performance of any act, and may authorize the Secretary of the Treasury to permit, under such regulations as the Secretary of the Treasury may prescribe, the importation free of duty of food, clothing, and medical, surgical, and other supplies for use in emergency relief work. The Secretary of the Treasury shall report to the Congress any action taken under the provisions of this section.

(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when nec-

essary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

(C) Take any other action that may be necessary to respond directly to the national emergency or specific threat.

(2) Notwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

(3) The Secretary of the Treasury or the Commissioner of U.S. Customs and Border Protection, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).

(June 17, 1930, ch. 497, title III, §318, 46 Stat. 696; Pub. L. 107-210, div. A, title III, §342, Aug. 6, 2002, 116 Stat. 981; Pub. L. 114-125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (b)(1), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

PRIOR PROVISIONS

Provisions similar to those in subsec. (a) of this section were contained in act Sept. 21, 1922, ch. 356, title IV, §622, 42 Stat. 988, which was superseded by section 318 of the Tariff Act of 1930, comprising this section, and repealed by section 651(a)(1) of said 1930 Act.

AMENDMENTS

2002—Pub. L. 107-210 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in subsec. (b)(2) and (3) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the

Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of Secretary of the Treasury under this section with respect to functions transferred to Secretary of Commerce in sections 1303 and 1671 et seq. of this title by section 5(a)(1)(C) of Reorg. Plan No. 3 of 1979 transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(E), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title, to be exercised in consultation with Secretary of the Treasury.

PROC. NO. 2948. MERCHANDISE IN GENERAL-ORDER AND BONDED WAREHOUSES

Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41, provided:

[Whereas clauses omitted]

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority vested in me by the foregoing provision of section 318 of the Tariff Act of 1930 [this section] do hereby authorize the Secretary of the Treasury, until the termination of the national emergency proclaimed on December 16, 1950, or until it shall be determined by the President and declared by his proclamation that such action is no longer necessary, whichever is earlier:

(1) To extend the one-year period prescribed in section 491, *supra*, as amended [section 1491 of this title], for not more than one year from and after the expiration of such one-year period in any case in which such period has already expired or shall hereafter expire during the continuance of the said national emergency;

(2) To extend the three-year period prescribed in sections 557 and 559, *supra*, as amended [sections 1557 and 1559 of this title], for not more than one year from and after the expiration of such three-year period in any case in which such period has already expired or shall hereafter expire during the continuance of the said national emergency; and

(3) To extend further the one-year period prescribed in section 491, *supra*, as amended [section 1491 of this title], and the three-year period prescribed in sections 557 and 559, *supra*, as amended [sections 1557 and 1559 of this title], for additional periods of not more than one year each from and after the expiration of the immediately preceding extension in any case in which such extension shall expire during the continuance of the said national emergency:

Provided, however, that in each and every case under numbered paragraphs (1), (2), and (3) above in which the merchandise is charged against an entry bond the Secretary of the Treasury shall require that the principal on such bond, in order to obtain the benefit of any extension which may be granted under the authority of this proclamation, shall furnish to the collector of customs at the port where the bond is on file either the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, or an additional bond with acceptable sureties to cover the period of extension; and that, in each and every case in which the merchandise remains charged against a carrier's bond the Secretary of the Treasury shall require that the principal on such bond shall agree to the extension and shall furnish to the collector of customs at the port where the charge was made the agreement of the sure-

ties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted; and

Provided further, that as a condition to the granting of any extension or further extension of the periods prescribed in sections 491, 557, and 559 of the Tariff Act of 1930, *supra*, as amended [sections 1491, 1557 and 1559 of this title], under numbered paragraphs (1), (2), or (3) above the Secretary of the Treasury may require that there shall be furnished to the collector of customs in the district in which the warehouse is located, in connection with the application for such extension, the consent of the warehouse proprietor to such extension or, in the alternative, proof of payment of all charges or amounts due or owing to such warehouse proprietor for the storage or handling of the imported merchandise; and

Provided further, that the extensions of one year authorized by this proclamation shall not apply to any case in which the period sought to be extended expired prior to December 16, 1950, or in which the merchandise in question has been sold by the Government as abandoned.

This proclamation supersedes Proclamation No. 2599 of November 4, 1943, as amended by Proclamation No. 2712 of December 3, 1946, but it shall not be construed (1) as invalidating any action heretofore taken under the provisions of the said Proclamation No. 2599 or under the provisions of that proclamation as amended by the said Proclamation No. 2712, or (2) as imposing the conditions set forth in the second proviso above upon the granting of extensions for which applications are pending on the date of this proclamation.

HARRY S. TRUMAN.

§ 1319. Duty on coffee imported into Puerto Rico

The Legislature of Puerto Rico is empowered to impose tariff duties upon coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United States. Such duties shall be collected and accounted for as now provided by law in the case of duties collected in Puerto Rico.

(June 17, 1930, ch. 497, title III, §319, 46 Stat. 696; May 17, 1932, ch. 190, 47 Stat. 158.)

CHANGE OF NAME

“Puerto Rico” substituted in text for “Porto Rico” pursuant to act May 17, 1932, which is classified to section 731a of Title 48, Territories and Insular Possessions.

ACTIONS UNDER CARIBBEAN BASIN ECONOMIC RECOVERY PROGRAM NOT TO AFFECT PUERTO RICAN DUTIES ON IMPORTED COFFEE

Pub. L. 98-67, title II, §214(e), Aug. 5, 1983, 97 Stat. 393, provided that: “No action pursuant to this title [19 U.S.C. 2701 et seq.] may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) on coffee imported into Puerto Rico.”

§ 1319a. Duty on coffee; ratification of duties imposed by Legislature of Puerto Rico

The taxes and duties imposed by the Legislature of Puerto Rico by Joint Resolution Numbered 59 approved by the Governor of Puerto Rico May 5, 1930, and by Act Numbered 77 approved by the Governor of Puerto Rico May 5, 1931, as amended by Act Numbered 7 approved by the Governor April 9, 1934, including therein such taxes and duties on coffee brought into Puerto Rico from any State or Territory or district or possession of the United States, or other place subject to the jurisdiction of the United

States, are legalized and ratified, and the collection of all such taxes and duties made under or by authority of either of said acts of the Puerto Rican Legislature, including such taxes and duties on coffee brought into Puerto Rico from any State, Territory, district, or possession of the United States, or other place subject to the jurisdiction of the United States, is legalized, ratified, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically authorized and directed. (June 18, 1934, ch. 604, 48 Stat. 1017; Aug. 20, 1935, ch. 578, 49 Stat. 665.)

CODIFICATION

Section was not enacted as part of Tariff Act of 1930 which constitutes this chapter.

AMENDMENTS

1935—Act Aug. 20, 1935, amended section generally.

§ 1320. Repealed. Aug. 8, 1953, ch. 397, § 6(b), 67 Stat. 510

Section, act June 17, 1930, ch. 497, title III, § 320, 46 Stat. 696, related to reciprocal agreements covering advertising matter.

EFFECTIVE DATE OF REPEAL; SAVINGS PROVISION

Repeal effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

§ 1321. Administrative exemptions

(a) Disregard of minor discrepancies in collection of taxes and duties; admission of articles free of duty or tax; limit on amount of exemption

The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is authorized, under such regulations as he shall prescribe, to—

(1) disregard a difference of an amount specified by the Secretary by regulation, but not less than \$20, between the total estimated duties, fees, and taxes deposited, or the total duties, fees, and taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties, fees, taxes, and interest actually accruing thereon;

(2) admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed an amount specified by the Secretary by regulation, but not less than—

(A) \$100 in the case of articles sent as bona fide gifts from persons in foreign countries to persons in the United States (\$200 in the case of articles sent as bona fide gifts from persons in the Virgin Islands, Guam, and American Samoa), or

(B) \$200 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any exemption from duty

under subheading 9804.00.30, 9804.00.65, or 9804.00.70 of title I of this Act,¹ or (C) \$800 in any other case.

The privilege of this subdivision (2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of this subdivision (2); and

(3) waive the collection of duties, fees, taxes, and interest due on entered merchandise when such duties, fees, taxes, or interest are less than \$20 or such greater amount as may be specified by the Secretary by regulation.

(b) Reduction or modification of exemption

The Secretary of the Treasury is authorized by regulations to prescribe exceptions to any exemption provided for in subsection (a) whenever he finds that such action is consistent with the purpose of subsection (a) or is necessary for any reason to protect the revenue or to prevent unlawful importations.

(June 17, 1930, ch. 497, title III, § 321, as added June 25, 1938, ch. 679, § 7, 52 Stat. 1081; amended Aug. 8, 1953, ch. 397, § 13, 67 Stat. 515; Pub. L. 87-261, § 2(c), Sept. 21, 1961, 75 Stat. 541; Pub. L. 89-62, § 2, June 30, 1965, 79 Stat. 208; Pub. L. 93-618, title VI, § 610(a), Jan. 3, 1975, 88 Stat. 2075; Pub. L. 95-410, title II, § 205, Oct. 3, 1978, 92 Stat. 900; Pub. L. 97-446, title I, § 115(b), Jan. 12, 1983, 96 Stat. 2335; Pub. L. 100-418, title I, § 1214(h)(2), Aug. 23, 1988, 102 Stat. 1157; Pub. L. 103-182, title VI, § 651, Dec. 8, 1993, 107 Stat. 2209; Pub. L. 104-295, § 3(a)(8), (12), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 114-125, title IX, § 901(c), Feb. 24, 2016, 130 Stat. 223.)

REFERENCES IN TEXT

Title I of this Act, referred to in subsec. (a)(2)(B), means title I of act June 17, 1930, as amended, which contained the Tariff Schedules of the United States and which formerly were set out under section 1202 of this title. The Tariff Schedules of the United States were replaced by the Harmonized Tariff Schedule of the United States. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

AMENDMENTS

2016—Subsec. (a)(2)(C). Pub. L. 114-125 substituted “\$800” for “\$200”.

1996—Subsec. (a)(1). Pub. L. 104-295, § 3(a)(12)(A), substituted “duties, fees, taxes, and interest actually accruing” for “duties, fees, and taxes actually accruing”.

Subsec. (a)(2)(B). Pub. L. 104-295, § 3(a)(8), inserted “, 9804.00.65,” after “9804.00.30”.

Subsec. (a)(3). Pub. L. 104-295, § 3(a)(12)(B), substituted “taxes, and interest” for “and taxes” and “taxes, or interest” for “or taxes”.

1993—Subsec. (a)(1). Pub. L. 103-182, § 651(1), substituted “of an amount specified by the Secretary by regulation, but not less than \$20,” for “of less than \$10”, inserted “, fees,” after “duties” wherever appearing, and struck out “and” at end.

Subsec. (a)(2). Pub. L. 103-182, § 651(2), substituted “shall not exceed an amount specified by the Secretary by regulation, but not less than—” for “shall not exceed—” in introductory provisions, substituted “\$100” and “\$200” for “\$50” and “\$100”, respectively, in subpar. (A), substituted “\$200” for “\$25” in subpar. (B), substituted “\$200” for “\$5” in subpar. (C), and substituted “; and” for period at end.

Subsec. (a)(3). Pub. L. 103-182, § 651(3), added par. (3).

¹ See References in Text note below.

Subsec. (b). Pub. L. 103-182, §651(4), struck out “to diminish any dollar amount specified in subsection (a) and” after “authorized by regulations” and substituted “subsection (a)” for “such subsection” in two places.

1988—Subsec. (a)(2)(B). Pub. L. 100-418 substituted “subheading 9804.00.30 or 9804.00.70” for “item 812.25 or 813.31”.

1983—Subsec. (a)(2)(A). Pub. L. 97-446 substituted “\$50” for “\$25” and “\$100” for “\$40”.

1978—Subsec. (a)(1). Pub. L. 95-410, §205(a), substituted “\$10” for “\$3” and “duties and taxes” for “duties or taxes” in three places.

Subsec. (a)(2). Pub. L. 95-410, §205(b)(1)–(3), substituted in: subpar. (A), “\$25” and “\$40” for “\$10” and “\$20”; subpar. (B), “\$25” for “\$10”; and subpar. (C), “\$5” for “\$1”.

1975—Subsec. (a)(2)(A). Pub. L. 93-618 inserted “(\$20, in the case of articles sent as bona fide gifts from persons in the Virgin Islands, Guam, and American Samoa)” after “United States”.

1965—Subsec. (a)(2). Pub. L. 89-62 substituted “fair retail value in the country of shipment” for “value” in the material preceding subpar. (A) and “item 812.25 or 813.31 of section 1202 of this title” for “paragraph 1798(b)(2) or (c)(2) of section 1201 of this title” in subpar. (B).

1961—Subsec. (a). Pub. L. 87-261 inserted “(b)(2) or” after “paragraph 1798”.

1953—Act Aug. 8, 1953, (1) divided section into subsections; (2) increased from \$1 to \$3 the difference between deposited or assessed duties and actual duties which may be disregarded by the collector; (3) permitted free entry of bona fide gifts from persons outside the United States up to \$10; (4) allowed persons to bring with them articles up to \$10 in value for their personal use; (5) continued to allow free entry up to \$1 in other cases; and (6) enabled the Secretary of the Treasury to reduce these amounts if he found such action necessary to protect the revenue.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-125, title IX, §901(d), Feb. 24, 2016, 130 Stat. 223, provided that: “The amendment made by subsection (c) [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Feb. 24, 2016].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-295, §3(b), Oct. 11, 1996, 110 Stat. 3516, provided that: “The amendments made by this section [amending this section and sections 1401, 1431, 1504, 1508, 1509, 1515, 1592, and 1631 of this title and repealing section 1707 of this title] shall apply as of December 8, 1993.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-446, title I, §115(c), Jan. 12, 1983, 96 Stat. 2335, provided that: “The amendments made by this section [amending the Tariff Schedules and this section] shall apply with respect to returning residents of the United States who arrive in the United States on or after the 15th day after the date of the enactment of this Act [Jan. 12, 1983].”

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93-618, title VI, §610(b), Jan. 3, 1975, 88 Stat. 2075, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act [Jan. 3, 1975].”

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-62, §4, June 30, 1965, 79 Stat. 208, provided in part that: “The amendments made by section 2 [amending this section] shall apply with respect to articles arriving in the United States on or after October 1, 1965.”

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-261, §2(d), Sept. 21, 1961, 75 Stat. 541, provided that: “The amendments made by subsections (a), (b), and (c) [amending this section and former section 1201 of this title] shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act [Sept. 21, 1961].”

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

EFFECTIVE DATE

Section effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as an Effective Date of 1938 Amendment note under section 1401 of this title.

§ 1322. International traffic and rescue work; United States-Mexico Boundary Treaty of 1970

(a) Vehicles and other instruments of international traffic except communications satellites

Vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be excepted from the application of the customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury. The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.

(b) Rescue and relief equipment; personal property related to use of land under United States-Mexico Boundary Treaty of 1970; forfeit of articles to United States

The Secretary of the Treasury may provide by regulation or instruction for the admission, without entry and without the payment of any duty or tax imposed upon or by reason of importation, of—

(1) aircraft, equipment, supplies, and spare parts for use in searches, rescues, investigations, repairs, and salvage in connection with accidental damage to aircraft;

(2) fire-fighting and rescue and relief equipment and supplies for emergent temporary use in connection with conflagrations;

(3) rescue and relief equipment and supplies for emergent temporary use in connection with floods and other disasters; and

(4) personal property related to the use and enjoyment of a separated tract of land as described in article III of the Treaty To Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado Rivers as the International Boundary between the United States of America and the United Mexican States signed on November 23, 1970.

Any articles admitted under the authority of this subsection and used otherwise than for a

purpose herein expressed, or not exported in such time and manner as may be prescribed in the regulations or instructions herein authorized, shall be forfeited to the United States.

(June 17, 1930, ch. 497, title III, §322, as added Aug. 8, 1953, ch. 397, §14, 67 Stat. 516; amended Pub. L. 92-549, title I, §107, Oct. 25, 1972, 86 Stat. 1162; Pub. L. 98-573, title I, §§124(c), 127(b), Oct. 30, 1984, 98 Stat. 2959.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-573, §127(b), substituted “excepted” for “granted the customary exceptions”.

Pub. L. 98-573, §124(c), inserted “The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.”

1972—Pub. L. 92-549, §107(a), inserted “United States-Mexico Boundary Treaty of 1970” in section catchline. Subsec. (b)(4). Pub. L. 92-549, §107(b), added cl. (4).

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-573, title I, §195(a), (b), (d), Oct. 30, 1984, 98 Stat. 2972, provided that:

“(a) Except as provided in section 126 and in subsections (b) and (c), the amendments made by subtitles B, C, and D [amending this section and sections 1202 and 1504 of this title] shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act [Oct. 30, 1984].

“(b)(1) The amendment made by sections 117 and 124 [amending this section] shall apply with respect to articles entered on or after January 1, 1985.

“(2) The amendments made by section 127 [amending this section] shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

“(d) For purposes of this section—

“(1) The term ‘entered’ means entered, or withdrawn from warehouse for consumption in the customs territory of the United States.

“(2) The term ‘entry’ includes any withdrawal from warehouse.”

EFFECTIVE DATE

Section effective on and after thirtieth day following Aug. 8, 1953, see note set out under section 1304 of this title.

§ 1323. Conservation of fishery resources

Upon the convocation of a conference on the use or conservation of international fishery resources, the President shall, by all appropriate means at his disposal, seek to persuade countries whose domestic fishing practices or policies affect such resources, to engage in negotiations in good faith relating to the use or conservation of such resources. If, after such efforts by the President and by other countries which have agreed to engage in such negotiations, any other country whose conservation practices or policies affect the interests of the United States and such other countries, has, in the judgment of the President, failed or refused to engage in such negotiations in good faith, the President may, if he is satisfied that such action is likely to be effective in inducing such country to engage in such negotiations in good faith, increase the rate of duty on any fish (in any form) which is the product of such country, for such time as he deems necessary, to a rate not more than 50 percent above the rate existing on July 1, 1934.

(June 17, 1930, ch. 497, title III, §323, as added Pub. L. 87-794, title II, §257(i), Oct. 11, 1962, 76 Stat. 883.)

PART II—UNITED STATES INTERNATIONAL TRADE COMMISSION

§ 1330. Organization of Commission

(a) Membership

The United States International Trade Commission (referred to in this subtitle as the “Commission”) shall be composed of six commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. No person shall be eligible for appointment as a commissioner unless he is a citizen of the United States, and, in the judgment of the President, is possessed of qualifications requisite for developing expert knowledge of international trade problems and efficiency in administering the duties and functions of the Commission. A person who has served as a commissioner for more than 5 years (excluding service as a commissioner before January 3, 1975) shall not be eligible for reappointment as a commissioner. Not more than three of the commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable.

(b) Terms of office

The terms of office of the commissioners holding office on January 3, 1975, which (but for this sentence) would expire on June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1978, June 16, 1979, and June 16, 1980, shall expire on December 16, 1976, June 16, 1978, December 16, 1979, June 16, 1981, December 16, 1982, and June 16, 1984, respectively. The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that—

(1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

(2) any commissioner may continue to serve as a commissioner after an expiration of his term of office until his successor is appointed and qualified.

(c) Chairman and vice chairman; quorum

(1) The chairman and the vice chairman of the Commission shall be designated by the President from among the members of the Commission not ineligible, under paragraph (3), for designation. The President shall notify the Congress of his designations under this paragraph. If, as of the date on which a term begins under paragraph (2), the President has not designated the chairman of the Commission for such term, the Commissioner¹ who, as of such date—

(A) is a member of a different political party than the chairman of the Commission for the immediately preceding term, and

(B) has the longest period of continuous service as a commissioner,

¹ So in original. Probably should not be capitalized.

shall serve as chairman of the Commission for the portion of such term preceding the date on which an individual designated by the President takes office as chairman.

(2) After June 16, 1978, the terms of office for the chairman and vice chairman of the Commission shall be as follows:

(A) The first term of office occurring after such date shall begin on June 17, 1978, and end at the close of June 16, 1980.

(B) Each term of office thereafter shall begin on the day after the closing date of the immediately preceding term of office and end at the close of the 2-year period beginning on such day.

(3)(A) The President may not designate as the chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member, or who has less than 1 year of continuous service as a commissioner as of the date such designation is being made.

(B) The President may not designate as the vice chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman for that term is a member.

(C) If any commissioner does not complete a term as chairman or vice chairman by reason of death, resignation, removal from office as a commissioner, or expiration of his term of office as a commissioner, the President shall designate as the chairman or vice chairman, as the case may be, for the remainder of such term a commissioner who is a member of the same political party. Designation of a chairman under this subparagraph may be made without regard to the 1-year continuous service requirement under subparagraph (A).

(4) The vice chairman shall act as chairman in case of the absence or disability of the chairman. During any period in which there is no chairman or vice chairman, the commissioner having the longest period of continuous service as a commissioner shall act as chairman.

(5) No commissioner shall actively engage in any business, vocation, or employment other than that of serving as a commissioner.

(6) A majority of the commissioners in office shall constitute a quorum, but the Commission may function notwithstanding vacancies.

(d) Effect of divided vote in certain cases

(1) In a proceeding in which the Commission is required to determine—

(A) under section 2252 of this title, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as “serious injury”), or

(B) under section 2436 of this title, whether market disruption exists.

and the commissioners voting are equally divided with respect to such determination, then the determination, agreed upon by either group of commissioners may be considered by the President as the determination of the Commission.

(2) If under section 2252(b) or 2436 of this title there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of the commissioners voting are unable to agree on a finding or recommendation described in section 2252(e)(1) of this title or the finding described in section 2436(a)(3) of this title, as the case may be (hereafter in this subsection referred to as a “remedy finding”), then—

(A) if a plurality of not less than three commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of section 2253 of this title, be treated as the remedy finding of the Commission, or

(B) if two groups, both of which include not less than 3 commissioners, each agree upon a remedy finding and the President reports under section 2254(a) of this title that—

(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of section 2253 of this title, be treated as the remedy finding of the Commission, or

(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of section 2253 of this title, be treated as the remedy finding of the Commission.

(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.

(4) In a case to which paragraph (2)(B)(ii) applies, for purposes of section 2253(a) of this title, notwithstanding section 2192(a)(1)(A) of this title, the second blank space in the joint resolution described in such section 2192(a)(1)(A) of this title shall be filled with the appropriate date and the following: “The action which shall take effect under section 203(a) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners _____, _____, and _____.” The three blank spaces shall be filled with the names of the appropriate Commissioners.

(5) Whenever, in any case in which the Commission is authorized to make an investigation upon its own motion, upon complaint, or upon application of any interested party, one-half of the number of commissioners voting agree that the investigation should be made, such investigation shall thereupon be carried out in accordance with the statutory authority covering the matter in question. Whenever the Commission is authorized to hold hearings in the course of any investigation and one-half of the number

of commissioners voting agree that hearings should be held, such hearings shall thereupon be held in accordance with the statutory authority covering the matter in question.

(e) Authorization of appropriations

(1) For the fiscal year beginning October 1, 1976, and each fiscal year thereafter, there are authorized to be appropriated to the Commission only such sums as may hereafter be provided by law.

(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

- (i) \$54,000,000 for fiscal year 2003.
- (ii) \$57,240,000 for fiscal year 2004.

(B) Not to exceed \$2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.

(3) There are authorized to be appropriated to the Commission for each fiscal year after September 30, 1977, in addition to any other amount authorized to be appropriated for such fiscal year, such sums as may be necessary for increases authorized by law in salary, pay, retirement, and other employee benefits.

(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.

(f) Treatment of Commission under Paperwork Reduction Act

The Commission shall be considered to be an independent regulatory agency for purposes of chapter 35 of title 44.

(June 17, 1930, ch. 497, title III, § 330, 46 Stat. 696; Aug. 7, 1953, ch. 348, title II, § 201, 67 Stat. 472; Pub. L. 93-618, title I, §§ 172(a), (b), 175(b), Jan. 3, 1975, 88 Stat. 2009-2011; Pub. L. 94-455, title XVIII, § 1801(a), (b), Oct. 4, 1976, 90 Stat. 1762; Pub. L. 95-106, §§ 1, 2(a), Aug. 17, 1977, 91 Stat. 867; Pub. L. 95-430, Oct. 10, 1978, 92 Stat. 1020; Pub. L. 97-456, § 1(a), Jan. 12, 1983, 96 Stat. 2503; Pub. L. 98-573, title II, § 248(c), title VII, § 701, Oct. 30, 1984, 98 Stat. 2998, 3043; Pub. L. 99-272, title XIII, § 13021, Apr. 7, 1986, 100 Stat. 305; Pub. L. 100-203, title IX, § 9502, Dec. 22, 1987, 101 Stat. 1330-380; Pub. L. 100-418, title I, §§ 1401(b)(4), 1611, 1612, Aug. 23, 1988, 102 Stat. 1240, 1262; Pub. L. 100-647, title IX, § 9001(a)(15), Nov. 10, 1988, 102 Stat. 3808; Pub. L. 101-207, § 2, Dec. 7, 1989, 103 Stat. 1833; Pub. L. 101-382, title I, § 101, Aug. 20, 1990, 104 Stat. 633; Pub. L. 102-185, § 1(a)(1), (2), (c)(1), Dec. 4, 1991, 105 Stat. 1280; Pub. L. 107-210,

div. A, title III, § 371, Aug. 6, 2002, 116 Stat. 991; Pub. L. 108-429, title II, § 2004(a)(13), Dec. 3, 2004, 118 Stat. 2590.)

REFERENCES IN TEXT

Section 203(a) of the Trade Act of 1974, referred to in subsec. (d)(4), is classified to section 2253(a) of this title.

CODIFICATION

Provisions of subsec. (c) which prescribed the annual basic compensation of the commissioners were omitted to conform to the provisions of the Executive Schedule. See sections 5314 and 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, § 700, 39 Stat. 795. That section was superseded by section 330 of act June 17, 1930, comprising this section.

AMENDMENTS

2004—Subsec. (e)(4). Pub. L. 108-429 made technical correction to directory language of Pub. L. 107-210, § 371(b). See 2002 Amendment note below.

2002—Subsec. (e)(2)(A)(i). Pub. L. 107-210, § 371(a)(1), added cl. (i) and struck out former cl. (i) which read as follows: “\$41,170,000 for fiscal year 1991.”

Subsec. (e)(2)(A)(ii). Pub. L. 107-210, § 371(a)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: “\$44,052,000 for fiscal year 1992.”

Subsec. (e)(4). Pub. L. 107-210, § 371(b), as amended by Pub. L. 108-429, added par. (4).

1991—Subsec. (c)(1). Pub. L. 102-185, § 1(c)(1), inserted at end “If, as of the date on which a term begins under paragraph (2), the President has not designated the chairman of the Commission for such term, the Commissioner who, as of such date—

“(A) is a member of a different political party than the chairman of the Commission for the immediately preceding term, and

“(B) has the longest period of continuous service as a commissioner,

shall serve as chairman of the Commission for the portion of such term preceding the date on which an individual designated by the President takes office as chairman.”

Subsec. (c)(3)(A). Pub. L. 102-185, § 1(a)(2)(A), inserted “, or who has less than 1 year of continuous service as a commissioner as of the date such designation is being made” before the period.

Pub. L. 102-185, § 1(a)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The President may not designate as the chairman of the Commission for any term—

“(i) either of the two commissioners with the shortest period of service on the Commission as of the beginning date of the term of office for which the designation of chairman is to be made; or

“(ii) any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member.”

Subsec. (c)(3)(C). Pub. L. 102-185, § 1(a)(2)(B), inserted at end “Designation of a chairman under this subparagraph may be made without regard to the 1-year continuous service requirement under subparagraph (A).”

Pub. L. 102-185, § 1(a)(1)(B), struck out at end “Designation of a chairman under this subparagraph may be made without regard to the limitation set forth in subparagraph (A)(i).”

1990—Subsec. (e)(2). Pub. L. 101-382 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1990 not to exceed \$39,943,000; of

which not to exceed \$2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses. No part of any sum that is appropriated under the authority of this paragraph may be used by the Commission for the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof."

1989—Subsec. (e)(2). Pub. L. 101-207 substituted "1990" for "1988" and "\$39,943,000" for "\$35,386,000".

1988—Subsec. (c)(3)(A)(i). Pub. L. 100-647 substituted "with the shortest period of service on" for "most recently appointed to".

Pub. L. 100-418, §1611, which directed that subsec. (c)(A)(i) of this section be amended by substituting "with the shortest period of service on" for "most recently appointed to", was probably intended to be an amendment to subsec. (c)(3)(A)(i). See amendment by Pub. L. 100-647 above.

Subsec. (d)(1)(A). Pub. L. 100-418, §1401(b)(4)(A), substituted "2252" for "2251".

Subsec. (d)(2). Pub. L. 100-418, §1401(b)(4)(B)(i), (iii), in introductory provisions substituted "2252(b)" and "2252(e)(1)" for "2251" and "2251(d)(1)", respectively.

Subsec. (d)(2)(A). Pub. L. 100-418, §1401(b)(4)(B)(iv), substituted "section 2253 of this title" for "sections 2252 and 2253 of this title".

Subsec. (d)(2)(B). Pub. L. 100-418, §1401(b)(4)(B)(iv), (v), in introductory provisions substituted "section 2254(a) of this title" for "section 2253(b) of this title" and, in cls. (i) and (ii), substituted "section 2253 of this title" for "sections 2252 and 2253 of this title".

Subsec. (d)(4). Pub. L. 100-418, §1401(b)(4)(C), substituted "section 2253(a) of this title" for "section 2253(c)(1) of this title" and "section 203(a) of the Trade Act of 1974" for "section 203(c)(1) of the Trade Act of 1974".

Subsec. (f). Pub. L. 100-418, §1612, added subsec. (f).

1987—Subsec. (e)(2). Pub. L. 100-203 substituted "for fiscal year 1988 not to exceed \$35,386,000" for "fiscal year 1986 not to exceed \$28,901,000".

1986—Subsec. (e)(2). Pub. L. 99-272 amended first sentence generally, substituting "for fiscal year 1986 not to exceed \$28,901,000" for "for fiscal year 1985 not to exceed \$28,410,000".

1984—Subsec. (d)(4). Pub. L. 98-573, §248(c), substituted "the joint resolution described in such section 2192(a)(1)(A)" for "the concurrent resolution described in such section 2192".

Subsec. (e)(2). Pub. L. 98-573, §701, substituted authorization of appropriation of not more than \$28,410,000 for fiscal year 1985 for necessary expenses, including the rental of conference rooms in the District of Columbia and elsewhere for provision authorizing appropriation of not more than \$19,737,000 for necessary expenses for fiscal year 1983, and inserted provision that not more than \$2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.

1983—Subsec. (e)(2). Pub. L. 97-456 substituted authorization of appropriation of not exceeding \$19,737,000 for fiscal 1983 for authorization not exceeding \$12,963,000 for fiscal 1979, and inserted provision relating to reimbursement by agencies of the executive branch for studies requested by them.

1978—Subsec. (e)(2). Pub. L. 95-430 substituted provisions authorizing \$12,963,000 to be appropriated for the necessary expenses of the Commission for fiscal year 1979 for provisions authorizing \$11,522,000 to be appropriated for similar expenses for fiscal year 1978.

1977—Subsec. (c). Pub. L. 95-106, §2(a), inserted provisions in par. (1) for the Congressional notification of Presidential designations, substituted, in par. (2), provisions covering the expiration of terms of office after June 16, 1978, for provisions covering the expiration of terms of office on and after June 17, 1975, added par. (3), and redesignated as pars. (4) to (6) provisions formerly contained in par. (1).

Subsec. (e). Pub. L. 95-106, §1, designated existing provisions as par. (1) and added pars. (2) and (3).

1976—Subsec. (b). Pub. L. 94-455, §1801(a), inserted provisions that any commissioner may continue to serve as a commissioner after an expiration of his term of office until his successor is appointed and qualified.

Subsec. (d)(1). Pub. L. 94-455, §1801(b)(2), substituted provisions relating to consideration by the President of determinations of the Commission as to whether increased imports of an article are a substantial cause of serious injury or threat or whether market disruption exists for provisions relating to consideration by the President of findings of the Commission in connection with any authority conferred upon the President by law to make changes in import restrictions.

Subsec. (d)(2) to (5). Pub. L. 94-455, §1801(b), added pars. (2) to (4) and redesignated former par. (2) as (5).

1975—Subsec. (a). Pub. L. 93-618, §172(a), substituted "United States International Trade Commission" for "United States Tariff Commission" and inserted provision that a person who has served as a commissioner for more than five years (excluding service as a commissioner before January 3, 1975) shall not be eligible for reappointment as a commissioner.

Subsec. (b). Pub. L. 93-618, §172(a), lengthened the term of office from 6 years to 9 years for commissioners appointed after Jan. 3, 1975, and substituted Dec. 16, 1976, June 16, 1978, Dec. 16, 1979, June 16, 1981, Dec. 16, 1982, and June 16, 1984, for June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1978, June 16, 1979, and June 16, 1980, respectively, as the expiration dates for the terms of office of commissioners serving on Jan. 3, 1975.

Subsec. (c). Pub. L. 93-618, §172(b), designated existing provisions as par. (1), inserted "Except as provided in paragraph (2)," before "The", and added par. (2).

Subsec. (e). Pub. L. 93-618, §175(b), added subsec. (e). 1953—Subsec. (d). Act Aug. 7, 1953, added subsec. (d).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-185, §1(a)(3), Dec. 4, 1991, 105 Stat. 1280, provided that:

"(A) MODIFICATION.—The amendments made by paragraph (1) [amending this section] shall apply to terms beginning on and after June 17, 1990.

"(B) 1-YEAR REQUIREMENT.—The amendments made by paragraph (2) [amending this section] shall apply to terms beginning on and after June 17, 1996."

Pub. L. 102-185, §1(c)(2), Dec. 4, 1991, 105 Stat. 1281, provided that: "The amendment made by this subsection [amending this section] shall take effect on the 10th day following the date of the enactment of this Act [Dec. 4, 1991]."

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

Amendment by section 1401(b)(4) of Pub. L. 100-418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§2251 et seq.) of subchapter II of chapter 12 of this title on or after that date, see section 1401(c) of Pub. L. 100-418, set out as a note under section 2251 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 248(c) of Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-106, §2(b), Aug. 17, 1977, 91 Stat. 868, provided that: "The amendment made by this section

[amending this section] shall apply with respect to the designation of chairmen and vice chairmen of the United States International Trade Commission for terms beginning after June 16, 1978.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XVIII, §1801(c), Oct. 4, 1976, 90 Stat. 1763, provided that: “The amendments made by subsection (b) [amending this section] shall apply to determinations, findings, and recommendations made under sections 201 and 406 of the Trade Act of 1974 [sections 2251 and 2436 of this title] after the date of the enactment of this Act [Oct. 4, 1976].”

APPOINTMENT OF CHAIRMAN IN 1992

Pub. L. 102-185, §1(b), Dec. 4, 1991, 105 Stat. 1280, provided that: “In the case of the term of the chairman of the United States International Trade Commission beginning June 17, 1992—

“(1) section 330(c)(3)(A) of the Tariff Act of 1930 [19 U.S.C. 1330(c)(3)(A)] shall not apply, and

“(2) the President shall designate as chairman a Commissioner who is a member of the same political party as the chairman of the Commission serving on June 16, 1986.”

§ 1331. General powers

(a) Administration

(1)(A) Except as provided in paragraph (2), the chairman of the Commission shall—

(i) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

(ii) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, and

(iii) exercise and be responsible for all other administrative functions of the Commission.

(B) The chairman of the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

(C) Any decision by the chairman under subparagraph (A) or (B) shall be subject to disapproval by a majority vote of all the commissioners in office.

(2) Subject to approval by a majority vote of all the commissioners in office, the chairman may—

(A) terminate the employment of any supervisory employee of the Commission whose duties involve substantial personal responsibility for Commission matters and who is compensated at a rate equal to, or in excess of, the rate for grade GS-15 of the General Schedule in section 5332 of title 5, and

(B) formulate the annual budget of the Commission.

(3) No member of the Commission, in making public statements with respect to any policy matter for which the Commission has responsibility, shall represent himself as speaking for the Commission, or his views as being the views of the Commission, with respect to such matter except to the extent that the Commission has adopted the policy being expressed.

(b) Application of civil service law

Except for employees excepted under civil service rules, all employees of the commission

shall be appointed from lists of eligibles to be supplied by the Director of the Office of Personnel Management and in accordance with the civil service law.

(c) Expenses

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other places than at their respective headquarters, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman (except that in the case of a commissioner, or the personal staff of any commissioner, such vouchers may be approved by that commissioner).

(d) Principal office at Washington

The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such agents as it may designate, prosecute any inquiry necessary to its duties in any part of the United States or in any foreign country.

(e) Office at New York

The commission is authorized to establish and maintain an office at the port of New York for the purpose of directing or carrying on any investigation, receiving and compiling statistics, selecting, describing, and filing samples of articles, and performing any of the duties or exercising any of the powers imposed upon it by law.

(f) Official seal

The commission is authorized to adopt an official seal, which shall be judicially noticed.

(June 17, 1930, ch. 497, title III, §331, 46 Stat. 697; Pub. L. 95-106, §3(a), (b), Aug. 17, 1977, 91 Stat. 868; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 97-456, §1(b), Jan. 12, 1983, 96 Stat. 2503.)

CODIFICATION

In subsec. (a), provisions which specified a salary of \$7,500 per year for the secretary to the commission have been omitted as obsolete and superseded. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, §8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

In subsec. (b), the words “Except for employees excepted under the civil service rules” substituted for “With the exception of the secretary, a clerk to each commissioner, and such special experts as the commission may from time to time find necessary for the conduct of its work”. Appointments are now subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the act of Nov. 26, 1940, ch. 919, title I, §1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5.

PRIOR PROVISIONS

Provisions similar to subsecs. (a) to (e) of this section were contained in act Sept. 8, 1916, ch. 463, § 701, 39 Stat. 975. That section was superseded by section 331 of act June 17, 1930, comprising this section.

Provisions similar to those in subsecs. (f) and (g) of this section were contained in act Sept. 21, 1922, ch. 356, title III, § 318, 42 Stat. 947. That section was superseded by section 331 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 97-456 designated existing provisions relating to the chairman's exercise of and responsibility for all administrative functions as subpar. (A), redesignated former subpars. (A) through (C) as cls. (i) through (iii), added subpar. (B), designated provisions relating to disapproval by a majority of the commissioners of any decision by the chairman as subpar. (C), and in (C) as so designated, substituted "subparagraph (A) or (B)" for "this paragraph" after "chairman under".

1977—Subsec. (a). Pub. L. 95-106, § 3(a), designated existing provisions as par. (1), substituted provisions authorizing the chairman to perform certain required functions subject to approval by the Commission for provisions authorizing the Commission to perform certain required functions and inserted provisions requiring the chairman to exercise and be responsible for all other administrative functions of the Commission, and added pars. (2) and (3).

Subsec. (c). Pub. L. 95-106, § 3(b)(1), substituted "approved by the chairman (except that in the case of a commissioner, or the personal staff of any commissioner, such vouchers may be approved by that commissioner)" for "approved by the Commission".

Subsec. (d). Pub. L. 95-106, § 3(b)(2), redesignated subsecs. (e) to (g) as (d) to (f), respectively. Former subsec. (d), relating to offices and supplies, was struck out.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-106, § 3(c), Aug. 17, 1977, 91 Stat. 869, provided that: "The amendments made by this section [amending this section] take effect on the date of enactment of this Act [Aug. 17, 1977]."

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "Civil Service Commission" in subsec. (b) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 1332. Investigations**(a) Investigations and reports**

It shall be the duty of the commission to investigate the administration and fiscal and industrial effects of the customs laws of this country, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.

(b) Investigations of tariff relations

The commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production.

(c) Investigation of Paris Economy Pact

The commission shall have power to investigate the Paris Economy Pact and similar organizations and arrangements in Europe.

(d) Information for President and Congress

In order that the President and the Congress may secure information and assistance, it shall be the duty of the commission to—

(1) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of the United States of articles of the United States, whenever in the opinion of the commission it is practicable;

(2) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of foreign countries of articles imported into the United States, whenever in the opinion of the commission such conversion costs or costs of production are necessary for comparison with conversion costs or costs of production in the United States and can be reasonably ascertained;

(3) Select and describe articles which are representative of the classes or kinds of articles imported into the United States and which are similar to or comparable with articles of the United States; select and describe articles of the United States similar to or comparable with such imported articles; and obtain and file samples of articles so selected, whenever the commission deems it advisable;

(4) Ascertain import costs of such representative articles so selected;

(5) Ascertain the grower's, producer's, or manufacturer's selling prices in the principal growing, producing, or manufacturing centers of the United States of the articles of the United States so selected; and

(6) Ascertain all other facts which will show the differences in or which affect competition between articles of the United States and imported articles in the principal markets of the United States.

(e) Definitions

When used in this subdivision and in subdivision (d)—

(1) The term "article" includes any commodity, whether grown, produced, fabricated, manipulated, or manufactured;

(2) The term "import cost" means the transaction value of the imported merchandise determined in accordance with section 1401a(b) of this title plus, when not included in the transaction value, all necessary expenses, exclusive of customs duties, of bringing such merchandise to the United States.

(f) Omitted**(g) Reports to President and Congress**

The commission shall put at the disposal of the President of the United States, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress. However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress on the first Monday of December of each year after June 17, 1930, a statement of the methods adopted and all expenses incurred, a summary of all reports made during the year, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting. Each such annual report shall include a list of all complaints filed under section 1337 of this title during the year for which such report is being made, the date on which each such complaint was filed, and the action taken thereon, and the status of all investigations conducted by the commission under such section during such year and the date on which each such investigation was commenced.

(June 17, 1930, ch. 497, title III, §332, 46 Stat. 698; Pub. L. 93-618, title I, §173, title III, §341(b), Jan. 3, 1975, 88 Stat. 2010, 2056; Pub. L. 96-39, title II, §202(a)(1), July 26, 1979, 93 Stat. 201; Pub. L. 100-418, title I, §1613, Aug. 23, 1988, 102 Stat. 1262; Pub. L. 100-647, title IX, §9001(a)(16), Nov. 10, 1988, 102 Stat. 3808.)

CODIFICATION

Subsec. (f) directed the Tariff Commission to ascertain the cost of crude petroleum during three years preceding 1930.

PRIOR PROVISIONS

Provisions similar to subsecs. (a), (b), and (g) were contained in act Sept. 8, 1916, ch. 463, §§702 to 704, 39 Stat. 796. Those sections were superseded by section 332 of act June 17, 1930, comprising this section.

Provisions similar to those in subdiv. (c) were contained in act Sept. 8, 1916, ch. 463, §708, 39 Stat. 798. That section was superseded by section 332 of act June 17, 1930, comprising this section.

Provisions similar to subdvs. (d) and (e) were contained in act Sept. 21, 1922, ch. 356, title III, §318, 42 Stat. 947. Section 318 of act 1922 was superseded by section 332 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of said 1930 act.

Act Oct. 3, 1913, ch. 16, §IV, R. 38 Stat. 201, directed President to ascertain certain facts and report to Congress when imports amounted to less than 5 per centum of domestic consumption, prior to repeal by act Sept. 21, 1922, ch. 356, title III, §321, 42 Stat. 947.

AMENDMENTS

1988—Subsec. (g). Pub. L. 100-647 substituted “report to Congress on the first” for “report to Congress. on the first”.

Pub. L. 100-418 substituted “. However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress.” for “. and shall report to Congress”.

1979—Subsec. (e)(2). Pub. L. 96-39 substituted “the transaction value of the imported merchandise determined in accordance with section 1401a(b) of this title plus, when not included in the transaction value, all necessary expenses, exclusive of customs duties, of bringing such merchandise to the United States” for “the price at which an article is freely offered for sale in the ordinary course of trade in the usual wholesale quantities for exportation to the United States plus, when not included in such price, all necessary expenses, exclusive of customs duties, of bringing such imported article to the United States”.

1975—Subsec. (g). Pub. L. 93-618 substituted “a summary of all reports made during the year, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting” for “and a summary of all reports made during the year”, and inserted last sentence relating to complaints included in annual reports.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-618 effective on 90th day after Jan. 3, 1975, see section 341(c) of Pub. L. 93-618, set out as a note under section 1337 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) relating to an annual report to Congress on the first Monday of December of each year, see section 3003 of Pub. L. 104-66, set out as a note under section 1113 of Title 31, Money and Finance, and page 194 of House Document No. 103-7.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (g) of this section regarding reports by United States International Trade Commission to President delegated to United States Trade Representative, see section 5-301 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

AMERICAN MANUFACTURING COMPETITIVENESS

Pub. L. 114-159, May 20, 2016, 130 Stat. 396, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘American Manufacturing Competitiveness Act of 2016’.

“SEC. 2. SENSE OF CONGRESS ON THE NEED FOR A MISCELLANEOUS TARIFF BILL.

“(a) FINDINGS.—Congress makes the following findings:

“(1) As of the date of the enactment of this Act [May 20, 2016], the Harmonized Tariff Schedule of the United States [see Publication of Harmonized Tariff

Schedule note set out under section 1202 of this title] imposes duties on imported goods for which there is no domestic availability or insufficient domestic availability.

“(2) The imposition of duties on such goods creates artificial distortions in the economy of the United States that negatively affect United States manufacturers and consumers.

“(3) The manufacturing competitiveness of the United States around the world will be enhanced if Congress regularly and predictably updates the Harmonized Tariff Schedule to suspend or reduce duties on such goods.

“(4) Creating and maintaining an open and transparent process for consideration of petitions for duty suspensions and reductions builds confidence that the process is fair, open to all, and free of abuse.

“(5) Complying with the Rules of the House of Representatives and the Senate, in particular with clause 9 of rule XXI of the Rules of the House of Representatives and rule XLIV of the Standing Rules of the Senate, is essential to fostering and maintaining confidence in the process for considering a miscellaneous tariff bill.

“(6) A miscellaneous tariff bill developed under this process will not contain any—

“(A) congressional earmarks or limited tax benefits within the meaning of clause 9 of rule XXI of the Rules of the House of Representatives; or

“(B) congressionally directed spending items or limited tax benefits within the meaning of rule XLIV of the Standing Rules of the Senate.

“(7) Because any limited tariff benefits contained in any miscellaneous tariff bill following the process set forth by this Act will not have been the subject of legislation introduced by an individual Member of Congress and will be fully vetted through a transparent and fair process free of abuse, it is appropriate for Congress to consider limited tariff benefits as part of that miscellaneous tariff bill as long as—

“(A) in the case of a miscellaneous tariff bill considered in the House of Representatives, consistent with the Rules of the House of Representatives, a list of such limited tariff benefits is published in the reports of the Committee on Ways and Means of the House of Representatives accompanying the miscellaneous tariff bill, or in the Congressional Record; and

“(B) in the case of a miscellaneous tariff bill considered in the Senate, consistent with the Standing Rules of the Senate—

“(i) such limited tariff benefits have been identified through lists, charts, or other similar means; and

“(ii) the information identified in clause (i) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before the vote on the motion to proceed to the miscellaneous tariff bill or the vote on the adoption of a report of a committee of conference in connection with the miscellaneous tariff bill, as the case may be.

“(8) When the process set forth under paragraph (7) is followed, it is consistent with the letter and intent of the Rules of the House of Representatives and the Senate and other related guidance.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that, to remove the competitive disadvantage to United States manufacturers and consumers and to promote the competitiveness of United States manufacturers, Congress should, not later than 90 days after the United States International Trade Commission issues a final report on petitions for duty suspensions and reductions under section 3(b)(3)(E), consider a miscellaneous tariff bill.

“SEC. 3. PROCESS FOR CONSIDERATION OF PETITIONS FOR DUTY SUSPENSIONS AND REDUCTIONS.

“(a) PURPOSE.—It is the purpose of this section to establish a process for the submission and consideration of petitions for duty suspensions and reductions.

“(b) REQUIREMENTS OF COMMISSION.—

“(1) INITIATION.—Not later than October 15, 2016, and October 15, 2019, the Commission shall publish in the Federal Register and on a publicly available Internet website of the Commission a notice requesting members of the public who can demonstrate that they are likely beneficiaries of duty suspensions or reductions to submit to the Commission during the 60-day period beginning on the date of such publication—

“(A) petitions for duty suspensions and reductions; and

“(B) Commission disclosure forms with respect to such duty suspensions and reductions.

“(2) CONTENT OF PETITIONS.—Each petition for a duty suspension or reduction under paragraph (1)(A) shall include the following information:

“(A) The name and address of the petitioner.

“(B) A statement as to whether the petition provides for an extension of an existing duty suspension or reduction or provides for a new duty suspension or reduction.

“(C) A certification that the petitioner is a likely beneficiary of the proposed duty suspension or reduction.

“(D) An article description for the proposed duty suspension or reduction to be included in the amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States.

“(E) To the extent available—

“(i) a classification of the article for purposes of the amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States;

“(ii) a classification ruling of U.S. Customs and Border Protection with respect to the article; and

“(iii) a copy of a U.S. Customs and Border Protection entry summary indicating where the article is classified in the Harmonized Tariff Schedule of the United States.

“(F) A brief and general description of the article.

“(G) A brief description of the industry in the United States that uses the article.

“(H) An estimate of the total value, in United States dollars, of imports of the article for each of the 5 calendar years after the calendar year in which the petition is filed, including an estimate of the total value of such imports by the person who submits the petition and by any other importers, if available.

“(I) The name of each person that imports the article, if available.

“(J) A description of any domestic production of the article, if available.

“(K) Such other information as the Commission may require.

“(3) REVIEW.—

“(A) COMMISSION PUBLICATION AND PUBLIC AVAILABILITY.—As soon as practicable after the expiration of the 60-day period specified in paragraph (1), but in any case not later than 30 days after the expiration of such 60-day period, the Commission shall publish on a publicly available Internet website of the Commission—

“(i) the petitions for duty suspensions and reductions submitted under paragraph (1)(A) that contain the information required under paragraph (2); and

“(ii) the Commission disclosure forms with respect to such duty suspensions and reductions submitted under paragraph (1)(B).

“(B) PUBLIC COMMENT.—

“(i) IN GENERAL.—The Commission shall publish in the Federal Register and on a publicly available Internet website of the Commission a notice requesting members of the public to submit to the Commission during the 45-day period beginning on the date of publication described in subparagraph (A) comments on—

“(I) the petitions for duty suspensions and reductions published by the Commission under subparagraph (A)(i); and

“(II) the Commission disclosure forms with respect to such duty suspensions and reductions published by the Commission under subparagraph (A)(ii).

“(ii) PUBLICATION OF COMMENTS.—The Commission shall publish a notice in the Federal Register directing members of the public to a publicly available Internet website of the Commission to view the comments of the members of the public received under clause (i).

“(C) PRELIMINARY REPORT.—

“(i) IN GENERAL.—As soon as practicable after the expiration of the 120-day period beginning on the date of publication described in subparagraph (A), but in any case not later than 30 days after the expiration of such 120-day period, the Commission shall submit to the appropriate congressional committees a preliminary report on the petitions for duty suspensions and reductions submitted under paragraph (1)(A). The preliminary report shall contain the following information with respect to each petition for a duty suspension or reduction:

“(I) The heading or subheading of the Harmonized Tariff Schedule of the United States in which each article that is the subject of the petition for the duty suspension or reduction is classified, as identified by documentation supplied to the Commission, and any supporting information obtained by the Commission.

“(II) A determination of whether or not domestic production of the article that is the subject of the petition for the duty suspension or reduction exists, taking into account the report of the Secretary of Commerce under subsection (c)(1), and, if such production exists, whether or not a domestic producer of the article objects to the duty suspension or reduction.

“(III) Any technical changes to the article description of the article that is the subject of the petition for the duty suspension or reduction that are necessary for purposes of administration when the article is presented for importation, taking into account the report of the Secretary of Commerce under subsection (c)(2).

“(IV) An estimate of the amount of loss in revenue to the United States that would no longer be collected if the duty suspension or reduction takes effect.

“(V) A determination of whether or not the duty suspension or reduction is available to any person that imports the article that is the subject of the duty suspension or reduction.

“(VI) The likely beneficiaries of each duty suspension or reduction, including whether the petitioner is a likely beneficiary.

“(ii) CATEGORIES OF INFORMATION.—The preliminary report submitted under clause (i) shall also contain the following information:

“(I) A list of petitions for duty suspensions and reductions that meet the requirements of this Act without modifications.

“(II) A list of petitions for duty suspensions and reductions for which the Commission recommends technical corrections in order to meet the requirements of this Act, with the correction specified.

“(III) A list of petitions for duty suspensions and reductions for which the Commission recommends modifications to the amount of the duty suspension or reduction that is the subject of the petition to comply with the requirements of this Act, with the modification specified.

“(IV) A list of petitions for duty suspensions and reductions for which the Commission recommends modifications to the scope of the articles that are the subject of such petitions to address objections by domestic producers to such petitions, with the modifications specified.

“(V) A list of the following:

“(aa) Petitions for duty suspensions and reductions that the Commission has determined do not contain the information required under paragraph (2).

“(bb) Petitions for duty suspensions and reductions with respect to which the Commission has determined the petitioner is not a likely beneficiary.

“(VI) A list of petitions for duty suspensions and reductions that the Commission does not recommend for inclusion in a miscellaneous tariff bill, other than petitions specified in subclause (V).

“(D) ADDITIONAL INFORMATION.—The Commission shall consider any information submitted by the appropriate congressional committees to the Commission relating to moving a petition that is contained in the list referred to in subclause (VI) of subparagraph (C)(ii) of the preliminary report submitted under subparagraph (C) to a list referred to in subclause (I), (II), (III), or (IV) of subparagraph (C)(ii).

“(E) FINAL REPORT.—Not later than 60 days after the date on which the preliminary report is submitted under subparagraph (C), the Commission shall submit to the appropriate congressional committees a final report on each petition for a duty suspension or reduction specified in the preliminary report. The final report shall contain with respect to each such petition—

“(i) the information required under clauses (i) and (ii) of subparagraph (C) and updated as appropriate under subparagraph (D); and

“(ii) a determination of the Commission whether—

“(I) the duty suspension or reduction can likely be administered by U.S. Customs and Border Protection;

“(II) the estimated loss in revenue to the United States from the duty suspension or reduction does not exceed \$500,000 in a calendar year during which the duty suspension or reduction would be in effect; and

“(III) the duty suspension or reduction is available to any person importing the article that is the subject of the duty suspension or reduction.

“(F) EXCLUSIONS.—The appropriate congressional committees may exclude from a miscellaneous tariff bill any petition for a duty suspension or reduction that—

“(i) is contained in any list referred to in subclause (I), (II), (III), or (IV) of subparagraph (C)(ii), as updated as appropriate under subparagraph (E)(i);

“(ii) is the subject of an objection from a Member of Congress; or

“(iii) is for an article for which there is domestic production.

“(G) ESTIMATES BY THE CONGRESSIONAL BUDGET OFFICE.—For purposes of reflecting the estimate of the Congressional Budget Office, the appropriate congressional committees shall adjust the amount of a duty suspension or reduction in a miscellaneous tariff bill only to assure that the estimated loss in revenue to the United States from that duty suspension or reduction, as estimated by the Congressional Budget Office, does not exceed \$500,000 in a calendar year during which the duty suspension or reduction would be in effect.

“(H) PROHIBITIONS.—Any petitions for duty suspensions or reductions that are contained in any list referred to in subclause (V) or (VI) of subparagraph (C)(ii), as updated as appropriate under subparagraph (E)(i), or have not otherwise undergone the processes required by this Act shall not be included in a miscellaneous tariff bill.

“(4) CONFIDENTIAL BUSINESS INFORMATION.—The procedures concerning the release of confidential business information set forth in section 332(g) of the

Tariff Act of 1930 (19 U.S.C. 1332(g)) shall apply with respect to information received by the Commission in posting petitions on a publicly available website of the Commission and in preparing reports under this subsection.

“(5) PROCEDURES.—The Commission shall prescribe and publish in the Federal Register and on a publicly available Internet website of the Commission procedures to be complied with by members of the public submitting petitions for duty suspensions and reductions under subsection (b)(1)(A).

“(c) DEPARTMENT OF COMMERCE REPORT.—Not later than the end of the 90-day period beginning on the date of publication of the petitions for duty suspensions and reductions under subsection (b)(3)(A), the Secretary of Commerce, in consultation with U.S. Customs and Border Protection and other relevant Federal agencies, shall submit to the Commission and the appropriate congressional committees a report on each petition for a duty suspension or reduction submitted under subsection (b)(1)(A) that includes the following information:

“(1) A determination of whether or not domestic production of the article that is the subject of the petition for the duty suspension or reduction exists and, if such production exists, whether or not a domestic producer of the article objects to the petition for the duty suspension or reduction.

“(2) Any technical changes to the article description that are necessary for purposes of administration when articles are presented for importation.

“SEC. 4. REPORT ON EFFECTS OF DUTY SUSPENSIONS AND REDUCTIONS ON UNITED STATES ECONOMY.

“(a) IN GENERAL.—Not later than 12 months after the date of the enactment of a miscellaneous tariff bill, the Commission shall submit to the appropriate congressional committees a report on the effects on the United States economy of duty suspensions and reductions enacted pursuant to this Act, including a broad assessment of the economic effects of such duty suspensions and reductions on producers, purchasers, and consumers in the United States, using case studies describing such effects on selected industries or by type of article as available data permit.

“(b) RECOMMENDATIONS.—The Commission shall also solicit and append to the report required under subsection (a) recommendations with respect to those domestic industry sectors or specific domestic industries that might benefit from permanent duty suspensions and reductions, either through a unilateral action of the United States or through [sic] negotiations for reciprocal tariff agreements, with a particular focus on inequities created by tariff inversions.

“(c) FORM OF REPORT.—Each report required by this section shall be submitted in unclassified form, but may include a classified annex.

“SEC. 5. PUBLICATION OF LIMITED TARIFF BENEFITS IN THE HOUSE OF REPRESENTATIVES AND THE SENATE.

“(a) HOUSE OF REPRESENTATIVES.—

“(1) IN GENERAL.—The chair of the Committee on Ways and Means of the House of Representatives shall include a list of limited tariff benefits contained in a miscellaneous tariff bill in the report to accompany such a bill or, in a case where a miscellaneous tariff bill is not reported by the committee, shall cause such a list to be printed in the appropriate section of the Congressional Record.

“(2) LIMITED TARIFF BENEFIT DEFINED.—For purposes of this subsection and consistent with clause 9 of rule XXI of the Rules of the House of Representatives, as in effect during the One Hundred Fourteenth Congress, the term ‘limited tariff benefit’ means a provision modifying the Harmonized Tariff Schedule of the United States [see Publication of Harmonized Tariff Schedule note set out under section 1202 of this title] in a manner that benefits 10 or fewer entities.

“(b) SENATE.—

“(1) IN GENERAL.—The chairman of the Committee on Finance of the Senate, the Majority Leader of the Senate, or the designee of the Majority Leader of the Senate, shall provide for the publication in the Congressional Record of a certification that—

“(A) each limited tariff benefit contained in a miscellaneous tariff bill considered in the Senate has been identified through lists, charts, or other similar means; and

“(B) the information identified in subparagraph (A) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before the vote on the motion to proceed to the miscellaneous tariff bill or the vote on the adoption of a report of a committee of conference in connection with the miscellaneous tariff bill, as the case may be.

“(2) SATISFACTION OF SENATE RULES.—Publication of a certification in the Congressional Record under paragraph (1) satisfies the certification requirements of paragraphs 1(a), 2(a), and 3(a) of rule XLIV of the Standing Rules of the Senate.

“(3) LIMITED TARIFF BENEFIT DEFINED.—For purposes of this subsection and consistent with rule XLIV of the Standing Rules of the Senate, as in effect during the One Hundred Fourteenth Congress, the term ‘limited tariff benefit’ means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

“(c) ENACTMENT AS EXERCISE OF RULEMAKING POWER OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by Congress—

“(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

“(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

“SEC. 6. JUDICIAL REVIEW PRECLUDED.

“The exercise of functions under this Act shall not be subject to judicial review.

“SEC. 7. DEFINITIONS.

“In this Act:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

“(2) COMMISSION.—The term ‘Commission’ means the United States International Trade Commission.

“(3) COMMISSION DISCLOSURE FORM.—The term ‘Commission disclosure form’ means, with respect to a petition for a duty suspension or reduction, a document submitted by a petitioner to the Commission that contains the following:

“(A) The contact information for any known importers of the article to which the proposed duty suspension or reduction would apply.

“(B) A certification by the petitioner that the proposed duty suspension or reduction is available to any person importing the article to which the proposed duty suspension or reduction would apply.

“(C) A certification that the petitioner is a likely beneficiary of the proposed duty suspension or reduction.

“(4) DOMESTIC PRODUCER.—The term ‘domestic producer’ means a person that demonstrates production, or imminent production, in the United States of an article that is identical to, or like or directly competitive with, an article to which a petition for a duty suspension or reduction would apply.

“(5) DOMESTIC PRODUCTION.—The term ‘domestic production’ means the production of an article that is identical to, or like or directly competitive with, an

article to which a petition for a duty suspension or reduction would apply, for which a domestic producer has demonstrated production, or imminent production, in the United States.

“(6) DUTY SUSPENSION OR REDUCTION.—The term ‘duty suspension or reduction’ refers to an amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States for a period not to exceed 3 years that—

“(A) extends an existing temporary duty suspension or reduction on an article under that subchapter; or

“(B) provides for a new temporary duty suspension or reduction on an article under that subchapter.

“(7) LIKELY BENEFICIARY.—The term ‘likely beneficiary’ means an individual or entity likely to utilize, or benefit directly from the utilization of, an article that is the subject of a petition for a duty suspension or reduction.

“(8) MEMBER OF CONGRESS.—The term ‘Member of Congress’ means a Senator or Representative in, or Delegate or Resident Commissioner to, Congress.

“(9) MISCELLANEOUS TARIFF BILL.—The term ‘miscellaneous tariff bill’ means a bill of either House of Congress that contains only duty suspensions and reductions and related technical corrections that—

“(A) are included in the final report of the Commission submitted to the appropriate congressional committees under section 3(b)(3)(E), except for—

“(i) petitions for duty suspensions or reductions that the Commission has determined do not contain the information required under section 3(b)(2);

“(ii) petitions for duty suspensions and reductions with respect to which the Commission has determined the petitioner is not a likely beneficiary; and

“(iii) petitions for duty suspensions and reductions that the Commission does not recommend for inclusion in the miscellaneous tariff bill;

“(B) are not excluded under section 3(b)(3)(F); and

“(C) otherwise meet the applicable requirements of this Act.”

CONTINUATION OF REPORTS WITH RESPECT TO SYNTHETIC ORGANIC CHEMICALS

Pub. L. 95-106, § 5, Aug. 17, 1977, 91 Stat. 869, directed International Trade Commission to make, for each calendar year ending before Jan. 1, 1981, reports with respect to synthetic organic chemicals similar in scope to reports made with respect to such chemicals for calendar year 1976.

REVIEW OF CUSTOMS TARIFF SCHEDULES

Act Sept. 1, 1954, ch. 1213, title I, § 101, 68 Stat. 1136, as amended Aug. 2, 1956, ch. 894, 70 Stat. 955; May 19, 1958, Pub. L. 85-418, § 3, 72 Stat. 120, provided for a complete study by the Tariff Commission for the purpose of clarifying and simplifying the tariff classification, with a report to go to the President and to the chairmen of the appropriate committees of Congress no later than Jan. 1, 1959. See section 1332 of this title.

§ 1332a. Importation of red cedar shingles

(a) Investigation by Commission

The United States International Trade Commission is directed to conduct an investigation as soon as practicable after the close of the calendar year 1939 and each calendar year thereafter, for the purpose of ascertaining the quantities of red cedar shingles shipped by producers in the United States and the quantities of imported red cedar shingles entered for consumption, or withdrawn from warehouse for consumption, during each of the three calendar years immediately preceding any such investigation.

(b) Duty on imported shingles; amount

If the Commission finds, on the basis of an investigation under subdivision (a) of this section, that in any calendar year after 1938 the quantity of imported red cedar shingles entered for consumption, or withdrawn from warehouse for consumption, was in excess of 30 per centum of the combined total for such year of the respective quantities ascertained in such investigation, it shall so report to the President. If the President approves the report of the Commission, he shall so proclaim, and on and after the day following the filing of such proclamation with the Division of the Federal Register and so long as any trade agreement entered into under the authority of section 1351 of this title, shall be in effect with respect to the importation into the United States of red cedar shingles, there shall be a duty upon imported red cedar shingles entered for consumption, or withdrawn from warehouse for consumption, in any calendar year in excess of 30 per centum of the annual average for the preceding three calendar years of the combined total of the quantity of such shingles shipped by producers in the United States and of the quantity of such imported shingles entered for consumption, or withdrawn from warehouse for consumption. The rate of such duty shall be 25 cents per square. Any duty imposed under this section shall be treated for the purposes of all provisions of law relating to customs revenue as a duty imposed by section 1001¹ of this title, and shall not apply to shingles entered for consumption before the duty becomes applicable.

(c) Exemptions from duty

The quantity of red cedar shingles entitled to exemption from any duty imposed pursuant to this section shall be ascertained for each quota period by the Commission and reported to the Secretary of the Treasury.

(July 1, 1940, ch. 499, 54 Stat. 708; Pub. L. 93-618, title I, § 171(b), Jan. 3, 1975, 88 Stat. 2009.)

REFERENCES IN TEXT

Section 1001 of this title, referred to in subsec. (b), was struck out by Pub. L. 87-456, title I, § 101(a), May 24, 1962, 76 Stat. 72.

CODIFICATION

Section was not enacted as a part of the Tariff Act of 1930 which comprises this chapter.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-618 substituted “United States International Trade Commission” for “United States Tariff Commission”.

§ 1333. Testimony and production of papers

(a) Authority to obtain information

For the purposes of carrying out its functions and duties in connection with any investigation authorized by law, the commission or its duly authorized agent or agents (1) shall have access to and the right to copy any document, paper, or record, pertinent to the subject matter under investigation, in the possession of any person, firm, copartnership, corporation, or association engaged in the production, importation, or dis-

¹ See References in Text note below.

tribution of any article under investigation, (2) may summon witnesses, take testimony, and administer oaths, (3) may require any person, firm, copartnership, corporation, or association to produce books or papers relating to any matter pertaining to such investigation, and (4) may require any person, firm, copartnership, corporation, or association, to furnish in writing, in such detail and in such form as the commission may prescribe, information in their possession pertaining to such investigation. Any member of the commission may sign subpoenas, and members and agents of the commission, when authorized by the commission, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) Witnesses and evidence

Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Mandamus

At the request of the commission, any such court shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this part or any order of the commission made in pursuance thereof.

(d) Depositions

The commission may order testimony to be taken by deposition in any proceeding or investigation pending before the commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person, firm, copartnership, corporation, or association, may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission, as hereinbefore provided.

(e) Fees and mileage of witnesses

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same, except employees of the commission, shall severally be entitled to the same fees and mileage as are paid for like services in the courts of the United States.

(f) Statements under oath

The commission is authorized, in order to ascertain any facts required by subdivision (d) of section 1332 of this title to require any importer and any American grower, producer, manufacturer, or seller to file with the commission a statement, under oath, giving his selling prices in the United States of any article imported, grown, produced, fabricated, manipulated, or manufactured by him.

(g) Representation in court proceedings

The Commission shall be represented in all judicial proceedings by attorneys who are employees of the Commission or, at the request of the Commission, by the Attorney General of the United States.

(h) Administrative protective orders

Any correspondence, private letters of reprimand, and other documents and files relating to violations or possible violations of administrative protective orders issued by the Commission in connection with investigations or other proceedings under this subtitle shall be treated as information described in section 552(b)(3) of title 5.

(June 17, 1930, ch. 497, title III, §333, 46 Stat. 699; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, §32(b), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Pub. L. 85-686, §9(a), (b), Aug. 20, 1958, 72 Stat. 679; Pub. L. 91-452, title II, §229, Oct. 15, 1970, 84 Stat. 930; Pub. L. 93-618, title I, §174, Jan. 3, 1975, 88 Stat. 2011; Pub. L. 101-382, title I, §135(a), Aug. 20, 1990, 104 Stat. 651.)

CODIFICATION

As originally enacted subsec. (b) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia". However, the words "United States District Court for the District of Columbia" have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of Title 28 which states that "the District of Columbia constitutes one judicial district".

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, §706, 39 Stat. 797, as amended by act Sept. 21, 1922, ch. 356, title III, §318(f), 42 Stat. 947. These acts were superseded by section 333 of act June 17, 1930, comprising this section, and section 318(f) of the 1922 act was repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1990—Subsec. (h). Pub. L. 101-382 added subsec. (h).

1975—Subsec. (c). Pub. L. 93-618, §174(1), substituted "At the request of" for "Upon application of the Attorney General of the United States, at the request of".

Subsec. (g). Pub. L. 93-618, §174(2), added subsec. (g).

1970—Subsec. (e). Pub. L. 91-452 struck out provisions relating to the immunity from prosecution of any natural person compelled to testify or produce evidence in obedience to the subpoena of the commission.

1958—Subsec. (a). Pub. L. 85-686, §9(a), substituted “For the purposes of carrying out its functions and duties in connection with any investigation authorized by law” for “For the purposes of carrying Part II of this subtitle into effect”, inserted provisions empowering the commission to require any person, firm, copartnership, corporation, or association to furnish in writing, in such detail and in such form as the commission may prescribe, information in their possession pertaining to an investigation.

Subsec. (d). Pub. L. 85-686, §9(b), substituted “pending before the commission” for “pending under Part II of this subtitle”.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 1334. Cooperation with other agencies

The commission shall in appropriate matters act in conjunction and cooperation with the Treasury Department, the Department of Commerce, the Federal Trade Commission, or any other departments, or independent establishments of the Government, and such departments and independent establishments of the Government shall cooperate fully with the commission for the purposes of aiding and assisting in its work, and, when directed by the President, shall furnish to the commission, on its request, all records, papers, and information in their possession relating to any of the subjects of investigation by the commission and shall detail, from time to time, such officials and employees to said commission as he may direct.

(June 17, 1930, ch. 497, title III, §334, 46 Stat. 700.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, §707, 39 Stat. 797. That section was superseded by section 334 of act June 17, 1930, comprising this section.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission transferred, with certain reservations, to Chairman of such Commission by Reorg. Plan No. 8 of 1950, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1335. Rules and regulations

The commission is authorized to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties.

(June 17, 1930, ch. 497, title III, §335, as added Aug. 20, 1958, Pub. L. 85-686, §9(c)(2), 72 Stat. 680.)

PRIOR PROVISIONS

A prior section 335 of act June 17, 1930, related to disclosure of trade secrets and prescribed penalty therefor, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See section 1905 of Title 18, Crimes and Criminal Procedure.

§ 1336. Equalization of costs of production

(a) Change of classification or duties

In order to put into force and effect the policy of Congress by this chapter intended, the commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article. In the course of the investigation the commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the commission shall specify in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute.

(b) Repealed. Pub. L. 96-39, title II, § 202(a)(2)(A), July 26, 1979, 93 Stat. 202

(c) Proclamation by the President

The President shall by proclamation approve the rates of duty and changes in classification specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

(d) Effective date of rates and changes

Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification specified in the report of the commission shall take effect.

(e) Ascertainment of differences in costs of production

In ascertaining under this section the differences in costs of production, the commission shall take into consideration, in so far as it finds it practicable:

(1) In the case of a domestic article

(A) The cost of production as hereinafter in this section defined; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

(2) In the case of a foreign article

(A) The cost of production as hereinafter in this section defined, or, if the commission

finds that such cost is not readily ascertainable, the commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and/or the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets); (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association in a foreign country.

(f) Modification of changes in duty

Any increased or decreased rate of duty or change in classification which has taken effect as above provided may be modified or terminated in the same manner and subject to the same conditions and limitations (including time of taking effect) as is provided in this section in the case of original increases, decreases, or changes.

(g) Prohibition against transfers from the free list to the dutiable list or from the dutiable list to the free list

Nothing in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of Subtitle I of this chapter, or in any amendatory act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provisions of this section upon such articles shall exceed the maximum ad valorem rate so specified.

(h) Definitions

For the purpose of this section—

(1) The term “domestic article” means an article wholly or in part the growth or product of the United States; and the term “foreign article” means an article wholly or in part the growth or product of a foreign country.

(2) The term “United States” includes the several States and Territories and the District of Columbia.

(3) The term “foreign country” means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions).

(4) The term “cost of production”, when applied with respect to either a domestic article or a foreign article, includes, for a period which is representative of conditions in production of the article: (A) The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; (B) the usual general ex-

penses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; and (C) the cost of containers and coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for delivery.

(i) Rules and regulations of President

The President is authorized to make all needful rules and regulations for carrying out his functions under the provisions of this section.

(j) Repealed. Pub. L. 96-39, title II, § 202(a)(2)(D), July 26, 1979, 93 Stat. 202

(k) Investigations prior to June 17, 1930

All uncompleted investigations instituted prior to June 17, 1930, under the provisions of sections 154 to 159¹ of this title, including investigations in which the President has not proclaimed changes in classification or increases or decreases in rates of duty, shall be dismissed without prejudice; but the information and evidence secured by the commission in any such investigation may be given due consideration in any investigation instituted under the provisions of this section.

(June 17, 1930, ch. 497, title III, § 336, 46 Stat. 701; Aug. 2, 1956, ch. 887, § 2(d), 70 Stat. 946; Pub. L. 85-686, § 9(c)(1), Aug. 20, 1958, 72 Stat. 679; Pub. L. 96-39, title II, § 202(a)(2), July 26, 1979, 93 Stat. 202.)

REFERENCES IN TEXT

Sections 154 to 159 of this title, referred to in subsec. (k), were repealed by section 651(a)(1) of act June 17, 1930.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title III, § 315, 42 Stat. 941. That section was superseded by section 336 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39, § 202(a)(2)(A), struck out subsec. (b) which related to the setting of ad valorem rates based upon the American selling price of domestic articles as would be necessary to equalize differences in the costs of production.

Subsec. (c). Pub. L. 96-39, § 202(a)(2)(B), substituted “changes in classification specified in any report” for “changes in classification and in basis of value specified in any report”.

Subsec. (d). Pub. L. 96-39, § 202(a)(2)(C), substituted “changes in classification specified in the report” for “changes in classification or in basis of value specified in the report”.

Subsec. (f). Pub. L. 96-39, § 202(a)(2)(C), substituted “change in classification which has taken effect” for “change in classification or in basis of value which has taken effect”.

Subsec. (j). Pub. L. 96-39, § 202(a)(2)(D), struck out subsec. (j) which authorized the Secretary of the Treasury to make necessary rules and regulations for the entry and declaration of foreign articles with respect to which a change in the basis of value had been made.

Subsec. (k). Pub. L. 96-39, § 202(a)(2)(C), substituted “changes in classification or increases or decreases”

¹ See References in Text note below.

for “changes in classification or in basis of value or increases or decreases”.

1958—Subsec. (a). Pub. L. 85-686 struck out provisions which authorized the commission to adopt such reasonable procedure and rules and regulations as it deemed necessary to execute its functions under this section. See section 1335 of this title.

1956—Subsec. (b). Act Aug. 2, 1956, struck out “(as defined in section 1402(g))” after “selling price”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 2, 1956, effective only as to articles entered, or withdrawn from warehouse, for consumption on or after thirtieth day following publication of the final list provided for in section 6(a) of said act, set out in note under section 1402 of this title, see section 8 of act Aug. 2, 1956, set out as an Effective Date note under section 1401a of this title.

§ 1337. Unfair practices in import trade

(a) Unlawful activities; covered industries; definitions

(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), (D), and (E)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

- (i) to destroy or substantially injure an industry in the United States;
- (ii) to prevent the establishment of such an industry; or
- (iii) to restrain or monopolize trade and commerce in the United States.

(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

- (i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17; or
- (ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946 [15 U.S.C. 1051 et seq.].

(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17.

(E) The importation into the United States, the sale for importation, or the sale within the

United States after importation by the owner, importer, or consigner, of an article that constitutes infringement of the exclusive rights in a design protected under chapter 13 of title 17.

(2) Subparagraphs (B), (C), (D), and (E) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, mask work, or design concerned, exists or is in the process of being established.

(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned—

- (A) significant investment in plant and equipment;
- (B) significant employment of labor or capital; or
- (C) substantial investment in its exploitation, including engineering, research and development, or licensing.

(4) For the purposes of this section, the phrase “owner, importer, or consignee” includes any agent of the owner, importer, or consignee.

(b) Investigation of violations by Commission

(1) The Commission shall investigate any alleged violation of this section on complaint under oath or upon its initiative. Upon commencing any such investigation, the Commission shall publish notice thereof in the Federal Register. The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall, within 45 days after an investigation is initiated, establish a target date for its final determination.

(2) During the course of each investigation under this section, the Commission shall consult with, and seek advice and information from, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as it considers appropriate.

(3) Whenever, in the course of an investigation under this section, the Commission has reason to believe, based on information before it, that a matter, in whole or in part, may come within the purview of part II of subtitle IV of this chapter, it shall promptly notify the Secretary of Commerce so that such action may be taken as is otherwise authorized by such part II. If the Commission has reason to believe that the matter before it (A) is based solely on alleged acts and effects which are within the purview of section 1671 or 1673 of this title, or (B) relates to an alleged copyright infringement with respect to which action is prohibited by section 1008 of title 17, the Commission shall terminate, or not institute, any investigation into the matter. If the Commission has reason to believe the matter before it is based in part on alleged acts and effects which are within the purview of section 1671 or 1673 of this title, and in part on alleged acts and effects which may, independently from or in conjunction with those within the purview

of such section, establish a basis for relief under this section, then it may institute or continue an investigation into the matter. If the Commission notifies the Secretary or the administering authority (as defined in section 1677(1) of this title) with respect to a matter under this paragraph, the Commission may suspend its investigation during the time the matter is before the Secretary or administering authority for final decision. Any final decision by the administering authority under section 1671 or 1673 of this title with respect to the matter within such section 1671 or 1673 of this title of which the Commission has notified the Secretary or administering authority shall be conclusive upon the Commission with respect to the issue of less-than-fair-value sales or subsidization and the matters necessary for such decision.

(c) Determinations; review

The Commission shall determine, with respect to each investigation conducted by it under this section, whether or not there is a violation of this section, except that the Commission may, by issuing a consent order or on the basis of an agreement between the private parties to the investigation, including an agreement to present the matter for arbitration, terminate any such investigation, in whole or in part, without making such a determination. Each determination under subsection (d) or (e) shall be made on the record after notice and opportunity for a hearing in conformity with the provisions of subchapter II of chapter 5 of title 5. All legal and equitable defenses may be presented in all cases. A respondent may raise any counterclaim in a manner prescribed by the Commission. Immediately after a counterclaim is received by the Commission, the respondent raising such counterclaim shall file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the party would exist under section 1391 of title 28. Any counterclaim raised pursuant to this section shall relate back to the date of the original complaint in the proceeding before the Commission. Action on such counterclaim shall not delay or affect the proceeding under this section, including the legal and equitable defenses that may be raised under this subsection. Any person adversely affected by a final determination of the Commission under subsection (d), (e), (f), or (g) may appeal such determination, within 60 days after the determination becomes final, to the United States Court of Appeals for the Federal Circuit for review in accordance with chapter 7 of title 5. Notwithstanding the foregoing provisions of this subsection, Commission determinations under subsections (d), (e), (f), and (g) with respect to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable in accordance with section 706 of title 5. Determinations by the Commission under subsections (e), (f), and (j) with respect to forfeiture of bonds and under subsection (h) with respect to the imposition of sanctions for abuse of discovery or abuse of process shall also be re-

viewable in accordance with section 706 of title 5.

(d) Exclusion of articles from entry

(1) If the Commission determines, as a result of an investigation under this section, that there is a violation of this section, it shall direct that the articles concerned, imported by any person violating the provision of this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry.

(2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that—

(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

(e) Exclusion of articles from entry during investigation except under bond; procedures applicable; preliminary relief

(1) If, during the course of an investigation under this section, the Commission determines that there is reason to believe that there is a violation of this section, it may direct that the articles concerned, imported by any person with respect to whom there is reason to believe that such person is violating this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry, except that such articles shall be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.

(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission's notice of investigation is published in the Federal Register. The Commission

may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent.

(3) The Commission may grant preliminary relief under this subsection or subsection (f) to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.

(4) The Commission shall prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2).

(f) Cease and desist orders; civil penalty for violation of orders

(1) In addition to, or in lieu of, taking action under subsection (d) or (e), the Commission may issue and cause to be served on any person violating this section, or believed to be violating this section, as the case may be, an order directing such person to cease and desist from engaging in the unfair methods or acts involved, unless after considering the effect of such order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such order should not be issued. The Commission may at any time, upon such notice and in such manner as it deems proper, modify or revoke any such order, and, in the case of a revocation, may take action under subsection (d) or (e), as the case may be. If a temporary cease and desist order is issued in addition to, or in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond, in an amount determined by the Commission to be sufficient to protect the respondent from any injury, as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission shall prescribe the terms and conditions under which the bonds may be forfeited under this paragraph.

(2) Any person who violates an order issued by the Commission under paragraph (1) after it has become final shall forfeit and pay to the United States a civil penalty for each day on which an importation of articles, or their sale, occurs in violation of the order of not more than the greater of \$100,000 or twice the domestic value of the articles entered or sold on such day in violation of the order. Such penalty shall accrue to the United States and may be recovered for the United States in a civil action brought by the Commission in the Federal District Court for the District of Columbia or for the district in which the violation occurs. In such actions, the United States district courts may issue mandatory injunctions incorporating the relief sought by the Commission as they deem appropriate in the enforcement of such final orders of the Commission.

(g) Exclusion from entry or cease and desist order; conditions and procedures applicable

(1) If—

(A) a complaint is filed against a person under this section;

(B) the complaint and a notice of investigation are served on the person;

(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

(D) the person fails to show good cause why the person should not be found in default; and

(E) the complainant seeks relief limited solely to that person;

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

(A) no person appears to contest an investigation concerning a violation of the provisions of this section,

(B) such a violation is established by substantial, reliable, and probative evidence, and

(C) the requirements of subsection (d)(2) are met.

(h) Sanctions for abuse of discovery and abuse of process

The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.

(i) Forfeiture

(1) In addition to taking action under subsection (d), the Commission may issue an order providing that any article imported in violation of the provisions of this section be seized and forfeited to the United States if—

(A) the owner, importer, or consignee of the article previously attempted to import the article into the United States;

(B) the article was previously denied entry into the United States by reason of an order issued under subsection (d); and

(C) upon such previous denial of entry, the Secretary of the Treasury provided the owner, importer, or consignee of the article written notice of—

(i) such order, and

(ii) the seizure and forfeiture that would result from any further attempt to import the article into the United States.

(2) The Commission shall notify the Secretary of the Treasury of any order issued under this

subsection and, upon receipt of such notice, the Secretary of the Treasury shall enforce such order in accordance with the provisions of this section.

(3) Upon the attempted entry of articles subject to an order issued under this subsection, the Secretary of the Treasury shall immediately notify all ports of entry of the attempted importation and shall identify the persons notified under paragraph (1)(C).

(4) The Secretary of the Treasury shall provide—

(A) the written notice described in paragraph (1)(C) to the owner, importer, or consignee of any article that is denied entry into the United States by reason of an order issued under subsection (d); and

(B) a copy of such written notice to the Commission.

(j) Referral to President

(1) If the Commission determines that there is a violation of this section, or that, for purposes of subsection (e), there is reason to believe that there is such a violation, it shall—

(A) publish such determination in the Federal Register, and

(B) transmit to the President a copy of such determination and the action taken under subsection (d), (e), (f), (g), or (i), with respect thereto, together with the record upon which such determination is based.

(2) If, before the close of the 60-day period beginning on the day after the day on which he receives a copy of such determination, the President, for policy reasons, disapproves such determination and notifies the Commission of his disapproval, then, effective on the date of such notice, such determination and the action taken under subsection (d), (e), (f), (g), or (i) with respect thereto shall have no force or effect.

(3) Subject to the provisions of paragraph (2), such determination shall, except for purposes of subsection (c), be effective upon publication thereof in the Federal Register, and the action taken under subsection (d), (e), (f), (g), or (i), with respect thereto shall be effective as provided in such subsections, except that articles directed to be excluded from entry under subsection (d) or subject to a cease and desist order under subsection (f) shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission shall prescribe the terms and conditions under which bonds may be forfeited under this paragraph.

(4) If the President does not disapprove such determination within such 60-day period, or if he notifies the Commission before the close of such period that he approves such determination, then, for purposes of paragraph (3) and subsection (c) such determination shall become final on the day after the close of such period or the day on which the President notifies the Commission of his approval, as the case may be.

(k) Period of effectiveness; termination of violation or modification or rescission of exclusion or order

(1) Except as provided in subsections (f) and (j), any exclusion from entry or order under this section shall continue in effect until the Commission finds, and in the case of exclusion from entry notifies the Secretary of the Treasury, that the conditions which led to such exclusion from entry or order no longer exist.

(2) If any person who has previously been found by the Commission to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), (g), or (i)—

(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and

(B) relief may be granted by the Commission with respect to such petition—

(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.

(l) Importation by or for United States

Any exclusion from entry or order under subsection (d), (e), (f), (g), or (i), in cases based on a proceeding involving a patent, copyright, mask work, or design under subsection (a)(1), shall not apply to any articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government. Whenever any article would have been excluded from entry or would not have been entered pursuant to the provisions of such subsections but for the operation of this subsection, an owner of the patent, copyright, mask work, or design adversely affected shall be entitled to reasonable and entire compensation in an action before the United States Court of Federal Claims pursuant to the procedures of section 1498 of title 28.

(m) “United States” defined

For purposes of this section and sections 1338 and 1340¹ of this title, the term “United States” means the customs territory of the United States as defined in general note 2 of the Harmonized Tariff Schedule of the United States.

(n) Disclosure of confidential information

(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is properly designated as confidential pursuant to Commission rules may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it.

(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

¹ See References in Text note below.

(A) an officer or employee of the Commission who is directly concerned with—

(i) carrying out the investigation or related proceeding in connection with which the information is submitted,

(ii) the administration of a bond posted pursuant to subsection (e), (f), or (j),

(iii) the administration or enforcement of an exclusion order issued pursuant to subsection (d), (e), or (g), a cease and desist order issued pursuant to subsection (f), or a consent order issued pursuant to subsection (c),

(iv) proceedings for the modification or rescission of a temporary or permanent order issued under subsection (d), (e), (f), (g), or (i), or a consent order issued under this section, or

(v) maintaining the administrative record of the investigation or related proceeding,

(B) an officer or employee of the United States Government who is directly involved in the review under subsection (j), or

(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under subsection (d), (e), or (g) resulting from the investigation or related proceeding in connection with which the information is submitted.

(June 17, 1930, ch. 497, title III, § 337, 46 Stat. 703; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Pub. L. 85-686, § 9(c)(1), Aug. 20, 1958, 72 Stat. 679; Pub. L. 93-618, title III, § 341(a), Jan. 3, 1975, 88 Stat. 2053; Pub. L. 96-39, title I, § 106(b)(1), title XI, § 1105, July 26, 1979, 93 Stat. 193, 310; Pub. L. 96-417, title VI, § 604, Oct. 10, 1980, 94 Stat. 1744; Pub. L. 97-164, title I, §§ 160(a)(5), 163(a)(4), Apr. 2, 1982, 96 Stat. 48, 49; Pub. L. 98-620, title IV, § 413, Nov. 8, 1984, 98 Stat. 3362; Pub. L. 100-418, title I, §§ 1214(h)(3), 1342(a), (b), Aug. 23, 1988, 102 Stat. 1157, 1212, 1215; Pub. L. 100-647, title IX, § 9001(a)(7), (12), Nov. 10, 1988, 102 Stat. 3807; Pub. L. 102-563, § 3(d), Oct. 28, 1992, 106 Stat. 4248; Pub. L. 103-465, title II, § 261(d)(1)(B)(ii), title III, § 321(a), Dec. 8, 1994, 108 Stat. 4909, 4943; Pub. L. 104-295, § 20(b)(11), (12), (c)(2), Oct. 11, 1996, 110 Stat. 3527, 3528; Pub. L. 106-113, div. B, § 1000(a)(9) [title V, § 5005(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-594; Pub. L. 108-429, title II, § 2004(d)(5), Dec. 3, 2004, 118 Stat. 2592.)

REFERENCES IN TEXT

The Trademark Act of 1946, referred to in subsec. (a)(1)(C), is act July 5, 1946, ch. 540, 60 Stat. 427, as amended, also popularly known as the Lanham Act, which is classified generally to chapter 22 (§ 1051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

The Federal Rules of Civil Procedure, referred to in subsecs. (e)(3), (h), and (k)(2)(B)(ii), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 1340 of this title, referred to in subsec. (m), was omitted from the Code.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (m), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

CODIFICATION

The reference to the Philippine Islands, formerly contained in subsec. (k), was omitted because of independ-

ence of the Philippines proclaimed by the President of the United States in Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Inter-course, and set out as a note thereunder.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title III, § 316, 42 Stat. 943. That section was superseded by section 337 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2004—Subsec. (a)(1)(E). Pub. L. 108-429, § 2004(d)(5)(A), realigned margins.

Subsec. (a)(2). Pub. L. 108-429, § 2004(d)(5)(B), substituted “(D), and (E)” for “and (D)”.

1999—Subsec. (a)(1)(A). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(1)(A)(i)], substituted “(D), and (E)” for “and (D)”.

Subsec. (a)(1)(E). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(1)(A)(ii)], added subpar. (E).

Subsec. (a)(2), (3). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(1)(B)], substituted “mask work, or design” for “or mask work”.

Subsec. (4). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(2)], substituted “mask work, or design” for “or mask work” in two places.

1996—Subsec. (b)(3). Pub. L. 104-295, § 20(c)(2), amended Pub. L. 103-465, § 321(a)(1)(C)(i). See 1994 Amendment note below.

Pub. L. 104-295, § 20(b)(12), struck out “such section and” before “such part II” in first sentence.

Pub. L. 104-295, § 20(b)(11), amended Pub. L. 103-465, § 261(d)(1)(B)(ii)(I). See 1994 Amendment note below.

1994—Subsec. (b). Pub. L. 103-465, § 321(a)(1)(A), struck out “; time limits” after “Commission” in heading.

Subsec. (b)(1). Pub. L. 103-465, § 321(a)(1)(B), substituted third and fourth sentences for “The Commission shall conclude any such investigation, and make its determination under this section, at the earliest practicable time, but not later than one year (18 months in more complicated cases) after the date of publication of notice of such investigation. The Commission shall publish in the Federal Register its reasons for designating any investigation as a more complicated investigation. For purposes of the one-year and 18-month periods prescribed by this subsection, there shall be excluded any period of time during which such investigation is suspended because of proceedings in a court or agency of the United States involving similar questions concerning the subject matter of such investigation.”

Subsec. (b)(3). Pub. L. 103-465, § 321(a)(1)(C)(ii), struck out after fourth sentence “For purposes of computing the 1-year or 18-month periods prescribed by this subsection, there shall be excluded such period of suspension.”

Pub. L. 103-465, § 321(a)(1)(C)(i), as amended by Pub. L. 104-295, § 20(c)(2), in first sentence, made technical amendment to reference in original act which appears in text as reference to “such part II”.

Pub. L. 103-465, § 261(d)(1)(B)(ii)(II)-(V), in second sentence, struck out “1303,” after “purview of section” and comma after “1671” and made technical amendment to references to sections 1671 and 1673 of this title to correct references to corresponding sections of original act, in third sentence, substituted “1671” for “1303, 1671,” and in last sentence, struck out “of the Secretary under section 1303 of this title or” after “Any final decision” and substituted “1671 or” for “1303, 1671, or”.

Pub. L. 103-465, § 261(d)(1)(B)(ii)(I), as amended by Pub. L. 104-295, § 20(b)(11), in first sentence, struck out reference to section 1303 of this title after “within the purview” and made technical amendment to reference to part II of subtitle IV of this chapter by substituting in the original “of subtitle B of title VII of this Act” for “of section 303 or of subtitle B of title VII of the Tariff Act of 1930”.

Subsec. (c). Pub. L. 103-465, §321(a)(2), in first sentence, substituted “an agreement between the private parties to the investigation, including an agreement to present the matter for arbitration” for “a settlement agreement”, inserted after third sentence “A respondent may raise any counterclaim in a manner prescribed by the Commission. Immediately after a counterclaim is received by the Commission, the respondent raising such counterclaim shall file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the party would exist under section 1391 of title 28. Any counterclaim raised pursuant to this section shall relate back to the date of the original complaint in the proceeding before the Commission. Action on such counterclaim shall not delay or affect the proceeding under this section, including the legal and equitable defenses that may be raised under this subsection.”, and inserted at end “Determinations by the Commission under subsections (e), (f), and (j) with respect to forfeiture of bonds and under subsection (h) with respect to the imposition of sanctions for abuse of discovery or abuse of process shall also be reviewable in accordance with section 706 of title 5.”

Subsec. (d). Pub. L. 103-465, §321(a)(5)(A), designated existing provisions as par. (1), substituted “there is a violation” for “there is violation” in first sentence, and added par. (2).

Subsec. (e)(1). Pub. L. 103-465, §321(a)(3)(A), in last sentence, substituted “prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.” for “determined by the Commission and prescribed by the Secretary.”

Subsec. (e)(2). Pub. L. 103-465, §321(a)(3)(B), inserted at end “If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent.”

Subsec. (e)(4). Pub. L. 103-465, §321(a)(3)(C), added par. (4).

Subsec. (f)(1). Pub. L. 103-465, §321(a)(4), inserted at end “If a temporary cease and desist order is issued in addition to, or in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond, in an amount determined by the Commission to be sufficient to protect the respondent from any injury, as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission shall prescribe the terms and conditions under which the bonds may be forfeited under this paragraph.”

Subsec. (g)(2)(C). Pub. L. 103-465, §321(a)(5)(B), added subpar. (C).

Subsec. (j)(3). Pub. L. 103-465, §321(a)(6), substituted “shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission shall prescribe the terms and conditions under which bonds may be forfeited under this paragraph.” for “shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary until such determination becomes final.”

Subsec. (l). Pub. L. 103-465, §321(a)(8), substituted “Court of Federal Claims” for “Claims Court”.

Subsec. (n)(2)(A). Pub. L. 103-465, §321(a)(7)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted.”

Subsec. (n)(2)(C). Pub. L. 103-465, §321(a)(7)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “an officer or employee of the

United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.”

1992—Subsec. (b)(3). Pub. L. 102-563 amended second sentence generally. Prior to amendment, second sentence read as follows: “If the Commission has reason to believe the matter before it is based solely on alleged acts and effects which are within the purview of section 1303, 1671, or 1673 of this title, it shall terminate, or not institute, any investigation into the matter.”

1988—Subsec. (a). Pub. L. 100-418, §1342(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as provided in this section.”

Subsec. (b)(2). Pub. L. 100-418, §1342(b)(1)(A), substituted “Department of Health and Human Services” for “Department of Health, Education, and Welfare”.

Subsec. (b)(3). Pub. L. 100-418, §1342(b)(1)(B), substituted “Secretary of Commerce” for “Secretary of the Treasury”.

Subsec. (c). Pub. L. 100-418, §1342(a)(2), inserted before period at end of first sentence “, except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination”.

Pub. L. 100-418, §1342(b)(2), inserted reference to subsec. (g) in two places.

Subsec. (e). Pub. L. 100-418, §1342(a)(3), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f)(1). Pub. L. 100-418, §1342(a)(4)(A), substituted “In addition to, or in lieu of,” for “In lieu of”.

Subsec. (f)(2). Pub. L. 100-418, §1342(a)(4)(B), substituted “\$100,000 or twice” for “\$10,000 or”.

Subsecs. (g) to (i). Pub. L. 100-418, §1342(a)(5), added subsecs. (g) to (i). Former subsecs. (g) to (i) redesignated (j) to (l), respectively.

Subsec. (j). Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (g) as (j). Former subsec. (j) redesignated (m).

Subsec. (j)(1)(B), (2), (3). Pub. L. 100-418, §1342(b)(3), inserted reference to subsecs. (g) and (i).

Subsec. (k). Pub. L. 100-418, §1342(b)(4), which directed the substitution “(j)” for “(g)” was executed by making that substitution in par. (1) and not in par. (2), as added by Pub. L. 100-418, §1342(a)(6), to reflect the probable intent of Congress.

Pub. L. 100-418, §1342(a)(6), as amended by Pub. L. 100-647, §9001(a)(7), designated existing provisions as par. (1) and added par. (2).

Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (h) as (k).

Subsec. (l). Pub. L. 100-418, §1342(b)(5), inserted reference to subsecs. (g) and (i).

Pub. L. 100-418, §1342(a)(7), substituted “a proceeding involving a patent, copyright, or mask work under subsection (a)(1)” for “claims of United States letters patent” and “an owner of the patent, copyright, or mask work” for “a patent owner”.

Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (i) as (l).

Subsec. (m). Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (j) as (m).

Pub. L. 100-418, §1214(h)(3), substituted “general note 2 of the Harmonized Tariff Schedule of the United States” for “general headnote 2 of the Tariff Schedules of the United States”.

Subsec. (n). Pub. L. 100-418, §1342(a)(8), added subsec. (n).

Subsec. (n)(2)(B). Pub. L. 100-647, §9001(a)(12), substituted “subsection (j)” for “subsection (h)”.

1984—Subsec. (c). Pub. L. 98-620 inserted “, within 60 days after the determination becomes final,” after “appeal such determination”.

1982—Subsec. (c). Pub. L. 97-164, §163(a)(4), substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

Subsec. (i). Pub. L. 97-164, §160(a)(5), substituted “United States Claims Court” for “Court of Claims”.

1980—Subsec. (c). Pub. L. 96-417 provided that the appeal of determinations to the United States Court of Customs and Patent Appeals be reviewed in accordance with chapter 7 of title 5 and substituted provision that review of findings concerning the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy, be in accordance with section 706 of title 5 for provision giving such court jurisdiction to review determinations in same manner and subject to same limitations and conditions as in case of appeals from decisions of the United States Customs Court.

1979—Subsec. (b)(3). Pub. L. 96-39, §1105(a), substituted “a matter, in whole or in part,” for “the matter” and inserted provisions relating to matters based solely or in part on alleged acts and effects within the purview of section 1303, 1671, or 1673 of this title.

Pub. L. 96-39, §106(b)(1), substituted “part II of subtitle IV of this chapter” for “the Antidumping Act, 1921”.

Subsec. (c). Pub. L. 96-39, §1105(c), substituted “Any person adversely affected by a final determination of the Commission under subsection (d), (e), or (f)” for “Any person adversely affected by a final determination of the Commission under subsection (d) or (e)”.

Subsec. (f). Pub. L. 96-39, §1105(b), designated existing provisions as par. (1) and added par. (2).

1975—Subsec. (a) Pub. L. 93-618 substituted “Commission” for “President” and “as provided in this section” for “as hereinafter provided”.

Subsec. (b). Pub. L. 93-618 designated existing provisions as first sentence of par. (1), substituted “The Commission shall investigate any alleged violation of this section” for “To assist the President in making any decisions under this section the commission is authorized to investigate any alleged violation hereof” in first sentence of par. (1) as so designated, and added remainder of par. (1) and pars. (2) and (3).

Subsec. (c). Pub. L. 93-618 substituted provisions covering determinations by the Commission and appeals to the United States Court of Customs and Patent Appeals for provisions covering all aspects of hearings and review as part of investigations of unfair practices in import trade.

Subsec. (d). Pub. L. 93-618 substituted provisions covering the exclusion of articles from entry, formerly covered in subsec. (e), for provisions directing that final findings of the Commission be transmitted with the record to the President, covered by subsec. (g).

Subsec. (e). Pub. L. 93-618 substituted provisions covering the entry of articles under bond during investigation, formerly covered in subsec. (f), for provisions covering the exclusion of articles from entry, covered by subsec. (d).

Subsec. (f). Pub. L. 93-618 added subsec. (f). Provisions of former subsec. (f) covering entry of articles under bond are covered by subsec. (e).

Subsec. (g). Pub. L. 93-618 substituted provisions covering referral to the President, formerly covered by subsec. (d), for provisions covering the continuance of exclusion, covered by subsec. (h).

Subsec. (h). Pub. L. 93-618 substituted provisions covering the period of effectiveness, formerly covered by subsec. (g), for provisions defining “United States”, covered by subsec. (j).

Subsec. (i). Pub. L. 93-618 added subsec. (i).

Subsec. (j). Pub. L. 93-618 added subsec. (j) defining “United States”, formerly covered by subsec. (h).

1958—Subsec. (c). Pub. L. 85-686 struck out “under and in accordance with such rules as it may promulgate” after “commission shall make such investigation”. See section 1335 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 261(d)(1)(B)(ii) of Pub. L. 103-465 effective on effective date of title II of Pub. L. 103-465, Jan. 1, 1995, see section 261(d)(2) of Pub. L. 103-465, set out as a note under section 1315 of this title.

Pub. L. 103-465, title III, §322, Dec. 8, 1994, 108 Stat. 4947, provided that: “The amendments made by this subtitle [subtitle C (§§ 321, 322) of title III of Pub. L. 103-465, enacting sections 1368 and 1659 of Title 28, Judiciary and Judicial Procedure, and amending this section and section 1446 of Title 28] apply—

“(1) with respect to complaints filed under section 337 of the Tariff Act of 1930 [19 U.S.C. 1337] on or after the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], or

“(2) in cases under such section 337 in which no complaint is filed, with respect to investigations initiated under such section on or after such date.”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

Amendment by section 1214(h)(3) of Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

Pub. L. 100-418, title I, §1342(d), Aug. 23, 1988, 102 Stat. 1216, provided that:

“(1)(A) Subject to subparagraph (B), the amendments made by this section [amending this section and repealing section 1337a of this title] shall take effect on the date of the enactment of this Act [Aug. 23, 1988].

“(B) The United States International Trade Commission is not required to apply the provision in section 337(e)(2) of the Tariff Act of 1930 [19 U.S.C. 1337(e)(2)] (as amended by subsection (a)(3) of this section) relating to the posting of bonds until the earlier of—

“(i) the 90th day after such date of enactment; or

“(ii) the day on which the Commission issues interim regulations setting forth the procedures relating to such posting.

“(2) Notwithstanding any provision of section 337 of the Tariff Act of 1930, the United States International Trade Commission may extend, by not more than 90 days, the period within which the Commission is required to make a determination in an investigation conducted under such section 337 if—

“(A) the Commission would, but for this paragraph, be required to make such determination before the 180th day after the date of enactment of this Act; and

“(B) the Commission finds that the investigation is complicated.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(2) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 106(b)(1) of Pub. L. 96-39 effective Jan. 1, 1980, see section 107 of Pub. L. 96-39, set out

as an Effective Date note under section 1671 of this title.

Amendment by section 1105 of Pub. L. 96-39 effective July 26, 1979, see section 1114 of Pub. L. 96-39, set out as an Effective Date note under section 2581 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93-618, title III, §341(c), Jan. 3, 1975, 88 Stat. 2056, provided that: "The amendments made by this section [amending this section and section 1337 of this title] shall take effect on the 90th day after the date of the enactment of this Act [Jan. 3, 1975], except that, for purposes of issuing regulations under section 337 of the Tariff Act of 1930 [this section], such amendments shall take effect on the date of the enactment of this Act [Jan. 3, 1975]. For purposes of applying section 337(b) of the Tariff Act of 1930 [subsec. (b) of this section] (as amended by subsection (a) [as amended by section 341(a) of Pub. L. 93-618]) with respect to investigations being conducted by the International Trade Commission under section 337 of the Tariff Act [this section] on the day prior to the 90th day after the date of the enactment of this Act [Jan. 3, 1975], such investigations shall be considered as having been commenced on such 90th day."

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

CONGRESSIONAL FINDINGS AND PURPOSES RESPECTING PART 3 OF PUB. L. 100-418

Pub. L. 100-418, title I, §1341, Aug. 23, 1988, 102 Stat. 1211, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) United States persons that rely on protection of intellectual property rights are among the most advanced and competitive in the world; and

"(2) the existing protection under section 337 of the Tariff Act of 1930 [this section] against unfair trade practices is cumbersome and costly and has not provided United States owners of intellectual property rights with adequate protection against foreign companies violating such rights.

"(b) PURPOSE.—The purpose of this part [part 3 (§§1341, 1342) of subtitle C of title I of Pub. L. 100-418, amending this section, repealing section 1337a of this title, and enacting provisions set out as a note above] is to amend section 337 of the Tariff Act of 1930 to make it a more effective remedy for the protection of United States intellectual property rights."

ASSIGNMENT OF CERTAIN FUNCTIONS

Memorandum of President of the United States, July 21, 2005, 70 F.R. 43251, provided:

Memorandum for the United States Trade Representative

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 337(j)(1)(B), section 337(j)(2), and section 337(j)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1337(j)(1), (j)(2), and (j)(4)).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 1337a. Repealed. Pub. L. 100-418, title I, § 1342(c), Aug. 23, 1988, 102 Stat. 1215

Section, act July 2, 1940, ch. 515, 54 Stat. 724, related to importation of products produced under process covered by claims of unexpired patent.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 23, 1988, see section 1342(d) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 1337 of this title.

§ 1338. Discrimination by foreign countries

(a) Additional duties

The President when he finds that the public interest will be served shall by proclamation specify and declare new or additional duties as hereinafter provided upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country—

(1) Imposes, directly or indirectly, upon the disposition in or transportation in transit through or reexportation from such country of any article wholly or in part the growth or product of the United States any unreasonable charge, exaction, regulation, or limitation which is not equally enforced upon the like articles of every foreign country; or

(2) Discriminates in fact against the commerce of the United States, directly or indirectly, by law or administrative regulation or practice, by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or prohibition, in such manner as to place the commerce of the United States at a disadvantage compared with the commerce of any foreign country.

(b) Exclusion from importation

If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the United States, as aforesaid, but has, after the issuance of a proclamation as authorized in subdivision (a) of this section, maintained or increased its said discriminations against the commerce of the United States, the President is authorized, if he deems it consistent with the interests of the United States, to issue a further proclamation directing that such products of said country or such articles imported in its vessels as he shall deem consistent with the public interests shall be excluded from importation into the United States.

(c) Application of proclamation

Any proclamation issued by the President under the authority of this section shall, if he deems it consistent with the interests of the United States, extend to the whole of any foreign country or may be confined to any subdivision or subdivisions thereof; and the President shall, whenever he deems the public interests require, suspend, revoke, supplement, or amend any such proclamation.

(d) Duties to offset commercial disadvantages

Whenever the President shall find as a fact that any foreign country places any burden or disadvantage upon the commerce of the United

States by any of the unequal impositions or discriminations aforesaid, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty as he shall determine will offset such burden or disadvantage, not to exceed 50 per centum ad valorem or its equivalent, on any products of, or on articles imported in a vessel of, such foreign country; and thirty days after the date of such proclamation there shall be levied, collected, and paid upon the articles enumerated in such proclamation when imported into the United States from such foreign country such new or additional rate or rates of duty; or, in case of articles declared subject to exclusion from importation into the United States under the provisions of subdivision (b) of this section, such articles shall be excluded from importation.

(e) Duties to offset benefits to third country

Whenever the President shall find as a fact that any foreign country imposes any unequal imposition or discrimination as aforesaid upon the commerce of the United States, or that any benefits accrue or are likely to accrue to any industry in any foreign country by reason of any such imposition or discrimination imposed by any foreign country other than the foreign country in which such industry is located, and whenever the President shall determine that any new or additional rate or rates of duty or any prohibition hereinbefore provided for do not effectively remove such imposition or discrimination and that any benefits from any such imposition or discrimination accrue or are likely to accrue to any industry in any foreign country, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty upon the articles wholly or in part the growth or product of any such industry as he shall determine will offset such benefits, not to exceed 50 per centum ad valorem or its equivalent, upon importation from any foreign country into the United States of such articles; and on and after thirty days after the date of any such proclamation such new or additional rate or rates of duty so specified and declared in such proclamation shall be levied, collected, and paid upon such articles.

(f) Forfeiture of articles

All articles imported contrary to the provisions of this section shall be forfeited to the United States and shall be liable to be seized, prosecuted, and condemned in like manner and under the same regulations, restrictions, and provisions as may from time to time be established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws. Whenever the provisions of this chapter shall be applicable to importations into the United States of articles wholly or in part the growth or product of any foreign country, they shall be applicable thereto whether such articles are imported directly or indirectly.

(g) Ascertainment by Commission of discriminations

It shall be the duty of the commission to ascertain and at all times to be informed whether

any of the discriminations against the commerce of the United States enumerated in subdivisions (a), (b), and (e) of this section are practiced by any country; and if and when such discriminatory acts are disclosed, it shall be the duty of the commission to bring the matter to the attention of the President, together with recommendations.

(h) Rules and regulations of Secretary of the Treasury

The Secretary of the Treasury with the approval of the President shall make such rules and regulations as are necessary for the execution of such proclamations as the President may issue in accordance with the provisions of this section.

(i) "Foreign country" defined

When used in this section the term "foreign country" means any empire, country, dominion, colony or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions), within which separate tariff rates or separate regulations of commerce are enforced.

(June 17, 1930, ch. 497, title III, § 338, 46 Stat. 704.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title III, § 317, 42 Stat. 944. That section was superseded by section 338 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 Act.

§ 1339. Trade Remedy Assistance Office

(a) Establishment; public information

There is established in the Commission a separate office to be known as the Trade Remedy Assistance Office which shall provide full information to the public upon request and shall, to the extent feasible, provide assistance and advice to interested parties concerning—

- (1) remedies and benefits available under the trade laws, and
- (2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

(b) Procedural assistance by Office and other agencies

The Trade Remedy Assistance Office, in coordination with each agency responsible for administering a trade law, shall provide technical and legal assistance and advice to eligible small businesses to enable them—

- (1) to prepare and file petitions and applications (other than those which, in the opinion of the Office, are frivolous); and
- (2) to seek to obtain the remedies and benefits available under the trade laws, including any administrative review or administrative appeal thereunder.

(c) Definitions

For purposes of this section—

- (1) The term "eligible small business" means any business concern which, in the agency's judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications

for remedies and benefits under trade laws. In determining whether a business concern is an “eligible small business”, the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

(2) The term “trade laws” means—

(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to injury caused by import competition);

(B) chapters 2 and 3 of such title II [19 U.S.C. 2271 et seq., 2341 et seq.] (relating to adjustment assistance for workers and firms);

(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

(D) subtitle IV of this chapter (relating to the imposition of countervailing duties and antidumping duties);

(E) section 1862 of this title (relating to the safeguarding of national security); and

(F) section 1337 of this title (relating to unfair practices in import trade).

(June 17, 1930, ch. 497, title III, § 339, as added Pub. L. 98-573, title II, § 221[(a)], Oct. 30, 1984, 98 Stat. 2989; Pub. L. 99-514, title XVIII, § 1888(3), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-418, title I, § 1614, Aug. 23, 1988, 102 Stat. 1263.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (c)(2)(A) to (C), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapters 1, 2, and 3 of title II of the Trade Act of 1974 are classified generally to parts 1 (§ 2251 et seq.), 2 (§ 2271 et seq.), and 3 (§ 2341 et seq.) of subchapter II of chapter 12 of this title, respectively. Chapter 1 of title III of the Trade Act of 1974 is classified generally to subchapter III (§ 2411 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

PRIOR PROVISIONS

A prior section 339 of act June 17, 1930, related to effect of repeal and reenactment of laws relating to Tariff Commission upon status of appropriations, employees, and privileges, prior to repeal by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418, § 1614(1), substituted “a separate office to be known as the Trade” for “a Trade”, and “upon request and shall, to the extent feasible, provide assistance and advice to interested parties” for “, upon request,” in introductory provisions.

Subsec. (b). Pub. L. 100-418, § 1614(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.”

1986—Subsec. (c)(2)(A). Pub. L. 99-514 substituted “injury” for “relief”.

EFFECTIVE DATE

Pub. L. 98-573, title II, § 221(b), Oct. 30, 1984, 98 Stat. 2990, provided that: “Section 339 of the Tariff Act of

1930 [this section] (as added by subsection (a)) shall take effect on the 90th day after the date of the enactment of this Act [Oct. 30, 1984].”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1340. Omitted

CODIFICATION

Section, act June 17, 1930, ch. 497, title III, § 340, 46 Stat. 706, related to preparation of a certain report by commission to Congress. See Tariff Commission Reports, No. 46, Parts 1 to 8.

§ 1341. Interference with functions of Commission

(a) Interfering with or influencing the Commission or its employees

It shall be unlawful for any person (1) to prevent or attempt to prevent, by force, intimidation, threat, or in any other manner, any member or employee of the commission from exercising the functions imposed upon the commission by this subtitle, or (2) to induce, or attempt to induce, by like means any such member or employee to make any decision or order, or to take any action, with respect to any matter within the authority of the commission.

(b) Penalty

Any person who violates any of the provisions of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisonment for not more than one year, or both.

(c) “Person” defined

As used in this section the term “person” includes an individual, corporation, association, partnership, or any other organization or group of individuals.

(June 17, 1930, ch. 497, title III, § 341, 46 Stat. 707.)

PART III—PROMOTION OF FOREIGN TRADE

§ 1351. Foreign trade agreements

(a) Authority of President; modification and decrease of duties; altering import restrictions

(1) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that

any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

(A) To enter into foreign trade agreements with foreign governments or instrumentalities thereof: *Provided*, That the enactment of the Trade Agreements Extension Act of 1955 shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade.

(B) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder.

(2) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made—

(A) Increasing by more than 50 per centum any rate of duty existing on July 1, 1934; except that a specific rate of duty existing on July 1, 1934, may be converted to its ad valorem equivalent based on the value of imports of the article concerned during the calendar year 1934 (determined in the same manner as provided in subparagraph (D)(ii)) and the proclamation may provide an ad valorem rate of duty not in excess of 50 per centum above such ad valorem equivalent.

(B) Transferring any article between the dutiable and free lists.

(C) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, or with respect to which notice of intention to negotiate was published in the Federal Register on November 16, 1954, decreasing by more than 50 per centum any rate of duty existing on January 1, 1945.

(D) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1958, decreasing (except as provided in subparagraph (C) of this paragraph) any rate of duty below the lowest of the following rates:

(i) The rate 15 per centum below the rate existing on January 1, 1955.

(ii) In the case of any article subject to an ad valorem rate of duty above 50 per centum (or a combination of ad valorem rates aggregating more than 50 per centum), the rate 50 per centum ad valorem (or a combination of ad valorem rates aggregating 50 per centum). In the case of any article subject to a specific rate of duty (or a combination of rates including a specific rate) the ad valorem equivalent of which has been determined by the President to have been above 50 per centum during a period determined by the President to be a representative period, the rate 50 per centum ad valorem or the rate (or a combination of rates), however stated, the ad valorem equivalent of which the President determines would have been 50

per centum during such period. The standards of valuation contained in section 1401a of this title (as in effect, with respect to the article concerned, during the representative period) shall be utilized by the President, to the maximum extent he finds such utilization practicable, in making the determinations under the preceding sentence.

(E) In order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the rates provided for in paragraph (4)(A) of this subsection.

(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph and of subparagraph (B) of paragraph (4) of this subsection, the provisions of any proclamation made under paragraph (1)(B) of this subsection, and the provisions of any proclamation of suspension under paragraph (5) of this subsection, shall be in effect from and after such time as is specified in the proclamation.

(B) In the case of any decrease in duty to which paragraph (2)(D) of this subsection applies—

(i) if the total amount of the decrease under the foreign trade agreement does not exceed 15 per centum of the rate existing on January 1, 1955, the amount of decrease becoming initially effective at one time shall not exceed 5 per centum of the rate existing on January 1, 1955;

(ii) except as provided in clause (i), not more than one-third of the total amount of the decrease under the foreign trade agreement shall become initially effective at one time; and

(iii) no part of the decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year.

(C) No part of any decrease in duty to which the alternative specified in paragraph (2)(D)(i) of this subsection applies shall become initially effective after the expiration of the three-year period which begins on July 1, 1955. If any part of such decrease has become effective, then for purposes of this subparagraph any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period expires.

(D) If (in order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955) the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed any limitation specified in paragraph (2)(C) or (D) or paragraph (4)(A) or (B) of this subsection or subparagraph (B) of this paragraph by not more than whichever of the following is lesser:

(i) The difference between the limitation and the next lower whole number, or

(ii) One-half of 1 per centum ad valorem.

In the case of a specific rate (or of a combination of rates which includes a specific rate), the one-half of 1 per centum specified in clause (ii) of the preceding sentence shall be determined in

the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purposes of paragraph (2)(D)(ii) of this subsection.

(4)(A) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made, in order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the following rates:

(i) The rate which would result from decreasing the rate existing on July 1, 1958, by 20 per centum of such rate.

(ii) Subject to paragraph (2)(B) of this subsection, the rate 2 per centum ad valorem below the rate existing on July 1, 1958.

(iii) The rate 50 per centum ad valorem or, in the case of any article subject to a specific rate of duty or to a combination of rates including a specific rate, any rate (or combination of rates), however stated, the ad valorem equivalent of which has been determined as 50 per centum ad valorem.

The provisions of clauses (ii) and (iii) of this subparagraph and of subparagraph (B)(ii) of this paragraph shall, in the case of any article, subject to a combination of ad valorem rates of duty, apply to the aggregate of such rates; and, in the case of any article, subject to a specific rate of duty or to a combination of rates including a specific rate, such provisions shall apply on the basis of the ad valorem equivalent of such rate or rates, during a representative period (whether or not such period includes July 1, 1958), determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purpose of paragraph (2)(D)(ii) of this subsection.

(B)(i) In the case of any decrease in duty to which clause (i) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 10 per centum of the rate of duty existing on July 1, 1958, or, in any case in which the rate has been increased since that date, exceed such 10 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(ii) In the case of any decrease in duty to which clause (ii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 1 per centum ad valorem or, in any case in which the rate has been increased since July 1, 1958, exceed such 1 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(iii) In the case of any decrease in duty to which clause (iii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed one-third of the total amount of the decrease under the foreign trade agreement.

(C) In the case of any decrease in duty to which subparagraph (A) of this paragraph ap-

plies (i) no part of a decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year, nor after the first part shall have been in effect for a period or periods aggregating more than three years, and (ii) no part of a decrease shall become initially effective after the expiration of the four-year period which begins on July 1, 1962. If any part of a decrease has become effective, then for the purposes of clauses (i) and (ii) of the preceding sentence any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period or the four-year period, as the case may be, expires.

(5) Repealed. Pub. L. 87-794, title II, §257(b), Oct. 11, 1962, 76 Stat. 882.

(6) The President may at any time terminate, in whole or in part, any proclamation made pursuant to this section.

(b) Cuba; preferential customs treatment; decrease of rates

Nothing in this section or the Trade Expansion Act of 1962 [19 U.S.C. 1801 et seq.] shall be construed to prevent the application, with respect to rates of duty established under this section or the Trade Expansion Act of 1962 pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an agreement with Cuba concluded under this section or the Trade Expansion Act of 1962, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba. Nothing in this chapter or the Trade Expansion Act of 1962 shall be construed to preclude the application to any product of Cuba (including products preferentially free of duty) of a rate of duty not higher than the rate applicable to the like products of other foreign countries (except the Philippines), whether or not the application of such rate involves any preferential customs treatment. No rate of duty on products of Cuba shall be decreased—

(1) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, by more than 50 per centum of the rate of duty existing on January 1, 1945, with respect to products of Cuba.

(2) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1962, below the applicable alternative specified in subsection (a)(2)(C) or (D) or (4)(A) (subject to the applicable provisions of subsection (a)(3)(B), (C), and (D) and (4)(B) and (C)), each such alternative to be read for the purposes of this paragraph as relating to the rate of duty applicable to products of Cuba. With respect to products of Cuba, the limitation of subsection (a)(2)(D)(ii) or (4)(A)(iii) may be exceeded to such extent as may be required to maintain an absolute margin of preference to which such products are entitled.

(3) In order to carry out a foreign trade agreement entered into after June 30, 1962, and

before July 1, 1967, below the lowest rate permissible by applying title II of the Trade Expansion Act of 1962 [19 U.S.C. 1821 et seq.] to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on July 1, 1962, with respect to such product.

(c) Definitions

(1) As used in this section, the term “duties and other import restrictions” includes (A) rate and form of import duties and classification of articles, and (B) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports.

(2) For purposes of this section—

(A) Except as provided in subsection (d), the terms “existing on July 1, 1934”, “existing on January 1, 1945”, “existing on January 1, 1955”, and “existing on July 1, 1958” refer to rates of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on the date specified, except rates in effect by reason of action taken pursuant to section 1362 of this title.

(B) The term “existing” without the specification of any date, when used with respect to any matter relating to the conclusion of, or proclamation to carry out, a foreign trade agreement, means existing on the day on which that trade agreement is entered into.

(d) Rate basis for additional increases or decreases; restoration of terminated treaties forbidden

(1) When any rate of duty has been increased or decreased for the duration of war or an emergency, by agreement or otherwise, any further increase or decrease shall be computed upon the basis of the post-war or post-emergency rate carried in such agreement or otherwise.

(2) Where under a foreign trade agreement the United States has reserved the unqualified right to withdraw or modify, after the termination of war or an emergency, a rate on a specific commodity, the rate on such commodity to be considered as “existing on January 1, 1945” for the purpose of this section shall be the rate which would have existed if the agreement had not been entered into.

(3) No proclamation shall be made pursuant to this section for the purpose of carrying out any foreign trade agreement the proclamation with respect to which has been terminated in whole by the President prior to July 5, 1945.

(e) Repealed. Pub. L. 87-794, title II, § 257(b), Oct. 11, 1962, 76 Stat. 882

(f) Information and advice from industry, agriculture, and labor

It is declared to be the sense of the Congress that the President, during the course of negotiating any foreign trade agreement under this section, should seek information and advice with respect to such agreement from representatives of industry, agriculture, and labor.

(June 17, 1930, ch. 497, title III, § 350, as added June 12, 1934, ch. 474, § 1, 48 Stat. 943; amended June 7, 1943, ch. 118, § 2, 57 Stat. 125; July 5, 1945, ch. 269, §§ 2, 3, 59 Stat. 410; Sept. 26, 1949, ch. 585,

§§ 4, 6, 63 Stat. 698; June 21, 1955, ch. 169, § 3, 69 Stat. 162; Pub. L. 85-686, § 3, Aug. 20, 1958, 72 Stat. 673; Pub. L. 87-794, title II, § 257(a), (b), Oct. 11, 1962, 76 Stat. 881, 882; Pub. L. 96-39, title II, § 202(a)(3), July 26, 1979, 93 Stat. 202.)

REFERENCES IN TEXT

The Trade Agreements Extension Act of 1955, referred to in subsec. (a)(1)(A), is act June 21, 1955, ch. 169, 69 Stat. 162, which is classified to sections 1351(a), (b), (c), (e), 1352(c), 1352a, 1363(b), and 1364(a), (b), (e) of this title. For complete classification of this Act to the Code, see Short Title of 1955 Amendment note set out under section 1654 of this title and Tables.

Paragraph (5) of this subsection, referred to in subsec. (a)(3)(A), was repealed by Pub. L. 87-794, title III, § 257(b), Oct. 11, 1962, 76 Stat. 882.

The Trade Expansion Act of 1962, referred to in subsec. (b), is Pub. L. 87-794, Oct. 11, 1962, 76 Stat. 872, as amended, which is classified generally to chapter 7 (§ 1801 et seq.) of this title. Title II of the Trade Expansion Act of 1962, also referred to in subsec. (b), is classified generally to subchapter II (§ 1821 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 1362 of this title, referred to in subsec. (c)(2)(A), related to suspension or withdrawal of concessions from Communistic areas and was repealed by Pub. L. 87-794, title II, § 257(e)(1), Oct. 11, 1962, 76 Stat. 882.

AMENDMENTS

1979—Subsec. (a)(2)(D)(ii). Pub. L. 96-39 struck out reference to standards of valuation contained in section 1402 of this title.

1962—Subsec. (a)(5). Pub. L. 87-794, § 257(b), repealed par. (5) which provided that, subject to the provisions of section 1362 of this title, duties and other import restrictions proclaimed pursuant to this section shall apply to all articles the growth, produce, or manufacture of all foreign countries, whether imported directly or indirectly, and required the President to suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts (including the operations of international cartels) or policies which in his opinion tend to defeat the purposes of this section.

Subsec. (b). Pub. L. 87-794, § 257(a), inserted references to the Trade Expansion Act of 1962 in first and second sentences, substituted “1955, and before July 1, 1962” for “1955” in par. (2), and added par. (3).

Subsec. (e). Pub. L. 87-794, § 257(b), repealed subsec. (e) which related to reports to Congress by the President and the Tariff Commission.

1958—Subsec. (a)(2)(A). Pub. L. 85-686, § 3(a)(1), substituted “any rate of duty existing on July 1, 1934” for “any rate of duty existing on July 1, 1945”, and inserted provisions permitting conversion of a specific rate of duty existing on July 1, 1934, to its ad valorem equivalent, and allowing an ad valorem rate of duty not in excess of 50 per centum above such ad valorem equivalent.

Subsec. (a)(2)(D). Pub. L. 85-686, § 3(a)(2), (3), inserted “and before July 1, 1958,” after “June 12, 1955”, in opening par., and substituted “section 1401a or 1402 of this title (as in effect, with respect to the article concerned,” for “section 1402 of this title (as in effect”.

Subsec. (a)(2)(E). Pub. L. 85-686, § 3(a)(4), added subpar. (E).

Subsec. (a)(3)(A). Pub. L. 85-686, § 3(a)(5), inserted “and of subparagraph (B) of paragraph 4 of this subsection” after “subparagraphs (B) and (C) of this paragraph”, and substituted “suspension under paragraph (5)” for “suspension under paragraph (4)”.

Subsec. (a)(3)(D). Pub. L. 85-686, § 3(a)(6), inserted “or paragraph (4)(A) or (B)” after “paragraph (2)(C) or (D)”.

Subsec. (a)(4) to (6). Pub. L. 85-686, § 3(a)(7), (8), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (b). Pub. L. 85-686, §3(b)(1), substituted "an agreement with Cuba" for "an exclusive agreement with Cuba" in opening par.

Subsec. (b)(2). Pub. L. 85-686, §3(b)(2), inserted "or (4)(A)" after "subsection (a)(2)(C) or (D)", "and (4)(B) and (C)" after "subsection (a)(3)(B), (C), and (D)", and "or (4)(A)(iii)" after "subsection (a)(2)(D)(ii)".

Subsec. (c)(2)(A). Pub. L. 85-686, §3(c), defined "existing on July 1, 1934" and "existing on July 1, 1958".

Subsec. (e)(1). Pub. L. 85-686, §3(d), provided for the inclusion in the report of the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports, remaining restrictions, and the measures available to seek their removal in accordance with the objectives of this section.

Subsec. (f). Pub. L. 85-686, §3(e), added subsec. (f).

1955—Subsec. (a). Act June 21, 1955, §3(a), among other changes, authorized the President to reduce tariff rates existing on January 1, 1955 by a total of 15 percent in stages of not more than 5 percent of such rates, or to reduce those rates which are higher than 50 percent of the value of an import to a rate not less than 50 percent, in stages of not more than one-third of the reduction in any one year.

Subsec. (b). Act June 21, 1955, §3(b), made applicable to Cuban products the new limits of authority to reduce tariffs.

Subsec. (c). Act June 21, 1955, §3(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Act June 21, 1955, §3(d), added subsec. (e).

1949—Subsec. (a). Act Sept. 26, 1949, struck out obsolete language referring to the depression which existed at the time of the original enactment of section.

Subsec. (b). Act Sept. 26, 1949, substituted period for colon following Cuba, struck out proviso which followed, and inserted in lieu thereof the last two sentences.

1945—Subsec. (a)(2). Act July 5, 1945, struck out "existing" after "per centum any", and inserted ", however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress)," after "rate of duty".

Subsec. (b). Act July 5, 1945, struck out "payable" after "That the duties", and substituted "however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress)." for "now payable thereon" in proviso.

Subsec. (d). Act July 5, 1945, added subsec. (d).

1943—Subsec. (a)(2). Act June 7, 1943, inserted matter within parentheses in proviso.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

TREATY BETWEEN UNITED STATES AND CUBA

The treaty concluded between the United States and the Republic of Cuba, on Dec. 11, 1902, referred to in subsec. (b) of the text, was terminated Aug. 21, 1963, pursuant to notice given by the United States on Aug. 21, 1962. See Bevens, *Treaties and Other International Agreements of the United States of America, 1776-1949*, vol. VI, page 1106.

TARIFF TREATMENT OF CUBAN PRODUCTS

Pub. L. 87-456, title IV, §401, May 24, 1962, 76 Stat. 78, provided that:

"(a) Cuba is hereby declared to be a nation described in section 5 of the Trade Agreements Extension Act of 1951, as amended (19 U.S.C. 1362, relating to imports from nations and areas dominated or controlled by the foreign government or foreign organization controlling the world Communist movement). Articles which are—

"(1) the growth, produce, or manufacture of Cuba, and

"(2) imported on or after the date of enactment of this Act [May 24, 1962],

shall be denied the benefits of concessions contained in any trade agreement entered into under the authority of section 350 of the Tariff Act of 1930, as amended (19 U.S.C. 1351).

"(b) Nothing in subsection (a) shall affect the rates of duty or the customs or excise treatment of articles the growth, produce, or manufacture of any country other than Cuba.

"(c) Subsection (a) shall not apply on or after the date on which the President proclaims that he has determined that Cuba is no longer dominated or controlled by the foreign government or foreign organization controlling the world Communist movement.

"(d) The Act of December 17, 1903 (19 U.S.C. 124, 125), and section 316 of the Tariff Act of 1930, as amended (19 U.S.C. 1316), both relating to the implementation of the treaty with Cuba concluded on December 11, 1902, shall not apply during the period during which subsection (a) applies."

ADMINISTRATION OF TRADE AGREEMENTS PROGRAM

For provisions relating to the administration of the trade agreements program, see Ex. Ord. No. 11846, Mar. 27, 1975, 40 F.R. 14291, set out as a note under section 2111 of this title.

CONGRESSIONAL APPROVAL OR DISAPPROVAL OF GENERAL AGREEMENT ON TARIFFS AND TRADE

Pub. L. 85-686, §10, Aug. 20, 1958, 72 Stat. 680, provided that: "The enactment of this Act [enacting section 1335 of this title, amending sections 1333, 1336, 1337, 1351, 1352a, 1360 and 1364 of this title, and enacting notes set out under sections 1351 and 1352 of this title] shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade."

REDUCTION OF PROTECTION RESULTING FROM 1956 AMENDMENTS

Act Aug. 2, 1956, ch. 887, §2(e), 70 Stat. 946, provided that: "In any action relating to tariff adjustments by executive action, including action taken pursuant to section 350 of the Tariff Act of 1930, as amended [this section] the United States Tariff Commission [now United States International Trade Commission] and each officer of the executive branch of the Government concerned shall give full consideration to any reduction in the level of tariff protection which has resulted or is likely to result from the amendment of section 402 of the Tariff Act of 1930 made by this Act [sections 1401a and 1402 of this title]."

Section 2(e) of act Aug. 2, 1956, effective only as to articles entered, or withdrawn from warehouse, for consumption on or after thirtieth day following publication of the final list provided for in section 6(a) of said act Aug. 2, 1956, set out in note under section 1402 of this title, see note set out under section 1401a of this title.

COMMISSION ON FOREIGN ECONOMIC POLICY

Act Aug. 7, 1953, ch. 348, title III, §§301-310, 67 Stat. 473-475, as amended by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 657, provided for the establishment of a Commission on Foreign Economic Policy to examine and report on the subjects of international trade and its enlargement consistent with a sound domestic economy, our foreign economic policy, and the trade aspects of our national security and total foreign policy, and to recommend appropriate policies and measures. The Commission was to submit a report on its findings within 60 days after the second session of the 83rd Congress was convened, and was to expire 90 days after the submission of its report to Congress.

EXTENSION OF PRESIDENTIAL AUTHORITY

Authority of President to enter into trade agreements under this section extended until close of Dec. 31, 1962, see note under section 1352 of this title.

EXECUTIVE ORDER No. 9832

Ex. Ord. No. 9832, Feb. 25, 1947, 12 F.R. 1363, revoked by Ex. Ord. No. 10004, Oct. 6, 1948, 13 F.R. 5851.

EXECUTIVE ORDER No. 10004

Ex. Ord. No. 10004, Oct. 6, 1948, 13 F.R. 5851, superseded by Ex. Ord. No. 10082, Oct. 5, 1949, 14 F.R. 6105.

EXECUTIVE ORDER No. 10082

Ex. Ord. No. 10082, Oct. 5, 1949, 14 F.R. 6105, as amended by Ex. Ord. No. 10170, Oct. 13, 1950, 15 F.R. 6901, which related to administrative procedures for reciprocal trade-agreements program, was revoked by Ex. Ord. No. 11075, Jan. 15, 1963, 28 F.R. 473, set out as a note under section 1801 of this title.

EXECUTIVE ORDER No. 10741

Ex. Ord. No. 10741, Nov. 26, 1957, 22 F.R. 9451, which established the Trade Policy Committee, was revoked by Ex. Ord. No. 11075, Jan. 15, 1963, 28 F.R. 473, set out as a note under section 1801 of this title.

§ 1352. Equalization of costs of production**(a) Application to importation of articles under foreign-trade agreement**

The provisions of section 1336 of this title shall not apply to any article with respect to the importation of which into the United States a foreign-trade agreement has been concluded pursuant to this part or the Trade Expansion Act of 1962 [19 U.S.C. 1801 et seq.] or the Trade Act of 1974 [19 U.S.C. 2101 et seq.] or to any provision of any such agreement. The third paragraph of section 1311 of this title shall apply to any agreement concluded pursuant to this part or the Trade Expansion Act of 1962 or the Trade Act of 1974 to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

(b) Termination of foreign trade agreement

Every foreign trade agreement concluded pursuant to this part shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than three years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than six months' notice.

(c) Termination of authority of President

The authority of the President to enter into foreign trade agreements under section 1351 of this title shall terminate on June 30, 1958.

(June 12, 1934, ch. 474, § 2, 48 Stat. 944; Mar. 1, 1937, ch. 22, 50 Stat. 24; Apr. 12, 1940, ch. 96, 54 Stat. 107; June 7, 1943, ch. 118, § 1, 57 Stat. 125; July 5, 1945, ch. 269, § 1, 59 Stat. 410; Sept. 26, 1949, ch. 585, § 3, 63 Stat. 698; June 16, 1951, ch. 141, §§ 2, 9(a), 65 Stat. 72, 75; Aug. 7, 1953, ch. 348, title I, § 101, 67 Stat. 472; July 1, 1954, ch. 445, § 1, 68 Stat. 360; June 21, 1955, ch. 169, § 2, 69 Stat. 162;

Pub. L. 87-794, title II, § 257(d), Oct. 11, 1962, 76 Stat. 882; Pub. L. 93-618, title VI, § 602(a), Jan. 3, 1975, 88 Stat. 2072; Pub. L. 96-39, title XI, § 1106(h)(2), July 26, 1979, 93 Stat. 313.)

REFERENCES IN TEXT

The Trade Expansion Act of 1962, referred to in subsec. (a), is Pub. L. 87-794, Oct. 11, 1962, 76 Stat. 872, as amended, which is classified generally to chapter 7 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (a), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to chapter 12 (§2101 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 amended directory language of Pub. L. 93-618, § 602(a), to correct a typographical error, and did not involve any change in text. See 1975 Amendment note below.

1975—Subsec. (a). Pub. L. 93-618, as amended by Pub. L. 96-39, inserted reference to the Trade Act of 1974.

1962—Subsec. (a). Pub. L. 87-794 inserted references to agreements concluded pursuant to the Trade Expansion Act of 1962.

1955—Subsec. (c). Act June 21, 1955, substituted "June 30, 1958" for "June 12, 1955".

1954—Subsec. (c). Act July 1, 1954, substituted "1955" for "1954".

1953—Subsec. (c). Act Aug. 7, 1953, substituted "1954" for "1953".

1951—Subsec. (a). Act June 16, 1951, substituted "section 1336 of this title" for "sections 1336 and 1516(b) of this title".

Subsec. (c). Act June 16, 1951, substituted "1953" for "1951".

1949—Subsec. (c). Act Sept. 26, 1949, § 3, substituted "1953" for "1948".

1945—Subsec. (c). Act. July 5, 1945, substituted "1948" for "1945".

1943—Subsec. (c). Joint Res. June 7, 1943, substituted "1945" for "1943".

1940—Subsec. (c). Joint Res. Apr. 12, 1940, substituted "1943" for "1940".

1937—Subsec. (c). Act Mar. 1, 1937, substituted "1937" for "1934".

REPEALS

Act Sept. 26, 1949, § 2, repealed act June 26, 1948, ch. 678, § 2, 62 Stat. 1053, which had extended the President's authority from June 12, 1948, until the close of June 30, 1949.

EXTENSION OF PRESIDENTIAL AUTHORITY

Pub. L. 87-794, title II, § 257(c), Oct. 11, 1962, 76 Stat. 882, extended authority of President to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 (section 1351 of this title) from close of June 30, 1962, until close of Dec. 31, 1962.

Pub. L. 85-686, § 2, Aug. 20, 1958, 72 Stat. 673, extended authority of President to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 (section 1351 of this title) from close of June 30, 1958, until close of June 30, 1962.

§ 1352a. Repealed. Pub. L. 87-794, title II, § 257(f), Oct. 11, 1962, 76 Stat. 882

Section, acts July 1, 1954, ch. 445, § 2, 68 Stat. 360; June 21, 1955, ch. 169, § 7, 69 Stat. 166; Aug. 20, 1958, Pub. L. 85-686, § 8(a), 72 Stat. 678, related to restriction on decrease of duties, impairment of national security, investigations and reports, and reports to Congress. See section 1801 et seq. of this title.

ACTIONS COMMENCED PRIOR TO OCTOBER 11, 1962

Pub. L. 87-794, title II, §257(f), Oct. 11, 1962, 76 Stat. 882, provided in part that: "Any action (including any investigation begun) under section 2 [section 1352a of this title] before the date of the enactment of this Act [Oct. 11, 1962] shall be considered as having been taken or begun under section 232 [section 1862 of this title]."

§ 1353. Indebtedness of foreign countries, effect on

Nothing in this part shall be construed to give any authority to cancel or reduce, in any manner, any of the indebtedness of any foreign country to the United States.

(June 12, 1934, ch. 474, §3, 48 Stat. 944.)

§ 1354. Notice of intention to negotiate agreement; opportunity to be heard; President to seek information and advice

Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this part, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall request the International Trade Commission to make the investigation and report provided for by section 1360 of this title, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, Commerce, and Defense, and from such other sources as he may deem appropriate.

(June 12, 1934, ch. 474, §4, 48 Stat. 945; July 5, 1945, ch. 269, §4, 59 Stat. 411; Aug. 10, 1949, ch. 412, §12(a), 63 Stat. 591; Sept. 26, 1949, ch. 585, §5, 63 Stat. 698; June 16, 1951, ch. 141, §3(c), 65 Stat. 73; Pub. L. 93-618, title I, §171(b), Jan. 3, 1975, 88 Stat. 2009.)

AMENDMENTS

1975—Pub. L. 93-618 substituted "United States International Trade Commission" for "United States Tariff Commission".

1951—Act June 16, 1951, provided that the President request the Tariff Commission to make the investigation and report.

1949—Act Sept. 26, 1949, changed the Tariff Commission's functions under these sections from investigatory to advisory functions.

1945—Act July 5, 1945, inserted "War, Navy," after "Departments of State".

CHANGE OF NAME

National Military Establishment changed to Department of Defense by act Aug. 10, 1949.

REPEALS

Act Sept. 26, 1949, §2, repealed act June 26, 1948, ch. 678, §3(c), 62 Stat. 1054, formerly cited as a credit to this section.

§§ 1355, 1356. Repealed. Pub. L. 89-23, §7, May 22, 1965, 79 Stat. 113

Sections, act Apr. 11, 1941, ch. 59, §§1, 2, 55 Stat. 133, 134, related to the importation of coffee under Inter-

American Coffee Agreement. See sections 1356a to 1356e of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective May 22, 1965, the date the President made the determination required by section 8 of Pub. L. 89-23, set out as a note under section 1356a of this title.

§§ 1356a to 1356j. Omitted

CODIFICATION

Sections were omitted. See sections 1356k and 1356l of this title.

Section 1356a, Pub. L. 89-23, §2, May 22, 1965, 79 Stat. 112, authorized the President, for a period not to exceed October 1, 1968, to carry out the provisions of the International Coffee Agreement, 1962.

Section 1356b, Pub. L. 89-23, §3, May 22, 1965, 79 Stat. 112, defined "coffee" for section 1356a of this title.

Section 1356c, Pub. L. 89-23, §4, May 22, 1965, 79 Stat. 112, authorized delegation of Presidential powers and duties and required protection of consumer interests under sections 1356a to 1356e of this title.

Section 1356d, Pub. L. 89-23, §5, May 22, 1965, 79 Stat. 113, required the President to submit an annual report to Congress on the International Coffee Agreement, 1962.

Section 1356e, Pub. L. 89-23, §6, May 22, 1965, 79 Stat. 113, authorized appropriations for sections 1356a to 1356e of this title and limited contributions for administration of the International Coffee Agreement, 1962.

Section 1356f, Pub. L. 90-634, title III, §302, Oct. 24, 1968, 82 Stat. 1348; Pub. L. 91-694, §1, Jan. 12, 1971, 84 Stat. 2077; Pub. L. 92-262, Mar. 24, 1972, 86 Stat. 113, authorized the President, for a period not to exceed October 1, 1973, to carry out the provisions of the International Coffee Agreement, 1968.

Section 1356g, Pub. L. 90-634, title III, §303, Oct. 24, 1968, 82 Stat. 1348, defined "coffee" for section 1356f of this title.

Section 1356h, Pub. L. 90-634, title III, §304, Oct. 24, 1968, 82 Stat. 1348, authorized delegation of Presidential powers and duties and required protection of consumer interests under sections 1356f to 1356j of this title and provided for remedial action under the International Coffee Agreement, 1968.

Section 1356i, Pub. L. 90-634, title III, §305, Oct. 24, 1968, 82 Stat. 1349, required the President to submit an annual report to Congress on the International Coffee Agreement, 1968.

Section 1356j, Pub. L. 90-634, title III, §306, Oct. 24, 1968, 82 Stat. 1349, provided procedures to prevent discrimination against vessels registered under laws of the United States in shipping coffee to the United States.

§ 1356k. Importation of coffee under International Coffee Agreement, 1983; Presidential powers and duties

On and after the entry into force of the International Coffee Agreement, 1983, and before October 1, 1989, the President is authorized, in order to carry out and enforce the provisions of that agreement—

- (1) to regulate the entry of coffee for consumption, or withdrawal of coffee from warehouse for consumption, or any other form of entry or withdrawal of coffee such as for transportation or exportation, including whenever quotas are in effect pursuant to the agreement, (A) the limitation of entry, or withdrawal from warehouse, of coffee imported from countries which are not members of the International Coffee Organization, and (B) the prohibition of entry of any shipment from any member of the International Coffee

Organization of coffee which is not accompanied either by a valid certificate of origin, a valid certificate of reexport, a valid certificate of reshipment, or a valid certificate of transit, issued by a qualified agency in such form as required under the agreement;

(2) to require that every export or reexport of coffee from the United States shall be accompanied by a valid certificate of origin or a valid certificate of reexport, issued by a qualified agency of the United States designated by him, in such form as required under the agreement;

(3) to require the keeping of such records, statistics, and other information, and the rendering of such reports, relating to the importation, distribution, prices, and consumption of coffee as he may from time to time prescribe; and

(4) to take such other action, and issue and enforce such rules and regulations, as he may consider necessary or appropriate in order to implement the obligations of the United States under the agreement.

(Pub. L. 96-599, §2, Dec. 24, 1980, 94 Stat. 3491; Pub. L. 97-276, §161, Oct. 2, 1982, 96 Stat. 1204; Pub. L. 97-446, §154, Jan. 12, 1983, 96 Stat. 2345; Pub. L. 98-120, §1, Oct. 12, 1983, 97 Stat. 809; Pub. L. 100-418, title I, §1123(a), Aug. 23, 1988, 102 Stat. 1146.)

REFERENCES IN TEXT

The International Coffee Agreement, 1983, referred to in text, was entered into force for the United States provisionally Oct. 1, 1983, and definitively Sept. 11, 1985.

CODIFICATION

Section was enacted as part of the International Coffee Agreement Act of 1980, and not as part of the Tariff Act of 1930 which comprises this chapter.

AMENDMENTS

1988—Pub. L. 100-418 substituted “October 1, 1989” for “October 1, 1986”.

1983—Pub. L. 98-120 in provisions preceding par. (1) substituted “, 1983” for “1976” and “before October 1, 1986” for “for such period prior to October 1, 1983 as the agreement remains in effect”.

Pub. L. 97-446 substituted “October 1, 1983” for “the expiration of this joint resolution”.

1982—Pub. L. 97-276 substituted “the expiration of this joint resolution” for “October 1, 1982”.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-418, title I, §1123(b), Aug. 23, 1988, 102 Stat. 1146, provided that: “The amendment made by subsection (a) [amending this section] shall take effect January 1, 1987.”

SHORT TITLE

Pub. L. 96-599, §1, Dec. 24, 1980, 94 Stat. 3491, provided that: “This Act [enacting this section and sections 1356l to 1356n of this title] may be cited as the ‘International Coffee Agreement Act of 1980.’”

§ 1356l. “Coffee” defined

As used in this section and section 1356k of this title, the term “coffee” means coffee as defined in article 3 of the International Coffee Agreement, 1983.

(Pub. L. 96-599, §3, Dec. 24, 1980, 94 Stat. 3491; Pub. L. 98-120, §1(1), Oct. 12, 1983, 97 Stat. 809.)

CODIFICATION

Section was enacted as part of the International Coffee Agreement Act of 1980, and not as part of the Tariff Act of 1930 which comprises this chapter.

AMENDMENTS

1983—Pub. L. 98-120 substituted “, 1983” for “1976”.

§§ 1356m, 1356n. Repealed. Pub. L. 105-362, title XIV, § 1401(a), Nov. 10, 1998, 112 Stat. 3294

Section 1356m, Pub. L. 96-599, §4, Dec. 24, 1980, 94 Stat. 3492, related to delegation of Presidential powers and duties, protection of interests of United States consumers, and remedial action with respect to the International Coffee Agreement Act of 1980.

Section 1356n, Pub. L. 96-599, §5, Dec. 24, 1980, 94 Stat. 3492; Pub. L. 98-120, §1(1), Oct. 12, 1983, 97 Stat. 809, related to annual report by the President to Congress on the International Coffee Agreement, 1983.

§§ 1357 to 1359. Repealed. Sept. 26, 1949, ch. 585, §2, 63 Stat. 698

Sections, act June 26, 1948, ch. 678, §§3(a), (b), 4, 5, 62 Stat. 1053, 1054, related to the investigatory functions of the Tariff Commission and the report by the President to Congress.

§ 1360. Investigation before trade negotiations

(a) Report by International Trade Commission

Before entering into negotiations concerning any proposed foreign trade agreement under section 1351 of this title, the President shall furnish the United States International Trade Commission (hereinafter in sections 1352(a), (c), 1354, and 1360 to 1367 of this title, and section 624(b) of title 7, referred to as the “Commission”) with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list the Commission shall make an investigation and report to the President the findings of the Commission with respect to each such article as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of said section without causing or threatening serious injury to the domestic industry producing like or directly competitive articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or directly competitive articles the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than six months after the receipt of such list by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the six-month period.

(b) Procedures and determinations

(1) In the course of any investigation pursuant to this section the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. If in the course of any such investigation the Commis-

sion shall find with respect to any article on the list upon which a tariff concession has been granted that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles, the Commission shall promptly institute an investigation with respect to that article pursuant to section 1364 of this title.

(2) In each such investigation the Commission shall, to the extent practicable and without excluding other factors, ascertain for the last calendar year preceding the investigation the average invoice price on a country-of-origin basis (converted into currency of the United States in accordance with the provisions of section 5151 of title 31) at which the foreign article was sold for export to the United States, and the average prices at which the like or directly competitive domestic articles were sold at wholesale in the principal markets of the United States. The Commission shall also, to the extent practicable, estimate for each article on the list the maximum increase in annual imports which may occur without causing serious injury to the domestic industry producing like or directly competitive articles. The Commission shall request the executive departments and agencies for information in their possession concerning prices and other economic data from the principal supplier foreign country of each such article.

(June 16, 1951, ch. 141, §3(a), (b), 65 Stat. 72; Pub. L. 85-686, §4, Aug. 20, 1958, 72 Stat. 675; Pub. L. 93-618, title I, §171(b), Jan. 3, 1975, 88 Stat. 2009.)

REFERENCES IN TEXT

Sections 1362 to 1365 of this title, included in the reference in subsec. (a) to sections 1360 to 1367 of this title, were repealed by Pub. L. 87-749, title II, §257(e)(1), Oct. 11, 1962, 76 Stat. 882; section 1367 of this title was repealed by Pub. L. 87-456, title III, §303(c), May 24, 1962, 76 Stat. 78.

CODIFICATION

Section was not enacted as part of the Tariff Act of 1930 which comprises this chapter.

Section is comprised of subssecs. (a) and (b) of section 3 of act June 16, 1951. Subsec. (c) of the 1951 act amended section 1354 of this title.

In subsec. (b)(2), "section 5151 of title 31" was substituted for "section 522 of the Tariff Act of 1930 [31 U.S.C. 372]" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-618 substituted "United States International Trade Commission" for "United States Trade Commission".

1958—Subsec. (a). Pub. L. 85-686, §4(a), substituted "six months" for "120 days", and "six-month" for "120-day".

Subsec. (b). Pub. L. 85-686, §4(b), (c), redesignated existing provisions as par. (1), inserted provision to require the Commission to promptly institute an investigation pursuant to section 1364 of this title when the Commission finds with respect to any article on the list upon which a tariff concession has been granted that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles, and added par. (2).

§ 1361. Action by President; reports to Congress

(a) Transmittal by President of trade agreement and message to Congress

Within thirty days after any trade agreement under section 1351 of this title has been entered into which, when effective, will (1) require or make appropriate any modification of duties or other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to the domestic industry producing like or directly competitive articles as found and reported by the United States International Trade Commission under section 1360 of this title, or (2) fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury, the President shall transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of Representatives, or both, are not in session at the time of such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(b) Transmittal by Commission of copy of report to the President to Congressional committees

Promptly after the President has transmitted such foreign trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of the portions of its report to the President dealing with the articles with respect to which such limits or minimum requirements are not complied with.

(June 16, 1951, ch. 141, §4, 65 Stat. 73; Pub. L. 93-618, title I, §171(b), Jan. 3, 1975, 88 Stat. 2009.)

CODIFICATION

Section was not enacted as part of the Tariff Act of 1930 which comprises this chapter.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-618 substituted "United States International Trade Commission" for "Tariff Commission".

§§ 1362 to 1365. Repealed. Pub. L. 87-794, title II, §257(e)(1), Oct. 11, 1962, 76 Stat. 882

Section 1362, act June 16, 1951, ch. 141, §5, 65 Stat. 73, related to suspension or withdrawal of concessions from Communistic areas. See section 1801 et seq. of this title.

Section 1363, acts June 16, 1951, ch. 141, §6, 65 Stat. 73; June 21, 1955, ch. 169, §4, 69 Stat. 165, provided for an escape clause for future agreements, and insertion in past agreements.

Section 1364, acts June 16, 1951, ch. 141, §7, 65 Stat. 74; Aug. 7, 1953, ch. 348, title I, §102, 67 Stat. 472; June 21, 1955, ch. 169, §§5, 6, 69 Stat. 166; Aug. 20, 1958, Pub. L. 85-686, §§5(a), (b)(1), (c), 6, 72 Stat. 676, related to the operation of the escape clause.

Section 1365, act June 16, 1951, ch. 141, §8(a), 65 Stat. 75, provided for emergency action for perishable agricultural products.

PRESIDENTIAL ACTION IN EFFECT ON OCTOBER 11, 1962

Pub. L. 87-794, title II, §257(e)(2), Oct. 11, 1962, 76 Stat. 882, provided that: "Action taken by the President under section 5 of such Act [former section 1362 of this title] and in effect on the date of the enactment of this Act [Oct. 11, 1962] shall be considered as having been taken by the President under section 231 [section 1861 of this title]."

CONTINUATION OF INVESTIGATIONS

Pub. L. 87-794, title II, §257(e)(3), Oct. 11, 1962, 76 Stat. 882, provided that: "Any investigation by the Tariff Commission [now the United States International Trade Commission] under section 7 of such Act [former section 1364 of this title] which is in progress on the date of the enactment of this Act [Oct. 11, 1962] shall be continued under section 301 [section 1901 of this title] as if the application by the interested party were a petition under such section for tariff adjustment under section 351 [section 1981 of this title]. For purposes of section 301(f) [section 1901(f) of this title], such petition shall be treated as having been filed on the date of the enactment of this Act [Oct. 11, 1962]."

§ 1366. General Agreement on Tariff and Trade unaffected

The enactment of sections 1352(a), (c), 1354, and 1360 to 1367 of this title, and section 624(f) of title 7, shall not be construed to determine or indicate the approval or disapproval by the Congress of the Executive Agreement known as the General Agreement on Tariffs and Trade.

(June 16, 1951, ch. 141, §10, 65 Stat. 75.)

REFERENCES IN TEXT

Sections 1362 to 1365 of this title, included in the reference to sections 1360 to 1367 of this title, were repealed by Pub. L. 87-749, title II, §257(e)(1), Oct. 11, 1962, 76 Stat. 882; section 1367 of this title was repealed by Pub. L. 87-456, title III, §303(c), May 24, 1962, 76 Stat. 78.

CODIFICATION

Section was not enacted as part of the Tariff Act of 1930 which comprises this chapter.

PRIOR PROVISIONS

Similar provisions were contained in act July 1, 1954, ch. 445, §3, 68 Stat. 360, other sections of which amended section 1352(c) of this title and enacted section 1352a of this title; and in act Aug. 7, 1953, ch. 348, title I, §103, 67 Stat. 472, which act amended section 624(b) of title 7, and sections 1330(d), 1352(c) and former section 1364(a) of this title, and enacted provisions set out as notes under sections 1351 and 1364 of this title.

CONGRESSIONAL APPROVAL OR DISAPPROVAL OF
GENERAL AGREEMENT ON TARIFFS AND TRADE

Pub. L. 85-686, §10, Aug. 20, 1958, 72 Stat. 680, provided that: "The enactment of this Act [enacting section 1335 of this title, amending sections 1333, 1336, 1337, 1351, 1352a, 1360, and former section 1364 of this title, and enacting notes set out under sections 1352 and 1366 of this title] shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade."

§ 1367. Repealed. Pub. L. 87-456, title III, § 303(c), May 24, 1962, 76 Stat. 78

Section, act June 16, 1951, ch. 141, §11, 65 Stat. 75, required the President to take such measures as may be

necessary to prevent the importation of ermine, fox, kolinsky, marten, mink, muskrat, and weasel furs and skins which are the product of the Union of Soviet Socialist Republics or of Communist China.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456, set out as a note preceding section 1202 of this title.

SUBTITLE III—ADMINISTRATIVE
PROVISIONS

PART I—DEFINITIONS AND NATIONAL CUSTOMS
AUTOMATION PROGRAM

SUBPART A—DEFINITIONS

§ 1401. Miscellaneous

When used in this subtitle or in part I of subtitle II—

(a) Vessel

The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft.

(b) Vehicle

The word "vehicle" includes every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land, but does not include aircraft.

(c) Merchandise

The word "merchandise" means goods, wares, and chattels of every description, and includes merchandise the importation of which is prohibited, and monetary instruments as defined in section 5312 of title 31.

(d) Person

The word "person" includes partnerships, associations, and corporations.

(e) Master

The word "master" means the person having the command of the vessel.

(f) Day

The word "day" means the time from eight o'clock antemeridian to five o'clock postmeridian.

(g) Night

The word "night" means the time from five o'clock postmeridian to eight o'clock antemeridian.

(h) United States

The term "United States" includes all Territories and possessions of the United States except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(i) Officer of the customs; customs officer

The terms "officer of the customs" and "customs officer" mean any officer of the United States Customs Service of the Treasury Department (also hereinafter referred to as the "Customs Service") or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person, including foreign law enforce-

ment officers, authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

(j) Customs waters

The term “customs waters” means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

(k) Hovering vessel

The term “hovering vessel” means—

(1) any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws of the United States; and

(2) any vessel which has visited a vessel described in paragraph (1).

(l) Secretary

The term “Secretary” means the Secretary of the Treasury or his delegate.

(m) Controlled substance

The term “controlled substance” has the meaning given that term in section 802(6) of title 21. For purposes of this chapter, a controlled substance shall be treated as merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

(1) an appropriate license or permit; or

(2) the Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.].

(n) Electronic transmission

The term “electronic transmission” means the transfer of data or information through an authorized electronic data interchange system consisting of, but not limited to, computer modems and computer networks.

(o) Electronic entry

The term “electronic entry” means the electronic transmission to the Customs Service of—

(1) entry information required for the entry of merchandise, and

(2) entry summary information required for the classification and appraisalment of the merchandise, the verification of statistical information, and the determination of compliance with applicable law.

(p) Electronic data interchange system

The term “electronic data interchange system” means any established mechanism approved by the Commissioner of U.S. Customs and Border Protection through which information can be transferred electronically.

(q) National Customs Automation Program

The term “National Customs Automation Program” means the program established under section 1411 of this title.

(r) Import activity summary statement

The term “import activity summary statement” refers to data or information transmitted electronically to the Customs Service, in accordance with such regulations as the Secretary prescribes, at the end of a specified period of time which enables the Customs Service to assess properly the duties, taxes and fees on merchandise imported during that period, collect accurate statistics and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

(s) Reconciliation

The term “reconciliation” means an electronic process, initiated at the request of an importer, under which the elements of an entry (other than those elements related to the admissibility of the merchandise) that are undetermined at the time the importer files or transmits the documentation or information required by section 1484(a)(1)(B) of this title, or the import activity summary statement, are provided to the Customs Service at a later time. A reconciliation is treated as an entry for purposes of liquidation, reliquidation, recordkeeping, and protest.

(t) Reconfigured entry

The term “reconfigured entry” means an entry filed on an import activity summary statement which substitutes for all or part of 1 or more entries filed under section 1484(a)(1)(A) of this title or filed on a reconciliation entry that aggregates the entry elements to be reconciled under section 1484(b) of this title for purposes of liquidation, reliquidation, or protest.

(June 17, 1930, ch. 497, title IV, § 401, 46 Stat. 708; Aug. 5, 1935, ch. 438, title II, § 201, 49 Stat. 521; June 25, 1938, ch. 679, § 2, 52 Stat. 1077; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; June 30, 1955, ch. 258, § 2(a)(3), 69 Stat. 242; Pub. L. 91-271, title III, § 301(c), June 2, 1970, 84 Stat. 288; Pub. L. 99-570, title III, § 3111, Oct. 27, 1986, 100 Stat. 3207-80; Pub. L. 103-182, title VI, § 634, Dec. 8, 1993, 107 Stat. 2198; Pub. L. 104-295, §§ 3(a)(6)(A), 18(a), Oct. 11, 1996, 110 Stat. 3515, 3524; Pub. L. 108-7, div. J, title I, § 127(b), Feb. 20, 2003, 117 Stat. 441; Pub. L. 108-429, title I, § 1561(a), (c), title II, § 2106, Dec. 3, 2004, 118 Stat. 2581, 2582, 2598; Pub. L. 114-125, title VIII, § 802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

REFERENCES IN TEXT

The Controlled Substances Import and Export Act, referred to in subsec. (m)(2), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

CODIFICATION

Section is based on the designated subsections of section 401 of act June 17, 1930, as amended. The last undesignated paragraph of section 401, as added by section

201 of act Aug. 5, 1935, was classified to section 1432a of this title, prior to being repealed by Pub. L. 103-182, § 690(c)(5), Dec. 8, 1993, 107 Stat. 2223.

Words “the Philippine Islands” formerly set out in subsec. (h) were omitted on authority of Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 401, 42 Stat. 948, which superseded R.S. §§ 2766 and Section 401 of the 1922 act was superseded by section 401 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 Act.

Section III of the Underwood Tariff Act of Oct. 3, 1913, ch. 16, 38 Stat. 181, amending the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, was repealed by section 643 of the act of Sept. 21, 1922, ch. 356, title IV, 42 Stat. 989.

Section III, by subdivision A thereof, amended the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, as previously amended, to read as set forth in section III, subdivisions B-CC. By that amendment and reenactment, the Customs Administrative Act of June 10, 1890, and the amendments thereof by act July 24, 1897, ch. 11, § 32, 30 Stat. 211, act May 17, 1898, ch. 341, 30 Stat. 417, Act Dec. 15, 1902, ch. 1, 32 Stat. 753, act May 27, 1908, ch. 205, 35 Stat. 403, and the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 91, were superseded, except the provisions thereof mentioned in a proviso of section IV, S, of that act.

The Customs Administrative Act of June 10, 1890, as originally enacted and as amended previous to the Payne-Aldrich Tariff Act, consisted of thirty sections, of which section 30 prescribed the time when the act should go into effect. Of the preceding twenty-nine sections of the original act, section 15 providing for review by the courts of decisions of the Board of General Appraisers, was omitted from the act as further amended by the Payne-Aldrich Tariff Act, and the remaining twenty-eight sections were amended thereby, constituting sections 1-28 thereof. A new section, designated as section 29, was added by the Payne-Aldrich Tariff Act, which created a Court of Customs Appeals and prescribed its jurisdiction and powers, proceedings, etc. Its provisions were incorporated in and superseded by chapter 8 of the Judicial Code of March 3, 1911. Another new section, designated as section 30, was also added by the Payne-Aldrich Tariff Act, which provided for the appointment of an Assistant Attorney-General, a Deputy Assistant Attorney-General, and attorneys, in charge of matters of reappraisal, etc., of imported goods and litigation incident thereto. Section 30 was incorporated into the Code as section 296 of former Title 5, Executive Departments and Government Officers and Employees, and subsequently repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632.

AMENDMENTS

2004—Subsec. (i). Pub. L. 108-429, § 1561(c), repealed Pub. L. 108-7, § 127(b). See 2003 Amendment note below. Pub. L. 108-429, § 1561(a), inserted “, including foreign law enforcement officers,” after “or other person”.

Subsec. (t). Pub. L. 108-429, § 2106, added subsec. (t).

2003—Subsec. (i). Pub. L. 108-7, § 127(b), which directed amendment of section 1401(i) of title 19 by inserting “, including foreign law enforcement officers,” after “or other person”, was repealed by Pub. L. 108-429, § 1561(c).

1996—Subsec. (s). Pub. L. 104-295, § 18(a), amended first sentence generally. Prior to amendment, first sentence read as follows: “The term ‘reconciliation’ means an electronic process, initiated at the request of an importer, under which the elements of an entry, other than those elements related to the admissibility of the merchandise, that are undetermined at the time of

entry summary are provided to the Customs Service at a later time.”

Pub. L. 104-295, § 3(a)(6)(A), inserted “recordkeeping,” after “reliquidation,”.

1993—Subsec. (k). Pub. L. 103-182, § 634(1), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows:

“(1) The term ‘hovering vessel’ means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue.

“(2) For the purposes of sections 1432, 1433, 1434, 1448, 1585, and 1586 of this title, any vessel which—

“(A) has visited any hovering vessel;

“(B) has received merchandise while in the customs waters beyond the territorial sea; or

“(C) has received merchandise while on the high seas;

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place.”

Subsecs. (n) to (s). Pub. L. 103-182, § 634(2), added subsecs. (n) to (s).

1986—Subsec. (c). Pub. L. 99-570, § 3111(1), inserted “, and monetary instruments as defined in section 5312 of title 31”.

Subsec. (k). Pub. L. 99-570, § 3111(2), (3), designated existing provisions as par. (1) and added par. (2).

Subsec. (m). Pub. L. 99-570, § 3111(4), added subsec. (m).

1970—Subsec. (h). Pub. L. 91-271, § 301(c)(1), (2), struck out subsec. (h) which defined “collector”, and redesignated subsec. (k) as (h).

Subsec. (i). Pub. L. 91-271, § 301(c)(1), (2), struck out subsec. (i) which defined “comptroller of customs”, redesignated subsec. (l) as (i), and, as so redesignated, defined “customs officer”.

Subsec. (j). Pub. L. 91-271, § 301(c)(1), (2), struck out subsec. (j) which defined “appraiser”, and redesignated subsec. (m) as (j).

Subsec. (k). Pub. L. 91-271, § 301(c)(1), (2), redesignated subsec. (n) as (k). Former subsec. (k) redesignated (h).

Subsec. (l). Pub. L. 91-271, § 301(c)(2), (3), added subsec. (l). Former subsec. (l) redesignated (i).

Subsecs. (m), (n). Pub. L. 91-271, § 301(c)(2), redesignated subsecs. (m) and (n) as (j) and (k), respectively.

1955—Subsec. (k). Act June 30, 1955, inserted “Johnston Island”.

1938—Subsec. (k). Act June 25, 1938, inserted “Wake Island, Midway Islands, Kingman Reef” before “and the island of Guam”.

1935—Subsecs. (l) to (n). Act Aug. 5, 1935, added subsecs. (l) to (n).

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in subsec. (p) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

United States Customs Service substituted for Bureau of Customs in subsec. (i) pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title I, § 1561(d), Dec. 3, 2004, 118 Stat. 2582, provided that: “This section [amending this section and section 1629 of this title and repealing provisions set out as a note under section 1629 of this title], and the amendments made by this section, take effect on the date of the enactment of this Act [Dec. 3, 2004].”

Pub. L. 108-429, title II, § 2108, Dec. 3, 2004, 118 Stat. 2598, provided that: “The amendments made by this

subtitle [subtitle B (§§2101–2108) of title II of Pub. L. 108–429, amending this section and sections 1484, 1501, 1504, 1514, 1515, and 1520 of this title] shall apply to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Dec. 3, 2004].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 3(a)(6)(A) of Pub. L. 104–295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104–295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91–271, see section 203 of Pub. L. 91–271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Act June 30, 1955, ch. 258, §2(d), 69 Stat. 242, provided that: “The amendments made by this section [amending this section, sections 1557, 1562, and 1709 of this title, and sections 542, 544, and 545 of Title 18, Crimes and Criminal Procedure] shall take effect on the day following the day on which this Act is enacted [July 1, 1955].”

EFFECTIVE DATE OF 1938 AMENDMENT

Act June 25, 1938, ch. 679, §37, 52 Stat. 1094, provided that: “Sections 31 and 34 of this Act [amending section 1001 of this title] shall take effect on the date of enactment of this Act [June 25, 1938]. Except as otherwise specially provided in this Act, the remainder of this Act [amending this section and sections 1001, 1201, 1304, 1308, 1309, 1315, 1317, 1402, 1451, 1459, 1460, 1484, 1485, 1491, 1499, 1501, 1516, 1520, 1524, 1553, 1557, 1558, 1559, 1562, 1563, 1603, 1607, 1609, 1613, 1623, and 1709 of this title, enacting sections 1321, 1467, and 1528 of this title, and amending section 331 of former Title 46, Shipping] shall take effect on the thirtieth day following the date of its enactment.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1401a. Value

(a) Generally

(1) Except as otherwise specifically provided for in this chapter, imported merchandise shall be appraised, for the purposes of this chapter, on the basis of the following:

(A) The transaction value provided for under subsection (b).

(B) The transaction value of identical merchandise provided for under subsection (c), if the value referred to in subparagraph (A) cannot be determined, or can be determined but cannot be used by reason of subsection (b)(2).

(C) The transaction value of similar merchandise provided for under subsection (c), if the value referred to in subparagraph (B) cannot be determined.

(D) The deductive value provided for under subsection (d), if the value referred to in subparagraph (C) cannot be determined and if the importer does not request alternative valuation under paragraph (2).

(E) The computed value provided for under subsection (e), if the value referred to in subparagraph (D) cannot be determined.

(F) The value provided for under subsection (f), if the value referred to in subparagraph (E) cannot be determined.

(2) If the value referred to in paragraph (1)(C) cannot be determined with respect to imported merchandise, the merchandise shall be appraised on the basis of the computed value provided for under paragraph (1)(E), rather than the deductive value provided for under paragraph (1)(D), if the importer makes a request to that effect to the customs officer concerned within such time as the Secretary shall prescribe. If the computed value of the merchandise cannot subsequently be determined, the merchandise may not be appraised on the basis of the value referred to in paragraph (1)(F) unless the deductive value of the merchandise cannot be determined under paragraph (1)(D).

(3) Upon written request therefor by the importer of merchandise, and subject to provisions of law regarding the disclosure of information, the customs officer concerned shall provide the importer with a written explanation of how the value of that merchandise was determined under this section.

(b) Transaction value of imported merchandise

(1) The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts equal to—

(A) the packing costs incurred by the buyer with respect to the imported merchandise;

(B) any selling commission incurred by the buyer with respect to the imported merchandise;

(C) the value, apportioned as appropriate, of any assist;

(D) any royalty or license fee related to the imported merchandise that the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States; and

(E) the proceeds of any subsequent resale, disposal, or use of the imported merchandise

that accrue, directly or indirectly, to the seller.

The price actually paid or payable for imported merchandise shall be increased by the amounts attributable to the items (and no others) described in subparagraphs (A) through (E) only to the extent that each such amount (i) is not otherwise included within the price actually paid or payable; and (ii) is based on sufficient information. If sufficient information is not available, for any reason, with respect to any amount referred to in the preceding sentence, the transaction value of the imported merchandise concerned shall be treated, for purposes of this section, as one that cannot be determined.

(2)(A) The transaction value of imported merchandise determined under paragraph (1) shall be the appraised value of that merchandise for the purposes of this chapter only if—

(i) there are no restrictions on the disposition or use of the imported merchandise by the buyer other than restrictions that—

- (I) are imposed or required by law,
- (II) limit the geographical area in which the merchandise may be resold, or
- (III) do not substantially affect the value of the merchandise;

(ii) the sale of, or the price actually paid or payable for, the imported merchandise is not subject to any condition or consideration for which a value cannot be determined with respect to the imported merchandise;

(iii) no part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment therefor can be made under paragraph (1)(E); and

(iv) the buyer and seller are not related, or the buyer and seller are related but the transaction value is acceptable, for purposes of this subsection, under subparagraph (B).

(B) The transaction value between a related buyer and seller is acceptable for the purposes of this subsection if an examination of the circumstances of the sale of the imported merchandise indicates that the relationship between such buyer and seller did not influence the price actually paid or payable; or if the transaction value of the imported merchandise closely approximates—

(i) the transaction value of identical merchandise, or of similar merchandise, in sales to unrelated buyers in the United States; or

(ii) the deductive value or computed value for identical merchandise or similar merchandise;

but only if each value referred to in clause (i) or (ii) that is used for comparison relates to merchandise that was exported to the United States at or about the same time as the imported merchandise.

(C) In applying the values used for comparison purposes under subparagraph (B), there shall be taken into account differences with respect to the sales involved (if such differences are based on sufficient information whether supplied by the buyer or otherwise available to the customs officer concerned) in—

(i) commercial levels;

(ii) quantity levels;

(iii) the costs, commissions, values, fees, and proceeds described in paragraph (1); and

(iv) the costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

(3) The transaction value of imported merchandise does not include any of the following, if identified separately from the price actually paid or payable and from any cost or other item referred to in paragraph (1):

(A) Any reasonable cost or charge that is incurred for—

(i) the construction, erection, assembly, or maintenance of, or the technical assistance provided with respect to, the merchandise after its importation into the United States; or

(ii) the transportation of the merchandise after such importation.

(B) The customs duties and other Federal taxes currently payable on the imported merchandise by reason of its importation, and any Federal excise tax on, or measured by the value of, such merchandise for which vendors in the United States are ordinarily liable.

(4) For purposes of this subsection—

(A) The term “price actually paid or payable” means the total payment (whether direct or indirect, and exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller.

(B) Any rebate of, or other decrease in, the price actually paid or payable that is made or otherwise effected between the buyer and seller after the date of the importation of the merchandise into the United States shall be disregarded in determining the transaction value under paragraph (1).

(c) Transaction value of identical merchandise and similar merchandise

(1) The transaction value of identical merchandise, or of similar merchandise, is the transaction value (acceptable as the appraised value for purposes of this chapter under subsection (b) but adjusted under paragraph (2) of this subsection) of imported merchandise that is—

(A) with respect to the merchandise being appraised, either identical merchandise or similar merchandise, as the case may be; and

(B) exported to the United States at or about the time that the merchandise being appraised is exported to the United States.

(2) Transaction values determined under this subsection shall be based on sales of identical merchandise or similar merchandise, as the case may be, at the same commercial level and in substantially the same quantity as the sales of the merchandise being appraised. If no such sale is found, sales of identical merchandise or simi-

lar merchandise at either a different commercial level or in different quantities, or both, shall be used, but adjusted to take account of any such difference. Any adjustment made under this paragraph shall be based on sufficient information. If in applying this paragraph with respect to any imported merchandise, two or more transaction values for identical merchandise, or for similar merchandise, are determined, such imported merchandise shall be appraised on the basis of the lower or lowest of such values.

(d) Deductive value

(1) For purposes of this subsection, the term “merchandise concerned” means the merchandise being appraised, identical merchandise, or similar merchandise.

(2)(A) The deductive value of the merchandise being appraised is whichever of the following prices (as adjusted under paragraph (3)) is appropriate depending upon when and in what condition the merchandise concerned is sold in the United States:

(i) If the merchandise concerned is sold in the condition as imported at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity at or about such date.

(ii) If the merchandise concerned is sold in the condition as imported but not sold at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity after the date of importation of the merchandise being appraised but before the close of the 90th day after the date of such importation.

(iii) If the merchandise concerned was not sold in the condition as imported and not sold before the close of the 90th day after the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise being appraised, after further processing, is sold in the greatest aggregate quantity before the 180th day after the date of such importation. This clause shall apply to appraisement of merchandise only if the importer so elects and notifies the customs officer concerned of that election within such time as shall be prescribed by the Secretary.

(B) For purposes of subparagraph (A), the unit price at which merchandise is sold in the greatest aggregate quantity is the unit price at which such merchandise is sold to unrelated persons, at the first commercial level after importation (in cases to which subparagraph (A)(i) or (ii) applies) or after further processing (in cases to which subparagraph (A)(iii) applies) at which such sales take place, in a total volume that is (i) greater than the total volume sold at any other unit price, and (ii) sufficient to establish the unit price.

(3)(A) the price determined under paragraph (2) shall be reduced by an amount equal to—

(i) any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, in connection with sales in the United States of imported mer-

chandise that is of the same class or kind, regardless of the country of exportation, as the merchandise concerned;

(ii) the actual costs and associated costs of transportation and insurance incurred with respect to international shipments of the merchandise concerned from the country of exportation to the United States;

(iii) the usual costs and associated costs of transportation and insurance incurred with respect to shipments of such merchandise from the place of importation to the place of delivery in the United States, if such costs are not included as a general expense under clause (i);

(iv) the customs duties and other Federal taxes currently payable on the merchandise concerned by reason of its importation, and any Federal excise tax on, or measured by the value of, such merchandise for which vendors in the United States are ordinarily liable; and

(v) (but only in the case of a price determined under paragraph (2)(A)(iii)) the value added by the processing of the merchandise after importation to the extent that the value is based on sufficient information relating to cost of such processing.

(B) For purposes of applying paragraph (A)—

(i) the deduction made for profits and general expenses shall be based upon the importer’s profits and general expenses, unless such profits and general expenses are inconsistent with those reflected in sales in the United States of imported merchandise of the same class or kind, in which case the deduction shall be based on the usual profit and general expenses reflected in such sales, as determined from sufficient information; and

(ii) any State or local tax imposed on the importer with respect to the sale of imported merchandise shall be treated as a general expense.

(C) The price determined under paragraph (2) shall be increased (but only to the extent that such costs are not otherwise included) by an amount equal to the packing costs incurred by the importer or the buyer, as the case may be, with respect to the merchandise concerned.

(D) For purposes of determining the deductive value of imported merchandise, any sale to a person who supplies any assist for use in connection with the production or sale for export of the merchandise concerned shall be disregarded.

(e) Computed value

(1) The computed value of imported merchandise is the sum of—

(A) the cost or value of the materials and the fabrication and other processing of any kind employed in the production of the imported merchandise;

(B) an amount for profit and general expenses equal to that usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by the producers in the country of exportation for export to the United States;

(C) any assist, if its value is not included under subparagraph (A) or (B); and

(D) the packing costs.

(2) For purposes of paragraph (1)—

(A) the cost or value of materials under paragraph (1)(A) shall not include the amount of any internal tax imposed by the country of exportation that is directly applicable to the materials or their disposition if the tax is remitted or refunded upon the exportation of the merchandise in the production of which the materials were used; and

(B) the amount for profit and general expenses under paragraph (1)(B) shall be based upon the producer's profits and expenses, unless the producer's profits and expenses are inconsistent with those usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States, in which case the amount under paragraph (1)(B) shall be based on the usual profit and general expenses of such producers in such sales, as determined from sufficient information.

(f) Value if other values cannot be determined or used

(1) If the value of imported merchandise cannot be determined, or otherwise used for the purposes of this chapter, under subsections (b) through (e), the merchandise shall be appraised for the purposes of this chapter on the basis of a value that is derived from the methods set forth in such subsections, with such methods being reasonably adjusted to the extent necessary to arrive at a value.

(2) Imported merchandise may not be appraised, for the purposes of this chapter, on the basis of—

(A) the selling price in the United States of merchandise produced in the United States;

(B) a system that provides for the appraisal of imported merchandise at the higher of two alternative values;

(C) the price of merchandise in the domestic market of the country of exportation;

(D) a cost of production, other than a value determined under subsection (e) for merchandise that is identical merchandise or similar merchandise to the merchandise being appraised;

(E) the price of merchandise for export to a country other than the United States;

(F) minimum values for appraisal; or

(G) arbitrary or fictitious values.

This paragraph shall not apply with respect to the ascertainment, determination, or estimation of foreign market value or United States price under subtitle IV of this chapter.

(g) Special rules

(1) For purposes of this section, the persons specified in any of the following subparagraphs shall be treated as persons who are related:

(A) Members of the same family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) An officer or director of an organization and an officer or director of another organization, if each such individual is also an officer or director in the other organization.

(D) Partners.

(E) Employer and employee.

(F) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

(G) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(2) For purposes of this section, merchandise (including, but not limited to, identical merchandise and similar merchandise) shall be treated as being of the same class or kind as other merchandise if it is within a group or range of merchandise produced by a particular industry or industry sector.

(3) For purposes of this section, information that is submitted by an importer, buyer, or producer in regard to the appraisal of merchandise may not be rejected by the customs officer concerned on the basis of the accounting method by which that information was prepared, if the preparation was in accordance with generally accepted accounting principles. The term "generally accepted accounting principles" refers to any generally recognized consensus or substantial authoritative support regarding—

(A) which economic resources and obligations should be recorded as assets and liabilities;

(B) which changes in assets and liabilities should be recorded;

(C) how the assets and liabilities and changes in them should be measured;

(D) what information should be disclosed and how it should be disclosed; and

(E) which financial statements should be prepared.

The applicability of a particular set of generally accepted accounting principles will depend upon the basis on which the value of the merchandise is sought to be established.

(h) Definitions

As used in this section—

(1)(A) The term "assist" means any of the following if supplied directly or indirectly, and free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:

(i) Materials, components, parts, and similar items incorporated in the imported merchandise.

(ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.

(iii) Merchandise consumed in the production of the imported merchandise.

(iv) Engineering, development, artwork, design work, and plans and sketches that are undertaken elsewhere than in the United States and are necessary for the production of the imported merchandise.

(B) No service or work to which subparagraph (A)(iv) applies shall be treated as an assist for purposes of this section if such service or work—

(i) is performed by an individual who is domiciled within the United States;

(ii) is performed by that individual while he is acting as an employee or agent of the buyer of the imported merchandise; and

(iii) is incidental to other engineering, development, artwork, design work, or plans or sketches that are undertaken within the United States.

(C) For purposes of this section, the following apply in determining the value of assists described in subparagraph (A)(iv):

(i) The value of an assist that is available in the public domain is the cost of obtaining copies of the assist.

(ii) If the production of an assist occurred in the United States and one or more foreign countries, the value of the assist is the value thereof that is added outside the United States.

(2) The term “identical merchandise” means—

(A) merchandise that is identical in all respects to, and was produced in the same country and by the same person as, the merchandise being appraised; or

(B) if merchandise meeting the requirements under subparagraph (A) cannot be found (or for purposes of applying subsection (b)(2)(B)(i), regardless of whether merchandise meeting such requirements can be found), merchandise that is identical in all respects to, and was produced in the same country as, but not produced by the same person as, the merchandise being appraised.

Such term does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch that—

(I) was supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or the sale for export to the United States of the merchandise; and

(II) is not an assist because undertaken within the United States.

(3) The term “packing costs” means the cost of all containers and coverings of whatever nature and of packing, whether for labor or materials, used in placing merchandise in condition, packed ready for shipment to the United States.

(4) The term “similar merchandise” means—

(A) merchandise that—

(i) was produced in the same country and by the same person as the merchandise being appraised,

(ii) is like the merchandise being appraised in characteristics and component material, and

(iii) is commercially interchangeable with the merchandise being appraised; or

(B) if merchandise meeting the requirements under subparagraph (A) cannot be found (or for purposes of applying subsection (b)(2)(B)(i), regardless of whether merchandise meeting such requirements can be found), merchandise that—

(i) was produced in the same country as, but not produced by the same person as, the merchandise being appraised, and

(ii) meets the requirement set forth in subparagraph (A)(ii) and (iii).

Such term does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch that—

(I) was supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or the sale for export to the United States of the merchandise; and

(II) is not an assist because undertaken within the United States.

(5) The term “sufficient information”, when required under this section for determining—

(A) any amount—

(i) added under subsection (b)(1) to the price actually paid or payable,

(ii) deducted under subsection (d)(3) as profit or general expense or value from further processing, or

(iii) added under subsection (e)(2) as profit or general expense;

(B) any difference taken into account for purposes of subsection (b)(2)(C); or

(C) any adjustment made under subsection (c)(2);

means information that establishes the accuracy of such amount, difference, or adjustment.

(June 17, 1930, ch. 497, title IV, §402, as added Aug. 2, 1956, ch. 887, §2(a), 70 Stat. 943; amended Pub. L. 96-39, title II, §201(a), July 26, 1979, 93 Stat. 194; Pub. L. 96-490, §2, Dec. 2, 1980, 94 Stat. 2556.)

AMENDMENTS

1980—Subsec. (b)(2)(B). Pub. L. 96-490 amended par. (B) generally, omitting cl. (iii) which provided that “the transaction value determined under this subsection in sales to unrelated buyers of merchandise, for exportation to the United States, that is identical in all respects to the imported merchandise but was not produced in the country in which the imported merchandise was produced”, and omitting the provision relating to cl. (iii) which provided that “No two sales to unrelated buyers may be used for comparison for purposes of clause (iii) unless the sellers are unrelated.”

1979—Pub. L. 96-39 completely revised statutory standards for appraising the value of imported merchandise to conform to Customs Valuation Agreement, incorporating, as part of that revision, a new format of five methods of determining customs value in subsecs. (b) through (f), a group of special rules in subsec. (g), and definition of terms in subsec. (h).

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-490, §2, Dec. 2, 1980, 94 Stat. 2556, provided in part that the amendment made by that section is “effective on the latest of—

“(1) the date on which the amendments made by title II of the Trade Agreements Act of 1979 (except the amendments made by section 223(b)) take effect [July 1, 1980],

“(2) the date on which the President accepts the Protocol [to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade] for the United States [Dec. 30, 1980], or

“(3) the date on which the President determines that the European Economic Community has implemented the Protocol under its laws [Jan. 1, 1981], and effective with respect to merchandise exported to the United States on or after that date”.

[For delegation of authority of the President to make the determinations required by pars. (1) to (3), above, to the United States Trade Representative, see Memorandum of President of the United States, Dec. 17, 1980, 45 F.R. 83467.]

[For determination of the United States Trade Representative that the conditions of pars. (1) to (3), above, were satisfied effective on Jan. 1, 1981, see Determination of United States Trade Representative, 46 F.R. 1073.]

EFFECTIVE DATE OF 1979 AMENDMENT; TRANSITION TO
NEW VALUATION STANDARDS

Pub. L. 96-39, title II, §204, July 26, 1979, 93 Stat. 202, provided that:

“(a) EFFECTIVE DATE OF AMENDMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title [amending the Tariff Schedules of the United States (see Publication of Tariff Schedules note under section 1202 of this title), sections 1332, 1336, 1351, 1401a, 1500, and 2481 of this title, and section 993 of Title 26, Internal Revenue Code, repealing section 1402 of this title, and enacting provisions set out as notes under sections 1202, 1401a, and 2111 of this title] (except the amendments made by section 223(b) [amending schedule 7, part 1, subpart A of the Tariff Schedules of the United States]) shall take effect on—

“(A) January 1, 1981, if the Agreement enters into force with respect to the United States by that date; or

“(B) if subparagraph (A) does not apply, that date after January 1, 1981, on which the Agreement enters into such force; and shall apply with respect to merchandise that is exported to the United States on or after whichever of such dates applies.

“(2) EARLIER EFFECTIVE DATE UNDER CERTAIN CIRCUMSTANCES.—If the President determines before January 1, 1981, that—

“(A) the European Economic Community has accepted the obligations of the Agreement with respect to the United States; and

“(B) each of the member states of the European Economic Community has implemented the Agreement under its laws;

the President shall by proclamation announce such determination and the amendments made by this title (except the amendments made by section 223(b) [amending schedule 7, part 1, subpart A of the Tariff Schedules of the United States]) shall take effect on the date specified in the proclamation [July 1, 1980] (but not before July 1, 1980) and shall apply with respect to merchandise that is exported to the United States on or after such date; except that unless the Agreement enters into force with respect to the United States by January 1, 1981, all provisions of law that were amended by such amendments are revived (as in effect on the day before such amendments took effect) on January 1, 1981, and such provisions—

“(i) shall remain in effect until the date on which the Agreement enters into force with respect to the United States (and on such date the amendments made by this title (except the amendments made by section 223(b) [amending schedule 7, part 1, subpart A of the Tariff Schedules of the United States]) are revived and shall apply with respect to merchandise exported to the United States on or after such date); and

“(ii) shall apply with respect to merchandise exported to the United States on or after January 1, 1981, and before the date on which the Agreement enters into such force.

“(b) APPLICATION OF OLD LAW VALUATION STANDARDS.—For purposes of the administration of the customs laws, all merchandise (other than merchandise to which subsections (a) and (c) apply) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

“(c) SPECIAL TREATMENT FOR CERTAIN RUBBER FOOTWEAR.—The amendments made by section 223(b)

[amending schedule 7, part 1, subpart A of the Tariff Schedules of the United States] shall take effect July 1, 1981, or, if later, the date on which the Agreement enters into force with respect to the United States, and shall apply, together with the other amendments made by this title, to rubber footwear exported to the United States on or after such date. For purposes of the administration of the customs laws, all rubber footwear (other than rubber footwear to which the preceding sentence applies) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

“(d) DEFINITION.—For purposes of this section, the term ‘rubber footwear’ means articles described in item 700.60 of the Tariff Schedules of the United States (as in effect on the day before the day on which the amendments made by section 223(b) [amending schedule 7, part 1, subpart A of the Tariff Schedules of the United States] take effect).”

[For Presidential proclamation specifying in accordance with subsec. (a)(2), above, that the amendments by title II of Pub. L. 96-39 are effective July 1, 1980, see sections 5(b) and 2(a) of Proc. No. 4768, June 28, 1980, 45 F.R. 45136, 45137, set out as a note under section 2111 of this title.]

EFFECTIVE DATE

Act Aug. 2, 1956, ch. 887, §8, 70 Stat. 949, provided that: “This Act [enacting this section and provisions set out in notes under this section and sections 2, 160, 1351, and 1402 of this title, amending sections 1001, 1402, 1500, and 1583 of this title, and sections 372 and 711 of former Title 31, Money and Finance, and repealing sections 12 to 18, 21 to 24, 26 to 28, 30, 40, 53 to 57, 59, 61, 62, 67, 376, 379, 390, 494, 526, 541, 542, 549, and 579 of this title] shall be effective on and after the day following the date of its enactment [Aug. 2, 1956], except that section 2 [enacting this section and provisions set out in note under section 1351 of this title, and amending sections 1001, 1336, and 1402 of this title] shall be effective only as to articles entered, or withdrawn from warehouse, for consumption on or after the thirtieth day following the publication of the final list provided for in section 6(a) of this Act [set out in note under section 1402 of this title], and section 3 [amending section 372 of former Title 31] shall be effective as to entries filed on or after the thirtieth day following the date of enactment of this Act [Aug. 2, 1956].”

PRESIDENTIAL REPORT TO CONGRESS ON OPERATION OF
AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF
THE GENERAL AGREEMENT ON TARIFFS AND TRADE
OVER 2-YEAR PERIOD

Pub. L. 96-39, title II, §203, July 26, 1979, 93 Stat. 202, provided that: “As soon as practicable after the close of the 2-year period beginning on the date on which the amendments made by this title (other than section 223(b), relating to certain rubber footwear) take effect [see Effective Date of 1979 Amendment note set out above], the President shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade approved under section 2(a) [section 2503(a) of this title] (hereinafter in this subtitle referred to as the ‘Agreement’), both domestically and internationally, during that period.”

LIST OF ARTICLES TO BE VALUED; PRELIMINARY LIST;
ADDITIONS; FINAL LIST; TRANSMITTAL TO CONGRES-
SIONAL COMMITTEES

Act Aug. 2, 1956, ch. 887, §6, 70 Stat. 948, provided that:

“(a) The Secretary of the Treasury shall determine and make public a list of the articles which shall be valued in accordance with section 402a, Tariff Act of 1930, as amended by this Act [former section 1402 of this title], as follows:

“As soon as practicable after the enactment of this Act [Aug. 2, 1956] the Secretary shall make public a

preliminary list of the imported articles which he shall have determined, after such investigation as he deems necessary, would have been appraised in accordance with section 402 of the Tariff Act of 1930, as amended by this Act [this section], at average values for each article which are 95 (or less) per centum of the average values at which such article was actually appraised during the fiscal year 1954. If within sixty days after the publication of such preliminary list any manufacturer, producer, or wholesaler in the United States presents to the Secretary his reason for belief that any imported articles not specified in such list and like or similar to articles manufactured, produced, or sold at wholesale by him would have been appraised in accordance with such section 402 [section 1401a of this title] at average values which are 95 (or less) per centum of the average values at which they were or would have been appraised under section 402a, Tariff Act of 1930, as amended by this Act, the Secretary shall cause such investigation of the matter to be made as he deems necessary. If in the opinion of the Secretary the reason for belief is substantiated by the investigation, the articles involved shall be added to the preliminary list and such list, including any additions so made thereto, shall be published as a final list. Every article so specified in the final list which is entered, or withdrawn from warehouse, for consumption on or after the thirtieth day following the date of publication of the final list shall be appraised in accordance with the provisions of section 402a, Tariff Act of 1930, as amended by this Act.

“(b) The final list published in accordance with the provisions of subsection (a), together with explanatory data, shall be transmitted promptly to the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”

§ 1402. Repealed. Pub. L. 96-39, title II, § 201(b), July 26, 1979, 93 Stat. 201

Section, acts June 17, 1930, ch. 497, title IV, § 402a, formerly § 402, 46 Stat. 708; June 25, 1938, ch. 679, § 8, 52 Stat. 1081, renumbered and amended Aug. 2, 1956, ch. 887, § 2(a), (f), 70 Stat. 943, 946; June 2, 1970, Pub. L. 91-271, title III, § 301(d), 84 Stat. 288, provided an alternative basis for valuation of articles designated by the Secretary of Treasury as provided for by act Aug. 2, 1956, ch. 887, § 6(a), 70 Stat. 948, as either the foreign value or the export value, whichever is higher, or if the appropriate customs officer determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value, or if the appropriate customs officer determines that neither the foreign value, the export value, nor the United States value can be satisfactorily ascertained, then the cost of production, or in the case of an article with respect to which there is in effect under section 1336 of this title a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article, defined foreign value, export value, United States value, cost of production, and American selling price, and provided for review of the decision of the appropriate customs officer.

Provisions similar to those of this section were contained in act Oct. 3, 1913, ch. 16, § III, L and R, 38 Stat. 185, 189, and in act May 27, 1921, ch. 14, title III, §§ 301-304, 42 Stat. 15, 16, all of which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 402, 42 Stat. 949, and were repealed by section 643 thereof. Section 402 of the 1922 act was superseded by section 402 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Earlier provisions on the subject were contained in R.S. §§ 2905-2907, and 2952, prior to repeal by act June 10, 1890, ch. 407, § 29, 26 Stat. 141; and in act June 10, 1890, ch. 407, §§ 11 and 19, 26 Stat. 136, 139, as amended by act July 24, 1897, ch. 11, § 32, 30 Stat. 211, and act Aug. 5, 1909, ch. 6, § 28, 36 Stat. 97, 101, prior to repeal by act Oct. 3, 1913, ch. 16, § IV, S, 38 Stat. 201.

R.S. § 2906, requiring the collector to cause the actual market value, or wholesale price at the period of exportation,

to be appraised, and providing that such appraised value should be considered the value upon which duty should be assessed, and R.S. § 2913, relative to the appraisement of gloves protected by trademark, were repealed by section 642 of the act of Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1980, see section 204(a)(2) of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 1401a of this title.

SUBPART B—NATIONAL CUSTOMS AUTOMATION PROGRAM

§ 1411. National Customs Automation Program

(a) Establishment

The Secretary shall establish the National Customs Automation Program (hereinafter in this subpart referred to as the “Program”) which shall be an automated and electronic system for processing commercial importations and shall include the following existing and planned components:

(1) Existing components:

- (A) The electronic entry of merchandise.
- (B) The electronic entry summary of required information.
- (C) The electronic transmission of invoice information.
- (D) The electronic transmission of manifest information.
- (E) Electronic payments of duties, fees, and taxes.
- (F) The electronic status of liquidation and reliquidation.
- (G) The electronic selection of high risk entries for examination (cargo selectivity and entry summary selectivity).

(2) Planned components:

- (A) The electronic filing and status of protests.
- (B) The electronic filing (including remote filing under section 1414 of this title) of entry information with the Customs Service at any location.
- (C) The electronic filing of import activity summary statements and reconciliation.
- (D) The electronic filing of bonds.
- (E) The electronic penalty process.
- (F) The electronic filing of drawback claims, records, or entries.
- (G) Any other component initiated by the Customs Service to carry out the goals of this subpart.

(b) Participation in Program

The Secretary shall by regulation prescribe the eligibility criteria for participation in the Program. The Secretary may, by regulation, require the electronic submission of information described in subsection (a) or any other information required to be submitted to the Customs Service separately pursuant to this subpart.

(c) Foreign-trade zones

Not later than January 1, 2000, the Secretary shall provide for the inclusion of commercial importation data from foreign-trade zones under the Program.

(d) International Trade Data System**(1) Establishment****(A) In general**

The Secretary of the Treasury (in this subsection, referred to as the “Secretary”) shall oversee the establishment of an electronic trade data interchange system to be known as the “International Trade Data System” (ITDS). The ITDS shall be implemented not later than the date that the Automated Commercial Environment (commonly referred to as “ACE”) is fully implemented.

(B) Purpose

The purpose of the ITDS is to eliminate redundant information requirements, to efficiently regulate the flow of commerce, and to effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by the United States Customs and Border Protection, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

(C) Participation**(i) In general**

All Federal agencies that require documentation for clearing or licensing the importation and exportation of cargo shall participate in the ITDS.

(ii) Waiver

The Director of the Office of Management and Budget may waive, in whole or in part, the requirement for participation for any Federal agency based on the vital national interest of the United States.

(D) Consultation

The Secretary shall consult with and assist the United States Customs and Border Protection and other agencies in the transition from paper to electronic format for the submission, issuance, and storage of documents relating to data required to enter cargo into the United States. In so doing, the Secretary shall also consult with private sector stakeholders, including the Commercial Operations Advisory Committee, in developing uniform data submission requirements, procedures, and schedules, for the ITDS.

(E) Coordination

The Secretary shall be responsible for coordinating the operation of the ITDS among the participating agencies and the office within the United States Customs and Border Protection that is responsible for maintaining the ITDS.

(2) Data elements**(A) In general**

The Interagency Steering Committee (established under paragraph (3)) shall, in consultation with the agencies participating in the ITDS, define the standard set of data elements to be collected, stored, and shared in the ITDS, consistent with laws applicable

to the collection and protection of import and export information. The Interagency Steering Committee shall periodically review the data elements in order to update the standard set of data elements, as necessary.

(B) Commitments and obligations

The Interagency Steering Committee shall ensure that the ITDS data requirements are compatible with the commitments and obligations of the United States as a member of the World Customs Organization (WCO) and the World Trade Organization (WTO) for the entry and movement of cargo.

(3) Interagency Steering Committee

There is established an Interagency Steering Committee (in this section, referred to as the “Committee”). The members of the Committee shall include the Secretary (who shall serve as the chairperson of the Committee), the Director of the Office of Management and Budget, and the head of each agency participating in the ITDS. The Committee shall assist the Secretary in overseeing the implementation of, and participation in, the ITDS.

(4) Information technology infrastructure**(A) In general**

The Secretary shall work with the head of each agency participating in the ITDS and the Interagency Steering Committee to ensure that each agency—

(i) develops and maintains the necessary information technology infrastructure to support the operation of the ITDS and to submit all data to the ITDS electronically;

(ii) enters into a memorandum of understanding, or takes such other action as is necessary, to provide for the information sharing between the agency and U.S. Customs and Border Protection necessary for the operation and maintenance of the ITDS;

(iii) not later than June 30, 2016, identifies and transmits to the Commissioner of U.S. Customs and Border Protection the admissibility criteria and data elements required by the agency to authorize the release of cargo by U.S. Customs and Border Protection for incorporation into the operational functionality of the Automated Commercial Environment computer system authorized under section 58c(f)(4) of this title; and

(iv) not later than December 31, 2016, utilizes the ITDS as the primary means of receiving from users the standard set of data and other relevant documentation, exclusive of applications for permits, licenses, or certifications required for the release of imported cargo and clearance of cargo for export.

(B) Rule of construction

Nothing in this paragraph shall be construed to require any action to be taken that would compromise an ongoing law enforcement investigation or would compromise national security.

(5) Report

The President shall submit a report before the end of each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Each report shall include information on—

(A) the status of the ITDS implementation;

(B) the extent of participation in the ITDS by Federal agencies;

(C) the remaining barriers to any agency's participation;

(D) the consistency of the ITDS with applicable standards established by the World Customs Organization and the World Trade Organization;

(E) recommendations for technological and other improvements to the ITDS; and

(F) the status of the development, implementation, and management of the Automated Commercial Environment within the United States Customs and Border Protection.

(6) Sense of Congress

It is the sense of Congress that agency participation in the ITDS is an important priority of the Federal Government and that the Secretary shall coordinate the operation of the ITDS closely among the participating agencies and the office within the United States Customs and Border Protection that is responsible for maintaining the ITDS.

(7) Construction

Nothing in this section shall be construed as amending or modifying subsection (g) of section 301 of title 13.

(8) Definition

The term "Commercial Operations Advisory Committee" means the Advisory Committee established pursuant to section 4316 of this title or any successor committee.

(June 17, 1930, ch. 497, title IV, §411, as added Pub. L. 103-182, title VI, §631(2), Dec. 8, 1993, 107 Stat. 2188; amended Pub. L. 106-36, title II, §2405, June 25, 1999, 113 Stat. 169; Pub. L. 107-210, div. A, title III, §338, Aug. 6, 2002, 116 Stat. 980; Pub. L. 109-347, title IV, §405, Oct. 13, 2006, 120 Stat. 1929; Pub. L. 114-125, title I, §107, Feb. 24, 2016, 130 Stat. 135.)

AMENDMENTS

2016—Subsec. (d)(4) to (8). Pub. L. 114-125 added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and, in par. (8), substituted "section 4316 of this title" for "section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note)".

2006—Subsec. (d). Pub. L. 109-347 added subsec. (d).

2002—Subsec. (b). Pub. L. 107-210 inserted second sentence and struck out former second sentence which read as follows: "Participation in the Program is voluntary."

1999—Subsec. (c). Pub. L. 106-36 added subsec. (c).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

EX. ORD. NO. 13659, STREAMLINING THE EXPORT/IMPORT PROCESS FOR AMERICA'S BUSINESSES

Ex. Ord. No. 13659, Feb. 19, 2014, 79 F.R. 10657, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reduce supply chain barriers to commerce while continuing to protect our national security, public health and safety, the environment, and natural resources, it is hereby ordered as follows:

SECTION 1. Policy. The United States is the world's largest economy and the largest trading Nation. Trade is critical to the Nation's prosperity—fueling economic growth, supporting good jobs at home, raising living standards, and helping Americans provide for their families with affordable goods and services. It is the policy of the United States to promote commerce through the effective implementation of an ambitious 21st century trade agenda and vigorous enforcement of our Nation's laws relating to trade, security, public health and safety, the environment, and natural resources. In support of these goals, and to ensure that our Nation is well-positioned to compete in an open, fair, and growing world economy, the Federal Government must increase efforts to improve the technologies, policies, and other controls governing the movement of goods across our national borders.

In particular, we must increase efforts to complete the development of efficient and cost-effective trade processing infrastructure, such as the International Trade Data System (ITDS), to modernize and simplify the way that executive departments and agencies (agencies) interact with traders. We must also improve the broader trade environment through the development of innovative policies and operational processes that promote effective application of regulatory controls, collaborative arrangements with stakeholders, and a reduction of unnecessary procedural requirements that add costs to both agencies and industry and undermine our Nation's economic competitiveness. By demonstrating our commitment to utilizing technology, coordinating government processes, fulfilling international obligations, and embracing innovative approaches to promote new opportunities for trade facilitation in the 21st century, we can lead by example and partner with other countries willing to adopt similar programs. This will encourage compliance with applicable laws and, more broadly, result in a more prosperous, safe, secure, and sustainable trading environment for all.

SEC. 2. Policy Coordination. Policy coordination, guidance, dispute resolution, and periodic reviews for the functions and programs set forth in this order shall be provided through the interagency process established in Presidential Policy Directive-1 of February 13, 2009 (Organization of the National Security Council System), or any successor.

SEC. 3. International Trade Data System. The ITDS, as described in section 405 of the Security and Accountability for Every Port Act of 2006 (the "SAFE Port Act") (Public Law 109-347), is an electronic information exchange capability, or "single window," through

which businesses will transmit data required by participating agencies for the importation or exportation of cargo. To enhance Federal coordination associated with the development of the ITDS and to provide necessary transparency to businesses, agencies, and other potential users:

(a) by December 31, 2016, participating agencies shall have capabilities, agreements, and other requirements in place to utilize the ITDS and supporting systems, such as the Automated Commercial Environment, as the primary means of receiving from users the standard set of data and other relevant documentation (exclusive of applications for permits, licenses, or certifications) required for the release of imported cargo and clearance of cargo for export;

(b) by December 31, 2016, the Department of Homeland Security shall confirm to the Secretary of the Treasury and the ITDS Board of Directors (Board), which serves as the Interagency Steering Committee established under section 405 of the SAFE Port Act, that the ITDS has the operational capabilities to enable users to:

(i) transmit a harmonized set of import and export data elements, to be collected, stored, and shared, via a secure single window, to fulfill U.S. Government requirements for the release and clearance of goods; and

(ii) transition from paper-based requirements and procedures to faster and more cost-effective electronic submissions to, and communications with, agencies;

(c) the Board shall, in consultation with ITDS participating agencies, define the standard set of data elements to be collected, stored, and shared in the ITDS; and continue to periodically review those data elements in order to update the standard set of data elements, as necessary;

(d) the Board shall continue to assist the Secretary of the Treasury in overseeing the implementation of, and participation in, the ITDS, including the establishment of the ITDS capabilities and requirements associated with the collection from users and distribution to relevant agencies of standard electronic import and export data; and

(e) the Board shall make publicly available a timeline outlining the development and delivery of the secure ITDS capabilities, as well as agency implementation plans and schedules. Agencies shall take such steps as are necessary to meet the timeline, including timely completion of all appropriate agreements, including memoranda of understanding, and other required documents that establish procedures and guidelines for the secure exchange and safeguarding of data among agencies and, as appropriate, with other Federal Government entities.

SEC. 4. *Establishment of the Border Interagency Executive Council.* (a) There is established the Border Interagency Executive Council (BIEC), an interagency working group to be chaired by the Secretary of Homeland Security or a senior-level designee from the Department. The BIEC shall also have a Vice Chair, selected every 2 years from among the members of the BIEC by a process determined by the members. The BIEC shall develop policies and processes to enhance coordination across customs, transport security, health and safety, sanitary, conservation, trade, and phytosanitary agencies with border management authorities and responsibilities to measurably improve supply chain processes and improve identification of illicit shipments.

(b) The Department of Homeland Security shall provide funding and administrative support for the BIEC, to the extent permitted by law.

(c) In addition to the Chair and Vice Chair, the BIEC shall include designated senior-level representatives from agencies that provide approval before goods can be imported and exported, including the Departments of State, the Treasury, Defense, the Interior, Agriculture, Commerce, Health and Human Services, Transportation, and Homeland Security, the Environmental Protection Agency, and other agencies with border management interests or authorities, as determined by the Chair and Vice Chair. The BIEC shall also include

appropriate representatives from the Executive Office of the President.

SEC. 5. *Functions of the BIEC.* The BIEC shall:

(a) develop common risk management principles and methods to inform agency operations associated with the review and release of cargo at the border and encourage compliance with applicable law;

(b) develop policies and processes to orchestrate, improve, and accelerate agency review of electronic trade data transmitted through relevant systems and provide coordinated and streamlined responses back to users to facilitate trade and support and advance compliance with applicable laws and international agreements, including (in coordination with, and as recommendations to, the Board) policies and processes designed to assist the Secretary of the Treasury, as appropriate, with activities related to the ITDS;

(c) identify opportunities to streamline Federal Government systems and reduce costs through the elimination of redundant capabilities or through enhanced utilization of the Automated Commercial Environment capabilities as a means of improving supply chain management processes;

(d) assess, in collaboration with the Board, the business need, feasibility, and potential benefits of developing or encouraging the private-sector development of web-based interfaces to electronic data systems, including the ITDS, for individuals and small businesses;

(e) engage with and consider the advice of industry and other relevant stakeholders regarding opportunities to improve supply chain management processes, with the goal of promoting economic competitiveness through enhanced trade facilitation and enforcement;

(f) encourage other countries to develop similar single window systems to facilitate the sharing of relevant data, as appropriate, across governmental systems and with trading partners; and

(g) assess, in consultation with the Department of the Treasury, opportunities to facilitate electronic payment of duties, taxes, fees, and charges due at importation. The Federal Government endorses electronic payment of duties, taxes, fees, and charges due at importation, and currently allows payment electronically through various systems.

SEC. 6. *Regulatory Review.* To support the Federal Government's rapid development of the ITDS that, to the greatest extent possible, relies upon the collection, exchange, and processing of electronic data, each agency that utilizes the ITDS shall:

(a) as part of the retrospective review report due to the Office of Information and Regulatory Affairs (OIRA) on July 14, 2014, pursuant to Executive Order 13610 of May 10, 2012 (Identifying and Reducing Regulatory Burdens), unless directed otherwise through subsequent guidance from OIRA, determine whether any regulations should be modified to achieve the requirements set forth in this order; and

(b) promptly initiate rulemaking proceedings to implement necessary regulatory modifications identified pursuant to subsection (a) of this section.

SEC. 7. *Reports.* (a) Within 180 days of the date of this order, agencies with border management interests or authorities shall report to the Board on their anticipated use of international standards for product classification and identification.

(b) By July 1, 2014, and every year thereafter until July 2016, the BIEC, in consultation with the Board, shall provide to the President, through the Assistant to the President for Homeland Security and Counterterrorism, a report on the implementation of section 5 of this order.

SEC. 8. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) Independent agencies are strongly encouraged to comply with the requirements of this order.

BARACK OBAMA.

DELEGATION OF AUTHORITY FOR DRAFTING AND SUBMISSION OF THE INTERNATIONAL TRADE DATA SYSTEM ANNUAL REPORT TO THE CONGRESS

Memorandum of President of the United States, Oct. 20, 2015, 80 F.R. 64305, provided:

Memorandum for the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the reporting function conferred upon the President by section 405 of the SAFE Port Act of 2006, Public Law 109-347.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 1412. Program goals

The goals of the Program are to ensure that all regulations and rulings that are administered or enforced by the Customs Service are administered and enforced in a manner that—

- (1) is uniform and consistent;
- (2) is as minimally intrusive upon the normal flow of business activity as practicable; and
- (3) improves compliance.

(June 17, 1930, ch. 497, title IV, § 412, as added Pub. L. 103-182, title VI, § 631(2), Dec. 8, 1993, 107 Stat. 2189.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1413. Implementation and evaluation of Program

(a) Overall Program plan

(1) In general

Before the 180th day after December 8, 1993, the Secretary shall develop and transmit to the Committees an overall plan for the Program. The overall Program plan shall set forth—

- (A) a general description of the ultimate configuration of the Program;
- (B) a description of each of the existing components of the Program listed in section 1411(a)(1) of this title; and
- (C) estimates regarding the stages on which planned components of the Program

listed in section 1411(a)(2) of this title will be brought on-line.

(2) Additional information

In addition to the information required under paragraph (1), the overall Program plan shall include a statement regarding—

- (A) the extent to which the existing components of the Program currently meet, and the planned components will meet, the Program goals set forth in section 1412 of this title; and
- (B) the effects that the existing components are currently having, and the effects that the planned components will likely have, on—
 - (i) importers, brokers, and other users of the Program, and
 - (ii) Customs Service occupations, operations, processes, and systems.

(b) Implementation plan, testing, and evaluation

(1) Implementation plan

For each of the planned components of the Program listed in section 1411(a)(2) of this title, the Secretary shall—

- (A) develop an implementation plan;
- (B) test the component in order to assess its viability;
- (C) evaluate the component in order to assess its contribution toward achieving the program goals; and
- (D) transmit to the Committees the implementation plan, the testing results, and an evaluation report.

In developing an implementation plan under subparagraph (A) and evaluating components under subparagraph (C), the Secretary shall publish a request for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

(2) Implementation

(A) The Secretary may implement on a permanent basis any Program component referred to in paragraph (1) on or after the date which is 30 days after paragraph (1)(D) is complied with.

(B) For purposes of subparagraph (A), the 30 days shall be computed by excluding—

- (i) the days either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and
- (ii) any Saturday and Sunday, not excluded under clause (i), when either House is not in session.

(3) Evaluation and report

The Secretary shall—

- (A) develop a user satisfaction survey of parties participating in the Program;
- (B) evaluate the results of the user satisfaction survey on a biennial basis (fiscal years) and transmit a report to the Committees on the evaluation by no later than the 90th day after the close of each 2d fiscal year;
- (C) with respect to the existing Program component listed in section 1411(a)(1)(G) of this title transmit to the Committees—

(i) a written evaluation of such component before the 180th day after December 8, 1993, and before the implementation of the planned Program components listed in section 1411(a)(2)(B) and (C) of this title, and

(ii) a report on such component for each of the 3 full fiscal years occurring after December 8, 1993, which report shall be transmitted not later than the 90th day after the close of each such year; and

(D) not later than the 90th day after the close of fiscal year 1994, and annually thereafter through fiscal year 2000, transmit to the Committees a written evaluation with respect to the implementation and effect on users of each of the planned Program components listed in section 1411(a)(2) of this title.

In carrying out the provisions of this paragraph, the Secretary shall publish requests for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

(c) Committees

For purposes of this section, the term “Committees” means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(June 17, 1930, ch. 497, title IV, §413, as added Pub. L. 103-182, title VI, §631(2), Dec. 8, 1993, 107 Stat. 2189; amended Pub. L. 104-295, §21(e)(15), Oct. 11, 1996, 110 Stat. 3531.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-295 made technical amendment to reference in original act which appears in text as reference to December 8, 1993.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1414. Remote location filing

(a) Core entry information

(1) In general

A Program participant may file electronically an entry of merchandise with the Customs Service from a location other than the district designated in the entry for examination (hereafter in this section referred to as a “remote location”) if—

(A) the Customs Service is satisfied that the participant has the capabilities referred to in paragraph (2)(A) regarding such method of filing; and

(B) the participant elects to file from the remote location.

(2) Requirements

(A) In general

In order to qualify for filing from a remote location, a Program participant must have the capability to provide, on an entry-by-entry basis, for the following:

(i) The electronic entry of merchandise.

(ii) The electronic entry summary of required information.

(iii) The electronic transmission of invoice information (when required by the Customs Service).

(iv) The electronic payment of duties, fees, and taxes.

(v) Such other electronic capabilities within the existing or planned components of the Program as the Secretary shall by regulation require.

(B) Restriction on exemption from requirements

The Customs Service may not permit any exemption or waiver from the requirements established by this section for participation in remote entry filing.

(3) Conditions on filing under this section

The Secretary may prohibit a Program participant from participating in remote location filing, and may remove a Program participant from participation in remote location filing, if the participant—

(i) fails to meet all the compliance requirements and operational standards of remote location filing; or

(ii) fails to adhere to all applicable laws and regulations.

(4) Alternative filing

Any Program participant that is eligible to file entry information electronically from a remote location but chooses not to do so in the case of any entry must file any paper documentation for the entry at the designated location referred to in subsection (d).

(b) Additional entry information

(1) In general

A Program participant that is eligible under subsection (a) to file entry information from a remote location may, if the Customs Service is satisfied that the participant meets the requirements under paragraph (2), also electronically file from the remote location additional information that is required by the Customs Service to be presented before the acceptance of entry summary information and at the time of acceptance of entry summary information.

(2) Requirements

The Secretary shall publish, and periodically update, a list of those capabilities within the existing and planned components of the Program that a Program participant must have for purposes of this subsection.

(3) Filing of additional information

(A) If information electronically acceptable

A Program participant that is eligible under paragraph (1) to file additional information from a remote location shall elec-

tronically file all such information that the Customs Service can accept electronically.

(B) Alternative filing

If the Customs Service cannot accept additional information electronically, the Program participant shall file the paper documentation with respect to the information at the appropriate filing location.

(C) Appropriate location

For purposes of subparagraph (B), the “appropriate location” is—

(i) before January 1, 1999, a designated location; and

(ii) after December 31, 1998—

(I) if the paper documentation is required for release, a designated location; or

(II) if the paper documentation is not required for release, a remote location designated by the Customs Service or a designated location.

(D) Other

A Program participant that is eligible under paragraph (1) to file additional information electronically from a remote location but chooses not to do so must file the paper documentation with respect to the information at a designated location.

(c) Post-entry summary information

A Program participant that is eligible to file electronically entry information under subsection (a) and additional information under subsection (b) from a remote location may file at any remote location designated by the Customs Service any information required by the Customs Service after entry summary.

(d) Definitions

As used in this section:

(1) The term “designated location” means a customs office located in the customs district designated by the entry filer for purposes of customs examination of the merchandise.

(2) The term “Program participant” means, with respect to an entry of merchandise, any party entitled to make the entry under section 1484(a)(2)(B) of this title.

(June 17, 1930, ch. 497, title IV, § 414, as added Pub. L. 103-182, title VI, § 631(2), Dec. 8, 1993, 107 Stat. 2191.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1415. Mandatory advance electronic information for cargo and other improved customs reporting procedures

(a) Cargo information

(1) In general

(A) Subject to paragraphs (2) and (3), the Secretary is authorized to promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.

(B) The Secretary shall endeavor to promulgate an initial set of regulations under subparagraph (A) not later than October 1, 2003.

(2) Information required

The cargo information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by the Customs Service. The Secretary shall provide to appropriate Federal departments and agencies cargo information obtained pursuant to paragraph (1).

(3) Parameters

In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

(A) The Secretary shall solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

(E) The regulations shall take into account the extent to which the technology

necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. To the extent that the Secretary determines that the necessary technology will not be widely available to particular modes of transportation or other affected parties until after promulgation of the regulations, the regulations shall provide interim requirements appropriate for the technology that is available at the time of promulgation.

(F) The information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security, preventing smuggling, and commercial risk assessment targeting, and shall not be used for any commercial enforcement purposes, including for determining merchandise entry. Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 [19 U.S.C. 1401 et seq.] or regulations promulgated thereunder.

(G) The regulations shall protect the privacy of business proprietary and any other confidential cargo information provided to the Customs Service pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 [19 U.S.C. 1431] and required to be available for public disclosure pursuant to section 431(c) of such Act.¹

(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on cargo safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (D).

(I) Where practicable, the regulations shall avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.

(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different classes of affected parties.

(K)(i) The Secretary shall prescribe regulations requiring the United States Postal Service to transmit the information described in paragraphs (1) and (2) to the Commissioner of U.S. Customs and Border Protection for international mail shipments by the Postal Service (including shipments to the Postal Service from foreign postal operators that are transported by private carrier) consistent with the requirements of this subparagraph.

(ii) In prescribing regulations under clause (i), the Secretary shall impose requirements

for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) that are comparable to the requirements for the transmission of such information imposed on similar non-mail shipments of cargo, taking into account the parameters set forth in subparagraphs (A) through (J).

(iii) The regulations prescribed under clause (i) shall require the transmission of the information described in paragraphs (1) and (2) with respect to a shipment as soon as practicable in relation to the transportation of the shipment, consistent with subparagraph (H).

(iv) Regulations prescribed under clause (i) shall allow for the requirements for the transmission to the Commissioner of information described in paragraphs (1) and (2) for mail shipments described in clause (i) to be implemented in phases, as appropriate, by—

(I) setting incremental targets for increasing the percentage of such shipments for which information is required to be transmitted to the Commissioner; and

(II) taking into consideration—

(aa) the risk posed by such shipments;

(bb) the volume of mail shipped to the United States by or through a particular country; and

(cc) the capacities of foreign postal operators to provide that information to the Postal Service.

(v)(I) Notwithstanding clause (iv), the Postal Service shall, not later than December 31, 2018, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for not less than 70 percent of the aggregate number of mail shipments, including 100 percent of mail shipments from the People's Republic of China, described in clause (i).

(II) If the requirements of subclause (I) are not met, the Comptroller General of the United States shall submit to the appropriate congressional committees, not later than June 30, 2019, a report—

(aa) assessing the reasons for the failure to meet those requirements; and

(bb) identifying recommendations to improve the collection by the Postal Service of the information described in paragraphs (1) and (2).

(vi)(I) Notwithstanding clause (iv), the Postal Service shall, not later than December 31, 2020, arrange for the transmission to the Commissioner of the information described in paragraphs (1) and (2) for 100 percent of the aggregate number of mail shipments described in clause (i).

(II) The Commissioner, in consultation with the Postmaster General, may determine to exclude a country from the requirement described in subclause (I) to transmit information for mail shipments described in clause (i) from the country if the Commissioner determines that the country—

(aa) does not have the capacity to collect and transmit such information;

¹ So in original.

(bb) represents a low risk for mail shipments that violate relevant United States laws and regulations; and

(cc) accounts for low volumes of mail shipments that can be effectively screened for compliance with relevant United States laws and regulations through an alternate means.

(III) The Commissioner shall, at a minimum on an annual basis, re-evaluate any determination made under subclause (II) to exclude a country from the requirement described in subclause (I). If, at any time, the Commissioner determines that a country no longer meets the requirements under subclause (II), the Commissioner may not further exclude the country from the requirement described in subclause (I).

(IV) The Commissioner shall, on an annual basis, submit to the appropriate congressional committees—

(aa) a list of countries with respect to which the Commissioner has made a determination under subclause (II) to exclude the countries from the requirement described in subclause (I); and

(bb) information used to support such determination with respect to such countries.

(vii)(I) The Postmaster General shall, in consultation with the Commissioner, refuse any shipments received after December 31, 2020, for which the information described in paragraphs (1) and (2) is not transmitted as required under this subparagraph, except as provided in subclause (II).

(II) If remedial action is warranted in lieu of refusal of shipments pursuant to subclause (I), the Postmaster General and the Commissioner shall take remedial action with respect to the shipments, including destruction, seizure, controlled delivery or other law enforcement initiatives, or correction of the failure to provide the information described in paragraphs (1) and (2) with respect to the shipments.

(viii) Nothing in this subparagraph shall be construed to limit the authority of the Secretary to obtain information relating to international mail shipments from private carriers or other appropriate parties.

(ix) In this subparagraph, the term “appropriate congressional committees” means—

(I) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(II) the Committee on Ways and Means, the Committee on Oversight and Government Reform, and the Committee on Homeland Security of the House of Representatives.

(L) Not later than 15 days prior to publication of a final rule pursuant to this section, the Secretary shall transmit to the Committees on Finance and Commerce, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth—

(i) the proposed regulations;

(ii) an explanation of how particular requirements in the proposed regulations meet the needs of cargo safety and security;

(iii) an explanation of how the Secretary expects the proposed regulations to affect the commercial practices of affected parties;

(iv) an explanation of how the proposed regulations address particular comments received from interested parties; and

(v) if the Secretary determines to amend the proposed regulations after they have been transmitted to the Committees pursuant to this subparagraph, the Secretary shall transmit the amended regulations to such Committees no later than 5 days prior to the publication of the final rule.

(4) Transmission of data

Pursuant to paragraph (2), not later than 1 year after August 10, 2005, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of title 26) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after August 10, 2005, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.

(5) Capacity building

(A) In general

The Secretary, with the concurrence of the Secretary of State, and in coordination with the Postmaster General and the heads of other Federal agencies, as appropriate, may provide technical assistance, equipment, technology, and training to enhance the capacity of foreign postal operators—

(i) to gather and provide the information required by paragraph (3)(K); and

(ii) to otherwise gather and provide postal shipment information related to—

(I) terrorism;

(II) items the importation or introduction of which into the United States is prohibited or restricted, including controlled substances; and

(III) such other concerns as the Secretary determines appropriate.

(B) Provision of equipment and technology

With respect to the provision of equipment and technology under subparagraph (A), the Secretary may lease, loan, provide, or otherwise assist in the deployment of such equipment and technology under such terms and conditions as the Secretary may prescribe, including nonreimbursable loans or the transfer of ownership of equipment and technology.

(b) Omitted**(c) Secretary**

For purposes of this section, the term “Secretary” means the Secretary of the Treasury. If, at the time the regulations required by subsection (a)(1) are promulgated, the Customs Service is no longer located in the Department of the Treasury, then the Secretary of the Treasury shall exercise the authority under subsection (a) jointly with the Secretary of the Department in which the Customs Service is located.

(Pub. L. 107–210, div. A, title III, §343, Aug. 6, 2002, 116 Stat. 981; Pub. L. 107–295, title I, §108(b), Nov. 25, 2002, 116 Stat. 2089; Pub. L. 109–59, title XI, §11165(a), Aug. 10, 2005, 119 Stat. 1976; Pub. L. 114–125, title I, §111(c), Feb. 24, 2016, 130 Stat. 140; Pub. L. 115–271, title VIII, §8003(a)(1), (b)(1), (e), Oct. 24, 2018, 132 Stat. 4074, 4076, 4079.)

REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsec. (a)(3)(F), is act June 17, 1930, ch. 497, 46 Stat. 590. Title IV of the Act is classified generally to this subtitle. For complete classification of this Act to the Code, see section 1654 of this title and Tables.

CODIFICATION

Subsections (a) and (c) of this section were formerly set out as a note under section 2071 of this title.

Section was enacted as part of the Customs Border Security Act of 2002, and also as part of the Trade Adjustment Assistance Reform Act of 2002 and as part of the Trade Act of 2002, and not as part of the Tariff Act of 1930 which comprises this chapter.

Section is comprised of section 343 of Pub. L. 107–210. Subsec. (b) of section 343 of Pub. L. 107–210 enacted section 1431a of this title.

AMENDMENTS

2018—Pub. L. 115–271, §8003(e), substituted “advance” for “advanced” in section catchline.

Subsec. (a)(3)(K). Pub. L. 115–271, §8003(a)(1), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: “With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.”

Subsec. (a)(5). Pub. L. 115–271, §8003(b)(1), added par. (5).

2016—Subsec. (a)(3)(F). Pub. L. 114–125 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “The information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security and preventing smuggling, and shall not be used for determining merchandise entry or for any other commercial enforcement purposes. Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.”

2005—Subsec. (a)(4). Pub. L. 109–59 added par. (4).

2002—Subsec. (a)(1). Pub. L. 107–295, §108(b)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “Subject to paragraphs (2) and (3), not later than 1 year after August 6, 2002, the Secretary shall promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation.”

Subsec. (a)(2). Pub. L. 107–295, §108(b)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information as the Secretary determines to be reasonably necessary to ensure aviation, maritime, and surface transportation safety and security pursuant to those laws enforced and administered by the Customs Service.”

Subsec. (a)(3)(F). Pub. L. 107–295, §108(b)(3)(A), (B), substituted “cargo safety and security” for “aviation, maritime, and surface transportation safety and security”, inserted “and preventing smuggling” after “security” and “merchandise” after “determining”, and inserted at end “Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.”

Subsec. (a)(3)(G). Pub. L. 107–295, §108(b)(3)(C), inserted “cargo” after “confidential” and “pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 and required to be available for public disclosure pursuant to section 431(c) of such Act.” after “Customs Service” and struck out at end “However, this parameter does not repeal, amend, or otherwise modify other provisions of law relating to the public disclosure of information transmitted to the Customs Service.”

Subsec. (a)(3)(H). Pub. L. 107–295, §108(b)(3)(A), substituted “cargo safety and security” for “aviation, maritime, and surface transportation safety and security”.

Subsec. (a)(3)(L). Pub. L. 107–295, §108(b)(3)(D)(i)(II), which directed the substitution of “publication of a final rule pursuant to this section” for “promulgation of regulations” in introductory provisions, was executed by making the substitution for “promulgation of the regulations” to reflect the probable intent of Congress.

Pub. L. 107–295, §108(b)(3)(D)(i)(I), substituted “15 days” for “60 days” in introductory provisions.

Subsec. (a)(3)(L)(ii). Pub. L. 107–295, §108(b)(3)(A), substituted “cargo safety and security” for “aviation, maritime, and surface transportation safety and security”.

Subsec. (a)(3)(L)(v). Pub. L. 107–295, §108(b)(3)(D)(ii)–(iv), added cl. (v).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title XI, §11165(b), Aug. 10, 2005, 119 Stat. 1976, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 2005].”

INTERNATIONAL POSTAL AGREEMENTS

Pub. L. 115–271, title VIII, §8004, Oct. 24, 2018, 132 Stat. 4079, provided that:

“(a) EXISTING AGREEMENTS.—

“(1) IN GENERAL.—In the event that any provision of this subtitle [subtitle A (§§8001–8009) of title VIII of Pub. L. 115–271, see Short Title of 2018 Amendment note set out under section 1 of this title], or any amendment made by this subtitle, is determined to be in violation of obligations of the United States under any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, the Secretary of State should negotiate to amend the relevant provisions of the agreement so that the United States is no longer in violation of the agreement.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to permit delay in the implementation of this subtitle or any amendment made by this subtitle.

“(b) FUTURE AGREEMENTS.—

“(1) CONSULTATIONS.—Before entering into, on or after the date of the enactment of this Act [Oct. 24,

2018], any postal treaty, convention, or other international agreement related to international postal services, or any amendment to such an agreement, that is related to the ability of the United States to secure the provision of advance electronic information by foreign postal operators, the Secretary of State should consult with the appropriate congressional committees (as defined in section 8003(f)) [Committee on Finance and Committee on Homeland Security and Governmental Affairs of the Senate and Committee on Ways and Means, Committee on Oversight and Government Reform, and Committee on Homeland Security of the House of Representatives].

“(2) EXPEDITED NEGOTIATION OF NEW AGREEMENT.—To the extent that any new postal treaty, convention, or other international agreement related to international postal services would improve the ability of the United States to secure the provision of advance electronic information by foreign postal operators as required by regulations prescribed under section 343(a)(3)(K) of the Trade Act of 2002 [19 U.S.C. 1415(a)(3)(K)], as amended by section 8003(a)(1), the Secretary of State should expeditiously conclude such an agreement.”

COST RECOUPMENT

Pub. L. 115–271, title VIII, § 8005, Oct. 24, 2018, 132 Stat. 4079, provided that:

“(a) IN GENERAL.—The United States Postal Service shall, to the extent practicable and otherwise recoverable by law, ensure that all costs associated with complying with this subtitle [subtitle A (§§ 8001–8009) of title VIII of Pub. L. 115–271, see Short Title of 2018 Amendment note set out under section 1 of this title] and amendments made by this subtitle are charged directly to foreign shippers or foreign postal operators.

“(b) COSTS NOT CONSIDERED REVENUE.—The recovery of costs under subsection (a) shall not be deemed revenue for purposes of subchapter I and II of chapter 36 of title 39, United States Code, or regulations prescribed under that chapter.”

PART II—REPORT, ENTRY, AND UNLOADING OF VESSELS AND VEHICLES

§ 1431. Manifests

(a) In general

Every vessel required to make entry under section 1434 of this title or obtain clearance under section 60105 of title 46 shall have a manifest that complies with the requirements prescribed under subsection (d).

(b) Production of manifest

Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties.

(c) Public disclosure of certain manifest information

(1) Except as provided in subparagraph (2), the following information, when contained in a ves-

sel vessel¹ or aircraft manifest, shall be available for public disclosure:

(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

(B) The general character of the cargo.

(C) The number of packages and gross weight.

(D) The name of the vessel, aircraft, or carrier.

(E) The seaport or airport of loading.

(F) The seaport or airport of discharge.

(G) The country of origin of the shipment.

(H) The trademarks appearing on the goods or packages.

(2) The information listed in paragraph (1) shall not be available for public disclosure if—

(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

(B) the information is exempt under the provisions of section 552(b)(1) of title 5.

(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.

(d) Regulations

(1) In general

The Secretary shall by regulation—

(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a);

(B) allow, at the option of the individual producing the manifest and subject to paragraph (2), letters and documents shipments to be accounted for by summary manifesting procedures;

(C) prescribe the manner of production for, and the delivery for electronic transmittal of, the manifest required by subsection (a); and

(D) prescribe the manner for supplementing manifests with bill of lading data under subsection (b).

(2) Letters and documents shipments

For purposes of paragraph (1)(B)—

(A) the Customs Service may require with respect to letters and documents shipments—

(i) that they be segregated by country of origin, and

(ii) additional examination procedures that are not necessary for individually manifested shipments;

(B) standard letter envelopes and standard document packs shall be segregated from

¹ So in original.

larger document shipments for purposes of customs inspections; and

(C) the term “letters and documents” means—

(i) data described in General Headnote 4(c) of the Harmonized Tariff Schedule of the United States,

(ii) securities and similar evidences of value described in heading 4907 of such Schedule, but not monetary instruments defined pursuant to chapter 53 of title 31, and

(iii) personal correspondence, whether on paper, cards, photographs, tapes, or other media.

(June 17, 1930, ch. 497, title IV, § 431, 46 Stat. 710; Aug. 8, 1953, ch. 397, § 15, 67 Stat. 516; Pub. L. 98-573, title II, § 203, Oct. 30, 1984, 98 Stat. 2974; Pub. L. 100-690, title VII, § 7367(c)(1), Nov. 18, 1988, 102 Stat. 4479; Pub. L. 103-182, title VI, § 635, Dec. 8, 1993, 107 Stat. 2199; Pub. L. 104-153, § 11, July 2, 1996, 110 Stat. 1389; Pub. L. 104-295, § 3(a)(3), Oct. 11, 1996, 110 Stat. 3515.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (d)(2)(C)(i), (ii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

CODIFICATION

In subsec. (a), “section 60105 of title 46” substituted for “section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

PRIOR PROVISIONS

R.S. §§ 2806, 2807 (as amended by act June 3, 1902, ch. 86, § 1, 27 Stat. 41), and 2808, requiring manifests, and prescribing their contents, were superseded by act Sept. 21, 1922, ch. 356, title IV, § 431, 42 Stat. 950, and repealed by section 642 thereof. Section 431 of the 1922 act was superseded by section 431 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

R.S. § 2805, relative to the administration of oaths required by that chapter, was superseded to a great extent by the Customs Administrative Act of June 10, 1890, ch. 407, § 22, 26 Stat. 140, amended by the Payne-Adrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 102, and by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, § IV, S., 38 Stat. 201, which abolished all oaths administered by officers of the customs, except as provided in those acts and repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-295 substituted “a vessel manifest” for “such manifest” in introductory provisions.

Pub. L. 104-153 inserted “vessel or aircraft” before “manifest” in introductory provisions, amended subpars. (D) to (F) generally, substituting “vessel, aircraft, or carrier” for “vessel or carrier” in subpar. (D) and “seaport or airport” for “port” in subpars. (E) and (F), and added subpar. (H).

1993—Subsecs. (a) and (b). Pub. L. 103-182, § 635(1), amended subsecs. (a) and (b) generally, substituting present provisions for provisions relating to, in subsec. (a), the requirement, form, and contents of manifests and, in subsec. (b), the signing and delivery of manifests.

Subsec. (d). Pub. L. 103-182, § 635(2), added subsec. (d). 1988—Subsec. (c)(1)(G). Pub. L. 100-690 substituted “country of origin” for “country or origin”.

1984—Subsec. (a). Pub. L. 98-573, § 203(1), inserted “; and the names of the shippers of such merchandise” in par. Third.

Subsec. (c). Pub. L. 98-573, § 203(2), added subsec. (c). 1953—Act Aug. 8, 1953, designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment to this section effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

REGULATIONS

Pub. L. 104-153, § 14, July 2, 1996, 110 Stat. 1390, provided that: “Not later than 6 months after the date of the enactment of this Act [July 2, 1996], the Secretary of the Treasury shall prescribe such regulations or amendments to existing regulations that may be necessary to carry out the amendments made by sections 9, 10, 11, 12, and 13 of this Act [amending this section, sections 1484 and 1526 of this title, and section 80302 of Title 49, Transportation].”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1431a. Documentation of waterborne cargo

(a) Applicability

This section shall apply to all cargo to be exported that is moved by a vessel carrier from a port in the United States.

(b) Documentation required

(1) No shipper of cargo subject to this section (including an ocean transportation intermediary that is a non-vessel-operating common carrier (as defined in section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B))¹)² may tender or cause to be tendered to a vessel carrier cargo subject to this section for loading on a vessel in a United States port, unless such cargo is properly documented pursuant to this subsection.

(2) For the purposes of this subsection, cargo shall be considered properly documented if the shipper submits to the vessel carrier or its agent a complete set of shipping documents no later

¹ See References in Text note below.

² So in original. Probably should be “1702(17)(B))”.

than 24 hours after the cargo is delivered to the marine terminal operator, but under no circumstances later than 24 hours prior to departure of the vessel.

(3) A complete set of shipping documents shall include—

(A) for shipments for which a shipper's export declaration is required, a copy of the export declaration or, if the shipper files such declarations electronically in the Automated Export System, the complete bill of lading, and the master or equivalent shipping instructions, including the Internal Transaction Number (ITN); or

(B) for shipments for which a shipper's export declaration is not required, a shipper's export declaration exemption statement and such other documents or information as the Secretary may by regulation prescribe.

(4) The Secretary shall by regulation prescribe the time, manner, and form by which shippers shall transmit documents or information required under this subsection to the Customs Service.

(c) Loading undocumented cargo prohibited

(1) No marine terminal operator (as defined in section 3(14) of the Shipping Act of 1984 (46 U.S.C. App. 1702(14)))¹ may load, or cause to be loaded, any cargo subject to this section on a vessel unless instructed by the vessel carrier operating the vessel that such cargo has been properly documented in accordance with this section.

(2) When cargo is booked by 1 vessel carrier to be transported on the vessel of another vessel carrier, the booking carrier shall notify the operator of the vessel that the cargo has been properly documented in accordance with this section. The operator of the vessel may rely on such notification in releasing the cargo for loading aboard the vessel.

(d) Reporting of undocumented cargo

(1) In general

A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal.

(2) Sharing arrangements

For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier's vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

(3) Reassignment to another vessel

For purposes of this subsection and subsection (f), if merchandise has been tendered to a marine terminal operator and subsequently reassigned for carriage on another vessel, the merchandise shall be considered properly documented if the information provided reflects carriage on the previously as-

signed vessel and otherwise meets the requirements of subsection (b). Notwithstanding the preceding sentence, it shall be the responsibility of the vessel carrier to notify the Customs Service promptly of any reassignment of merchandise for carriage on a vessel other than the vessel on which the merchandise was originally assigned.

(4) Multiple containers

If a single shipment is comprised of multiple containers, the 48-hour period described in paragraph (1) shall begin to run from the time the last container of the shipment is delivered to the marine terminal operator. It shall be the responsibility of the person tendering the cargo to inform the carrier that the shipment consists of multiple containers that will be delivered to the marine terminal operator at different times as part of a single shipment.

(e) Assessment of penalties

Whoever is found to have violated subsection (b) of this section shall be liable to the United States for civil penalties in a monetary amount up to the value of the cargo, or the actual cost of the transportation, whichever is greater.

(f) Seizure of undocumented cargo

(1) Any cargo that is not properly documented pursuant to this section and has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal operator shall be subject to search, seizure, and forfeiture.

(2) The shipper of any such cargo is liable to the marine terminal operator and to the ocean carrier for demurrage and other applicable charges for any undocumented cargo which has been notified to or searched or seized by the Customs Service for the entire period the cargo remains under the order and direction of the Customs Service. Unless the cargo is seized by the Customs Service and forfeited, the marine terminal operator and the ocean carrier shall have a lien on the cargo for the amount of the demurrage and other charges.

(g) Effect on other provisions

Nothing in this section shall be construed, interpreted, or applied to relieve or excuse any party from compliance with any obligation or requirement arising under any other law, regulation, or order with regard to the documentation or carriage of cargo.

(June 17, 1930, ch. 497, title IV, § 431A, as added Pub. L. 107-210, div. A, title III, § 343(b), Aug. 6, 2002, 116 Stat. 983; amended Pub. L. 107-295, title I, § 108(a), Nov. 25, 2002, 116 Stat. 2088.)

REFERENCES IN TEXT

Section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B)), referred to in subsec. (b)(1), is section 3(17)(B) of Pub. L. 98-237, which was classified to section 1702(17)(B) of the former Appendix to Title 46, Shipping, prior to repeal and restatement as section 40102(16) of Title 46 by Pub. L. 109-304, §§ 7, 19, Oct. 6, 2006, 120 Stat. 1523, 1710. Par. (16) of section 40102 was redesignated par. (17) by Pub. L. 115-282, title VII, § 704(1), Dec. 4, 2018, 132 Stat. 4294.

Section 3(14) of the Shipping Act of 1984 (46 U.S.C. App. 1702(14)), referred to in subsec. (c)(1), is section 3(14) of Pub. L. 98-237, which was classified to section

1702(14) of the former Appendix to Title 46, Shipping, prior to repeal and restatement as section 40102(14) of Title 46 by Pub. L. 109-304, §§ 7, 19, Oct. 6, 2006, 120 Stat. 1523, 1710. Par. (14) of section 40102 was redesignated par. (15) by Pub. L. 115-282, title VII, § 704(1), Dec. 4, 2018, 132 Stat. 4294.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-295 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: “A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal. For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier’s vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.”

EFFECTIVE DATE

Section applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as an Effective Date of 2002 Amendment note preceding section 2271 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§§ 1432, 1432a. Repealed. Pub. L. 103-182, title VI, § 690(b)(1), (c)(5), Dec. 8, 1993, 107 Stat. 2223

Section 1432, acts June 17, 1930, ch. 497, title IV, § 432, 46 Stat. 710; June 2, 1970, Pub. L. 91-271, title III, § 301(b), 84 Stat. 287, required that the manifest of any vessel arriving from foreign port or place separately specify articles to be retained on board as sea stores, ship’s stores, bunker coal, or bunker oil and provided for forfeiture and penalties for omitted articles.

Section 1432a, act June 17, 1930, ch. 497, title IV, § 401 (part), as added Aug. 5, 1935, ch. 438, title II, § 201, 49 Stat. 521, provided that any vessel which had visited any hovering vessel would be deemed to have arrived from a foreign port or place, for purposes of certain provisions of law. Section 690(c)(5) of Pub. L. 103-182 which directed the repeal of the “last undesignated paragraph of section 201 of the Act of August 5, 1935 (19 U.S.C. 1432a)”, was executed by repealing this section, which was based on the last undesignated paragraph of section 401 of act June 17, 1930, as added by section 201 of act Aug. 5, 1935, to reflect the probable intent of Congress.

§ 1433. Report of arrival of vessels, vehicles, and aircraft

(a) Vessel arrival

(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

- (A) any vessel from a foreign port or place;
- (B) any foreign vessel from a domestic port;
- (C) any vessel of the United States carrying foreign merchandise for which entry has not been made; or
- (D) any vessel which has visited a hovering vessel or received merchandise while outside the territorial sea;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may prescribe by regulations.

(2) The Secretary may by regulation—

- (A) prescribe the manner in which arrivals are to be reported under paragraph (1); and
- (B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

(b) Vehicle arrival

(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

- (A) report the arrival; and
- (B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

(c) Aircraft arrival

The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

(d) Presentation of documentation

The master, person in charge of a vehicle, or aircraft pilot shall present, or transmit pursuant to an electronic data interchange system, to the Customs Service such information, data, documents, papers, or manifests as the Secretary may by regulation prescribe.

(e) Prohibition on departures and discharge

Unless otherwise authorized by law, a vessel, aircraft or vehicle after arriving in the United States or Virgin Islands may, but only in accordance with regulations prescribed by the Secretary—

- (1) depart from the port, place, or airport of arrival; or
- (2) discharge any passenger or merchandise (including baggage).

(June 17, 1930, ch. 497, title IV, § 433, 46 Stat. 711; Pub. L. 99-570, title III, § 3112, Oct. 27, 1986, 100 Stat. 3207-80; Pub. L. 103-182, title VI, § 652, Dec. 8, 1993, 107 Stat. 2209; Pub. L. 106-476, title I, § 1452(a)(1), Nov. 9, 2000, 114 Stat. 2167.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 433, 42 Stat. 951. That section was superseded by section 433 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

R.S. § 2774, requiring a report of arrival, and a further report in the form of a manifest, and imposing a penalty for violations was superseded by act Sept. 21, 1922, ch. 356, title IV, § 433, 42 Stat. 951, and repealed by section 642 of that act.

R.S. § 2772, relative to report and entry by the master of every vessel, bound to a port of delivery; section 2775, requiring a special report by the master of any vessel having on board distilled spirits or wines; and section 2832, relative to report of arrival of vessels proceeding to the ports of Natchez or Vicksburg, were also repealed by section 642 of the act of Sept. 21, 1922, ch. 356.

AMENDMENTS

2000—Subsec. (a)(1)(C). Pub. L. 106-476 struck out “bonded merchandise, or” before “foreign merchandise”.

1993—Subsec. (a)(1)(D). Pub. L. 103-182, § 652(1), added subpar. (D).

Subsec. (d). Pub. L. 103-182, § 652(2), substituted “present, or transmit pursuant to an electronic data interchange system, to the Customs Service such information, data,” for “present to customs officers such”.

Subsec. (e). Pub. L. 103-182, § 652(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Unless otherwise authorized by law, a vessel, aircraft, or vehicle may, after arriving in the United States or the Virgin Islands—

“(1) depart from the port, place, or airport of arrival; or

“(2) discharge any passenger or merchandise (including baggage); only in accordance with regulations prescribed by the Secretary.”

1986—Pub. L. 99-570 amended section generally. Prior to amendment, section read as follows: “Within twenty-four hours after the arrival of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, at any port or place within the United States at which such vessel shall come to, the master shall, unless otherwise provided by law, report the arrival of the vessel at the nearest customhouse, under such regulations as the Commissioner of Customs may prescribe.”

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1434. Entry; vessels

(a) Formal entry

Within 24 hours (or such other period of time as may be provided under subsection (c)(2)) after the arrival at any port or place in the United States of—

- (1) any vessel from a foreign port or place;
- (2) any foreign vessel from a domestic port;
- (3) any vessel of the United States having on board foreign merchandise for which entry has not been made; or
- (4) any vessel which has visited a hovering vessel or has delivered or received merchandise while outside the territorial sea;

the master of the vessel shall, unless otherwise provided by law, make formal entry at the nearest customs facility or such other place as the Secretary may prescribe by regulation.

(b) Preliminary entry

The Secretary may by regulation permit the master to make preliminary entry of the vessel with the Customs Service in lieu of formal entry or before formal entry is made. In permitting preliminary entry, the Customs Service shall board a sufficient number of vessels to ensure compliance with the laws it enforces.

(c) Regulations

The Secretary may by regulation—

(1) prescribe the manner and format in which entry under subsection (a) or subsection (b), or both, must be made, and such regulations may provide that any such entry may be made electronically pursuant to an electronic data interchange system;

(2) provide that—

(A) formal entry must be made within a greater or lesser time than 24 hours after arrival, but in no case more than 48 hours after arrival, and

(B) formal entry may be made before arrival; and

(3) authorize the Customs Service to permit entry or preliminary entry of any vessel to be made at a place other than a designated port of entry, under such conditions as may be prescribed.

(June 17, 1930, ch. 497, title IV, § 434, 46 Stat. 711; Aug. 5, 1935, ch. 438, title III, § 301, 49 Stat. 527; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 653, Dec. 8, 1993, 107 Stat. 2210; Pub. L. 106-476, title I, § 1452(a)(2), Nov. 9, 2000, 114 Stat. 2167.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 434, 42 Stat. 951. That section was superseded by section 434 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for deposit of the register and other papers previous to entry, and for their return to the master or owner of the vessel on clearance of the vessel, were contained in R.S. § 2790, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 434, 42 Stat. 951, and repealed by section 642 of that act.

R.S. § 2836, relative to the entry of vessels arriving within the districts of Petersburg or Richmond (abolished by the Plan of Reorganization of the Customs Service set forth in a note to section 1 of this title) was also repealed by section 642 of act Sept. 21, 1922, ch. 356.

Special provisions for Astoria and Portland were contained in R.S. §§ 2588-2590, which were also repealed by section 642 of the act of Sept. 21, 1922, ch. 356.

R.S. § 2835, prescribing the duties of masters of vessels bound up James River, Virginia, in regard to deposit of manifests, etc., was repealed by act Mar. 3, 1897, ch. 389, § 16, 29 Stat. 691.

Special provisions to facilitate the entry of steamships running in an established line in foreign trade, made by act June 5, 1894, ch. 92, §1, 28 Stat. 85, and extended to steamships trading between Porto Rico and Hawaii and the United States by act May 31, 1900, ch. 600, 31 Stat. 249, were repealed by section 6 of act Feb. 13, 1911, ch. 46, the preceding sections of which act made more comprehensive provisions for preliminary entry of any vessel from a foreign port, and for the lading or unlading of such vessels at night. Sections 1 to 4 of said act of 1911, were repealed by section 643 of the act of Sept. 21, 1922, ch. 356.

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106-476 struck out “bonded merchandise or” before “foreign merchandise”.

1993—Pub. L. 103-182 amended section generally. Prior to amendment, section read as follows: “Except as otherwise provided by law, and under such regulations as the Commissioner of Customs may prescribe, the master of a vessel of the United States arriving in the United States from a foreign port or place shall, within forty-eight hours after its arrival within the limits of any customs collection district, make formal entry of the vessel at the customhouse by producing and depositing with the appropriate customs officer the vessel’s crew list, its register, or document in lieu thereof, the clearance and bills of health issued to the vessel at the foreign port or ports from which it arrived, together with the original and one copy of the manifest, and shall make oath that the ownership of the vessel is as indicated in the register, or document in lieu thereof, and that the manifest was made out in accordance with section 1431 of this title.”

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

1935—Act Aug. 5, 1935, inserted “or document in lieu thereof” after “indicated in the register”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1435. Repealed. Pub. L. 103-182, title VI, § 690(b)(2), Dec. 8, 1993, 107 Stat. 2223

Section, act June 17, 1930, ch. 497, title IV, § 435, 46 Stat. 711, set forth entry requirements for foreign vessels arriving within limits of any customs collection district.

§ 1435a. Transferred

CODIFICATION

Section, act May 4, 1934, ch. 212, 48 Stat. 663, was transferred to section 91a of former Title 46, Shipping, and subsequently repealed by Pub. L. 103-182, title VI, § 690(c)(7), Dec. 8, 1993, 107 Stat. 2223.

§ 1435b. Repealed. Pub. L. 103-182, title VI, § 690(c)(6), Dec. 8, 1993, 107 Stat. 2223

Section, acts June 16, 1937, ch. 362, 50 Stat. 303; 1946 Reorg. Plan No. 3, §§101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 2, 1970, Pub. L. 91-271, title III, § 320, 84 Stat. 293, related to clearance of vessels arriving on Sundays, holidays, or at night.

§ 1436. Penalties for violations of arrival, reporting, entry, and clearance requirements

(a) Unlawful acts

It is unlawful—

(1) to fail to comply with section 1431, 1433, or 1434 of this title or section 60105 of title 46;

(2) to present or transmit, electronically or otherwise, any forged, altered, or false document, paper, information, data or manifest to the Customs Service under section 1431, 1433(d), or 1434 of this title or section 60105 of title 46 without revealing the facts;

(3) to fail to make entry or to obtain clearance as required by section 1434 or 1644 of this title, section 60105 of title 46, or section 1644a(b)(1) or (c)(1) of this title; or

(4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

(b) Civil penalty

Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

(c) Criminal penalty

In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than \$2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

(d) Additional civil penalty

If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise

consists of any controlled substance listed in section 1584 of this title, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.

(e) Civil penalties for postal shipments

(1) Civil penalty

A civil penalty shall be imposed against the United States Postal Service if the Postal Service accepts a shipment in violation of section 1415(a)(3)(K)(vii)(I) of this title.

(2) Modification of civil penalty

(A) In general

U.S. Customs and Border Protection shall reduce or dismiss a civil penalty imposed pursuant to paragraph (1) if U.S. Customs and Border Protection determines that the United States Postal Service—

- (i) has a low error rate in compliance with section 1415(a)(3)(K) of this title;
- (ii) is cooperating with U.S. Customs and Border Protection with respect to the violation of section 1415(a)(3)(K)(vii)(I) of this title; or
- (iii) has taken remedial action to prevent future violations of section 1415(a)(3)(K)(vii)(I) of this title.

(B) Written notification

U.S. Customs and Border Protection shall issue a written notification to the Postal Service with respect to each exercise of the authority of subparagraph (A) to reduce or dismiss a civil penalty imposed pursuant to paragraph (1).

(3) Ongoing lack of compliance

If U.S. Customs and Border Protection determines that the United States Postal Service—

- (A) has repeatedly committed violations of section 1415(a)(3)(K)(vii)(I) of this title,
- (B) has failed to cooperate with U.S. Customs and Border Protection with respect to violations of section 1415(a)(3)(K)(vii)(I) of this title, and
- (C) has an increasing error rate in compliance with section 1415(a)(3)(K) of this title,

civil penalties may be imposed against the United States Postal Service until corrective action, satisfactory to U.S. Customs and Border Protection, is taken.

(June 17, 1930, ch. 497, title IV, § 436, 46 Stat. 711; Aug. 5, 1935, ch. 438, title II, § 202, 49 Stat. 521; Pub. L. 99-570, title III, § 3113(a), Oct. 27, 1986, 100 Stat. 3207-81; Pub. L. 103-182, title VI, § 611, Dec. 8, 1993, 107 Stat. 2170; Pub. L. 104-295, § 21(e)(3), Oct. 11, 1996, 110 Stat. 3530; Pub. L. 115-271, title VIII, § 8007, Oct. 24, 2018, 132 Stat. 4080.)

CODIFICATION

In subsec. (a)(1) to (3), “section 60105 of title 46” substituted for “section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

In subsec. (a)(3), “section 1644a(b)(1) or (c)(1) of this title” substituted for “section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1509)” on authority of Pub. L. 103-272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. § 2834, as amended by act Mar. 3, 1897, ch. 389, § 15, 29 Stat. 691, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 436, 42 Stat. 951, and was repealed by section 642 thereof. Section 436 of the 1922 act was superseded by section 436 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2018—Subsec. (e). Pub. L. 115-271 added subsec. (e).

1996—Subsec. (a)(2). Pub. L. 104-295 substituted “1431” for “1431(e)” and struck out “or” after semicolon at end.

1993—Pub. L. 103-182, § 611(2), substituted “entry, and clearance” for “and entry” in section catchline.

Subsec. (a)(1). Pub. L. 103-182, § 611(1)(A), substituted “section 1431, 1433, or 1434 of this title or section 91 of title 46, Appendix” for “section 1433 of this title”.

Subsec. (a)(2), (3). Pub. L. 103-182, § 611(1)(B), (C), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

“(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 1433(d) of this title without revealing the facts;

“(3) to fail to make entry as required by section 1434, 1435, or 1644 of this title or section 1509 of title 49, Appendix; or”.

1986—Pub. L. 99-570 amended section generally. Prior to amendment, section read as follows: “Every master who fails to make the report or entry provided for in sections 1433, 1434, or 1435 of this title shall, for each offense, be liable to a fine of not more than \$1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than \$2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

“Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 1434 or 1435 of this title, knowing the same to be forged, altered, or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$50 or to imprisonment for not more than two years, or to both such fine and imprisonment.”

1935—Act Aug. 5, 1935, inserted provisions relating to additional penalty for vessel carrying nonimportable merchandise or liquor and added second par.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-271, title VIII, § 8009(a), Oct. 24, 2018, 132 Stat. 4081, provided that: “This subtitle [subtitle A (§§ 8001-8009) of title VIII of Pub. L. 115-271, see Short Title of 2018 Amendment note set out under section 1 of this title] and the amendments made by this subtitle (other than the amendments made by section 8002 [amending section 58c of this title]) shall take effect on the date of the enactment of this Act [Oct. 24, 2018].”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1436a. Report on violations of arrival, reporting, entry, and clearance requirements and falsity or lack of manifest

(a) In general

The Commissioner of U.S. Customs and Border Protection shall submit to the appropriate congressional committees an annual report that contains the information described in subsection (b) with respect to each violation of section 1436 of this title, as amended by section 8007, and section 1584 of this title that occurred during the previous year.

(b) Information described

The information described in this subsection is the following:

- (1) The name and address of the violator.
- (2) The specific violation that was committed.
- (3) The location or port of entry through which the items were transported.
- (4) An inventory of the items seized, including a description of the items and the quantity seized.
- (5) The location from which the items originated.
- (6) The entity responsible for the apprehension or seizure, organized by location or port of entry.
- (7) The amount of penalties assessed by U.S. Customs and Border Protection, organized by name of the violator and location or port of entry.
- (8) The amount of penalties that U.S. Customs and Border Protection could have levied, organized by name of the violator and location or port of entry.
- (9) The rationale for negotiating lower penalties, organized by name of the violator and location or port of entry.

(c) Appropriate congressional committees defined

In this section, the term “appropriate congressional committees” means—

- (1) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (2) the Committee on Ways and Means, the Committee on Oversight and Government Reform, and the Committee on Homeland Security of the House of Representatives.

(Pub. L. 115–271, title VIII, § 8008, Oct. 24, 2018, 132 Stat. 4081.)

REFERENCES IN TEXT

Section 1436 of this title, as amended by section 8007, referred to in subsec. (a), is section 1436 of this title as amended by section 8007 of Pub. L. 115–271.

CODIFICATION

Section was enacted as part of the Synthetics Trafficking and Overdose Prevention Act of 2018, also known as the STOP Act of 2018, and also as part of the Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, also known as the SUPPORT for Patients and Communities Act, and not as part of the Tariff Act of 1930 which comprises this chapter.

§ 1437. Repealed. Pub. L. 103–182, title VI, § 690(b)(3), Dec. 8, 1993, 107 Stat. 2223

Section, act June 17, 1930, ch. 497, title IV, § 437, 46 Stat. 711, provided for return of register or document to master or owner of vessel upon clearance.

§ 1438. Unlawful return of foreign vessel’s papers

It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 1434 of this title, or regulations issued thereunder, until such master shall produce to him a clearance in due form from the Customs Service in the port in which such vessel has entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than \$5,000.

(June 17, 1930, ch. 497, title IV, § 438, 46 Stat. 712; Pub. L. 91–271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103–182, title VI, § 654, Dec. 8, 1993, 107 Stat. 2210.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 438, 42 Stat. 952. That section was superseded by section 438 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1993—Pub. L. 103–182 substituted “section 1434” for “section 1435”, inserted “, or regulations issued thereunder,” before “until such master”, and substituted “the Customs Service in the port in which such vessel has entered” for “the appropriate customs officer of the port where such vessel has been entered”.

1970—Pub. L. 91–271 substituted reference to appropriate customs officers for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91–271, see section 203 of Pub. L. 91–271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

§§ 1439, 1440. Repealed. Pub. L. 103–182, title VI, § 690(b)(4), (5), Dec. 8, 1993, 107 Stat. 2223

Section 1439, acts June 17, 1930, ch. 497, title IV, § 439, 46 Stat. 712; Aug. 8, 1953, ch. 397, § 2(b), 67 Stat. 507, required master of a vessel from a foreign port or place, immediately upon arrival, to mail or deliver to designated employee a copy of manifest and any corrections thereto.

Section 1440, acts June 17, 1930, ch. 497, title IV, § 440, 46 Stat. 712; Aug. 8, 1953, ch. 397, § 2(c), 67 Stat. 508, required master of a vessel to make post entry of any baggage or merchandise not included on manifest and to mail or deliver such entry to designated employee.

§ 1441. Exceptions to vessel entry and clearance requirements

The following vessels shall not be required to make entry under section 1434 of this title or to obtain clearance under section 60105 of title 46:

(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade.

(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel shall be required to report such baggage and merchandise to the appropriate customs officer within twenty-four hours after arrival.

(3) Any vessel carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, if—

(A) the vessel does not in any way violate the customs or navigation laws of the United States;

(B) the vessel has not visited any hovering vessel; and

(C) the master of the vessel, if there is on board any article required by law to be entered, reports the article to the Customs Service immediately upon arrival.

(4) Any United States documented vessel with recreational endorsement or any undocumented United States pleasure vessel not engaged in trade, if—

(A) the vessel complies with the reporting requirements of section 1433 of this title, and with the customs and navigation laws of the United States;

(B) the vessel has not visited any hovering vessel; and

(C) the master of, and any other person on board, the vessel, if the master or such person has on board any article required by law to be entered or declared, reports such article to the Customs Service immediately upon arrival.

(5) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the appropriate customs officer the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board.

(6) Any vessel required to anchor at the Belle Isle Anchorage in the waters of the Detroit River in the State of Michigan, for the purposes of awaiting the availability of cargo or berthing space or for the purpose of taking on a pilot or awaiting pilot services, or at the direction of the Coast Guard, prior to proceeding to the Port of Toledo, Ohio, where the vessel makes entry under section 1434 of this title

or obtains clearance under section 60105 of title 46.

(June 17, 1930, ch. 497, title IV, § 441, 46 Stat. 712; Aug. 5, 1935, ch. 438, title III, § 302, 49 Stat. 527; Aug. 14, 1937, ch. 620, § 1, 50 Stat. 638; Sept. 1, 1954, ch. 1213, title V, § 501(b), 68 Stat. 1140; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 98-573, title II, § 204, Oct. 30, 1984, 98 Stat. 2974; Pub. L. 103-182, title VI, § 655, Dec. 8, 1993, 107 Stat. 2210; Pub. L. 104-295, § 21(e)(5), Oct. 11, 1996, 110 Stat. 3530; Pub. L. 106-36, title I, § 1001(b)(10), June 25, 1999, 113 Stat. 132; Pub. L. 106-476, title I, § 1452(b), Nov. 9, 2000, 114 Stat. 2168.)

CODIFICATION

“Section 60105 of title 46” substituted in introductory provisions for “section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)” and in par. (6) for “section 4197 of the Revised Statutes of the United States” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

PRIOR PROVISIONS

Provisions somewhat similar to those in par. (1) of this section were contained in R.S. § 2791. R.S. § 3123 provided that steam-tugs duly enrolled and licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, when exclusively employed in towing vessels, should not be required to report and clear at the custom-house but that when employed in towing rafts or other vessels without sale or steam motive-power, not required to be enrolled or licensed they should report and clear in the same manner as other vessels. Both sections were superseded and more closely assimilated to this section by act Sept. 21, 1922, ch. 356, title IV, § 441, 42 Stat. 952, and repealed by section 642 thereof. Section 441 of the 1922 act was superseded by section 441 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2000—Par (6). Pub. L. 106-476 added par. (6).

1999—Par. (6). Pub. L. 106-36 struck out par. (6) which read as follows: “Tugs documented under chapter 121 of title 46 with a Great Lakes endorsement when towing vessels which are required by law to enter and clear.”

1996—Pars. (1), (2), (4), (5). Pub. L. 104-295 substituted period for semicolon at end of pars. (1), (2), and (4) and substituted period for “; and” at end of par. (5).

1993—Pub. L. 103-182, § 655(1), (5), substituted catchline for one which read “Vessels not required to enter” and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The following vessels shall not be required to make entry at the customhouse:”

Par. (3). Pub. L. 103-182, § 655(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: *Provided*, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: *Provided further*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.”

Pars. (4), (5). Pub. L. 103-182, § 655(3), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (6).

Par. (6). Pub. L. 103-182, § 655(3), (4), redesignated par. (5) as (6) and substituted “documented under chapter

121 of title 46 with a Great Lakes endorsement” for “enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers”.

1984—Par. (3). Pub. L. 98-573 amended par. (3) generally, inserting provision referring to vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning.

1970—Pars. (2) to (4). Pub. L. 91-271 substituted references to appropriate customs officer for references to collector wherever appearing.

1954—Par. (3). Act Sept. 1, 1954, exempted undocumented American pleasure vessels from entry requirements, and provided that both yachts and undocumented pleasure vessels report to the collector of customs, within 24 hours after arrival, all articles, whether dutiable or not, for which a customs entry is required.

1937—Par. (4). Act Aug. 14, 1937, substituted “sea stores, or ship’s stores” for “or necessary sea stores” wherever appearing.

1935—Par. (3). Act. Aug. 5, 1935, inserted “And not visiting any hovering vessel, nor having at any time or, if forfeited to the United States or to a foreign government, at any time after forfeiture, become liable to seizure and forfeiture for any violation of the laws of the United States”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to vessels returning from the British Virgin Islands on or after 15th day after Oct. 30, 1984, see section 214(a), (c)(1) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1937 AMENDMENT

Act Aug. 14, 1937, ch. 620, § 2, 50 Stat. 638, provided that: “The amendment made by this Act [amending this section] shall take effect on the day following the date of its enactment [Aug. 14, 1937].”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(l), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1442. Residue cargo

Any vessel having on board merchandise shown by the manifest to be destined to a foreign port or place may, after the report and entry of such vessel under the provisions of this chapter, proceed to such foreign port of destination with the cargo so destined therefor, without unloading the same and without the payment of duty thereon. Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to port or from district to district for the unloading thereof.

(June 17, 1930, ch. 497, title IV, § 442, 46 Stat. 713.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §§2776 (as amended by act June 26, 1884, ch. 121, § 29, 23 Stat. 59), 2777-2779, 2782, and 2783, all of which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 442, 42 Stat. 952, and were repealed by section 642 thereof. Section 442 of the 1922 act was superseded by section 442 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions authorizing the Secretary of the Treasury to require bonds in cases of vessels carrying goods destined for ports other than port of entry were contained in the 1922 act and prior acts. These provisions were omitted from this section. General provisions authorizing the Secretary to require bonds where not specifically required are contained in section 1623 of this title.

Special provisions concerning Astoria and Portland were contained in R.S. §§2588 and 2590, prior to repeal by section 642 of the act of Sept. 21, 1922, ch. 356.

§§ 1443 to 1445. Repealed. Pub. L. 103-182, title VI, § 690(b)(6), Dec. 8, 1993, 107 Stat. 2223

Section 1443, acts June 17, 1930, ch. 497, title IV, § 443, 46 Stat. 713; June 2, 1970, Pub. L. 91-271, title III, § 301(b), 84 Stat. 287, related to manifests and permits for merchandise arriving for delivery in different districts or ports of entry.

Section 1444, acts June 17, 1930, ch. 497, title IV, § 444, 46 Stat. 713; June 2, 1970, Pub. L. 91-271, title III, § 301(b), 84 Stat. 287, required master to report his arrival at another port to a customs officer within twenty-four hours and to produce copies of permit and manifest.

Section 1445, acts June 17, 1930, ch. 497, title IV, § 445, 46 Stat. 713; June 2, 1970, Pub. L. 91-271, title III, § 301(b), 84 Stat. 287, set forth penalties for failure of master to obtain or produce permit or manifest.

§ 1446. Supplies and stores retained on board

Vessels arriving in the United States from foreign ports may retain on board, without the payment of duty, all coal and other fuel supplies, ships’ stores, sea stores, and the legitimate equipment of such vessels. Any such supplies, ships’ stores, sea stores, or equipment landed and delivered from such vessel shall be considered and treated as imported merchandise: *Provided*, That bunker coal, bunker oil, ships’ stores, sea stores, or the legitimate equipment of vessels belonging to regular lines plying between foreign ports and the United States, which are delayed in port for any cause, may be transferred under a permit by the appropriate customs officer and under customs supervision from the vessel so delayed to another vessel of the same line and owner, and engaged in the for-

eign trade, without the payment of duty thereon.

(June 17, 1930, ch. 497, title IV, § 446, 46 Stat. 713; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 446, 42 Stat. 953. That section was superseded by section 446 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions similar to those in the last sentence of this section concerning sea stores and equipment, were contained in R.S. § 2797, as amended by act Mar. 3, 1897, ch. 389, § 17, 29 Stat. 691. A provision that steam vessels might retain coal on board without being required to land it or pay duty was contained in R.S. § 2798. Provision for collection of duty on excessive quantities of sea stores was made by R.S. § 2796. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1447. Place of entry and unloading

It shall be unlawful to make entry of any vessel or to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: *Provided*, That upon good cause therefor being shown, the Commissioner of U.S. Customs and Border Protection may permit entry of any vessel to be made at a place other than a port of entry designated by him, under such conditions as he shall prescribe: *And provided further*, That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unloading such cargo, under the supervision of customs officers if the Customs Service considers the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest.

(June 17, 1930, ch. 497, title IV, § 447, 46 Stat. 714; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 649(a), Dec. 8, 1993, 107 Stat. 2208; Pub. L. 114-125, title VIII, § 802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 447, 42 Stat. 953. That section was superseded by section 447 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions concerning the place of entry and unloading of foreign vessels and vessels from foreign ports were contained in R.S. §§ 2770 and 2771, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

Special provisions concerning the place of lading and unloading vessels laden with the products of Canada, New Brunswick, Nova Scotia, Newfoundland and Prince Edward Island were contained in R.S. § 3129, prior to repeal by section 642 of the 1922 act.

R.S. § 2897 authorized Secretary of the Treasury, under regulations by him prescribed, to permit unloading of salt, imported from foreign places, on right bank of Mississippi River, opposite New Orleans, at any point on said bank between upper and lower corporate limits of said city, prior to repeal by act Mar. 3, 1897, ch. 389, § 16, 29 Stat. 691.

AMENDMENTS

1993—Pub. L. 103-182 substituted “the Customs Service considers” for “the appropriate customs officer shall consider”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in text on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Customs personnel, referred to in text, were under Department of the Treasury.

“Commissioner of Customs” substituted in text for “Secretary of Commerce” on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

§ 1448. Unloading

(a) Permits and preliminary entries

Except as provided in section 1441 of this title (relating to vessels not required to enter or clear), no merchandise, passengers, or baggage shall be unladen from any vessel required to make entry under section 1434 of this title, or vehicle required to report arrival under section 1433 of this title, until entry of such vessel or report of the arrival of such vehicle has been made and a permit for the unloading of the same issued or transmitted pursuant to an electronic data interchange system by the Customs Service. After the entry of any vessel or report of the arrival of any vehicle, the Customs Service may issue a permit, electronically pursuant to an authorized electronic data interchange system or otherwise, to the master of the vessel, or to the

person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unloading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unloading without a permit therefor having been issued. The owner or master of any vessel or vehicle, or agent thereof, shall notify the Customs Service of any merchandise or baggage so unladen for which entry is not made within the time prescribed by law or regulation. The Secretary shall by regulation prescribe administrative penalties not to exceed \$1,000 for each bill of lading for which notice is not given. Any such administrative penalty shall be subject to mitigation and remittance under section 1618 of this title. Such unentered merchandise or baggage shall be the responsibility of the master or person in charge of the importing vessel or vehicle, or agent thereof, until it is removed from the carrier's control in accordance with section 1490 of this title.

(b) Special delivery permit

The Secretary of the Treasury is authorized to provide by regulations for the issuing of special permits for delivery, prior to formal entry therefor, of perishable articles and other articles, the immediate delivery of which is necessary.

(June 17, 1930, ch. 497, title IV, § 448, 46 Stat. 714; Pub. L. 91-271, title III, § 301(e), June 2, 1970, 84 Stat. 288; Pub. L. 103-182, title VI, § 656, Dec. 8, 1993, 107 Stat. 2211.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 448, 42 Stat. 953. That section was superseded by section 448 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions similar to those in this section concerning preliminary entries, and a further provision that on making such entry lading might proceed by both day and night, were contained in act Feb. 13, 1911, ch. 46, § 2, 36 Stat. 900, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

Provisions for the estimation of duties, and the issuance of permits for delivery of merchandise, and provisions prescribing the contents of such permits, were contained in R.S. § 2869, (as amended by act June 5, 1894, ch. 92, § 2, 28 Stat. 86) and § 2870, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

Provisions as to the removal of merchandise brought in any vessel from a foreign port or place, from the wharf or place where it might be landed or put, before it had been weighed, gauged, measured, etc., were contained in R.S. § 2882, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Pub. L. 103-182 in first sentence, substituted “enter or clear” for “enter”) and “required to make entry under section 1434 of this title, or vehicle required to report arrival under section 1433 of this title,” for “or vehicle arriving from a foreign port or place”, inserted “or transmitted pursuant to an electronic data interchange system” after “issued”, and

substituted “the Customs Service.” for “the appropriate customs officer: *Provided*, That the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse, as provided by this chapter.”, in second sentence, struck out “, preliminary or otherwise,” after “After the entry”, substituted “the Customs Service” for “such customs officer”, and inserted “, electronically pursuant to an authorized electronic data interchange system or otherwise,” after “may issue a permit”, and substituted last four sentences for former last sentence which read as follows: “Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the entry of the vessel or report of the vehicle, unless a longer time is granted by such customs officer, as provided in section 1484 of this title, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage, until entry thereof is made.”

1970—Subsec. (a). Pub. L. 91-271 substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1449. Unlading at port of entry

Except as provided in sections 1442 and 1447 of this title (relating to residue cargo and to bulk cargo respectively), merchandise and baggage imported in any vessel by sea shall be unladen at the port of entry to which such vessel is destined, unless (1) such vessel is compelled by any cause to put into another port of entry, and the Customs Service issues a permit for the unlading of such merchandise or baggage at such port, or (2) the Secretary of the Treasury, because of an emergency existing at the port of destination, authorizes such vessel to proceed to another port of entry. Merchandise and baggage so unladen may be entered in the same manner as other imported merchandise or baggage and may be treated as unclaimed merchandise or baggage and stored at the expense and risk of the owner thereof, or may be reladen without entry upon the vessel from which it was unladen for transportation to its destination.

(June 17, 1930, ch. 497, title IV, § 449, 46 Stat. 714; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84

Stat. 287; Pub. L. 103-182, title VI, §649(b), Dec. 8, 1993, 107 Stat. 2208.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §449, 42 Stat. 954. That section was superseded by section 449 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions concerning protests and reports by vessels compelled by distress of weather or other necessity to put into a port of the United States; permits for the unloading thereof; the storage of the goods; the disposal of perishable goods; variances between the report, and the delivery of the cargo, and the reloading of such vessels, and a special provision for Spanish vessels arriving in distress, were contained in R.S. §§2891-2895. Provisions for report and entry of vessels prevented by ice from getting to the port or place at which her cargo was intended to be delivered, and for the unloading or landing of the cargo, were contained in R.S. §2896. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1993—Pub. L. 103-182 substituted “Customs Service issues a permit for the unloading of such merchandise or baggage at such port,” for “appropriate customs officer of such port issues a permit for the unloading of such merchandise or baggage.”

1970—Pub. L. 91-271 substituted reference to appropriate customs officers for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1450. Unloading on Sundays, holidays, or during overtime hours

No merchandise, baggage, or passengers arriving in the United States from any foreign port or place, and no bonded merchandise or baggage being transported from one port to another, shall be unladen from the carrying aircraft, vessel or vehicle on Sunday, a holiday, or during overtime hours, except under special license granted by the appropriate customs officer under such regulations as the Secretary of the Treasury may prescribe.

(June 17, 1930, ch. 497, title IV, §450, 46 Stat. 715; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-66, title XIII, §13811(b)(2), Aug. 10, 1993, 107 Stat. 670.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §2872, as amended by the act of June 26,

1884, ch. 121, §25, 23 Stat. 59, which was superseded by act Sept. 21, 1922, ch. 356, title IV, §450, 42 Stat. 954, and was repealed by section 642 thereof. Section 450 of the 1922 act was superseded by section 450 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

R.S. §2871 providing for the granting of a special license to unlade at night, and the amendment thereof by act June 30, 1906, ch. 3909, 34 Stat. 633, were repealed by section 6 of act Feb. 13, 1911, ch. 46, and provision for the grant of a special license to lade or unlade at night, and the grant of permits for immediate lading and unloading of vessels admitted to preliminary entry, etc., was made, in sections 1 and 4 of that act, which were repealed by section 643 of the act of Sept. 21, 1922, ch. 356.

A special provision on the subject matter of this section for the northern, northeastern and northwestern frontiers was contained in R.S. §3120, as amended by act Feb. 27, 1877, ch. 69, §1, 19 Stat. 248, prior to repeal by section 642 of the act of Sept. 21, 1922, ch. 356.

AMENDMENTS

1993—Pub. L. 103-66 in section catchline substituted “during overtime hours” for “at night”, and in text substituted “during overtime hours” for “at night” and inserted “aircraft,” before “vessel”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to customs inspectional services provided on or after Jan. 1, 1994, see section 13811(c) of Pub. L. 103-66, set out as a note under section 267 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1451. Extra compensation

Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unloading at night or on Sunday or a holiday, in accordance with the provisions of section 267 of this title. In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unloading of such vessels or vehicles for a period not to exceed one year. Upon a request made by the owner, master, or person in charge of a vessel or vehicle, or by or on behalf of a common carrier or by or on behalf of the owner or consignee of any merchandise or baggage, for overtime services of customs officers or employees at night or on a Sunday or holiday, the appropriate customs officer shall assign sufficient customs officers or employees if available to perform any such services which may lawfully be performed by them during regular hours of business, but only if the person requesting such services deposits sufficient money to pay, or gives a bond in an amount to be fixed by the¹ such customs officer,

¹ So in original. The word “the” probably should not appear.

conditioned to pay the compensation and expenses of such customs officers and employees, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to duty in connection with lading or unloading at night or on Sunday or a holiday. Nothing in this section shall be construed to impair the existing authority of the Treasury Department to assign customs officers or employees to regular tours of duty at nights or on Sundays or holidays when such assignments are in the public interest: *Provided*, That the provisions of this section, sections 1450 and 1452 of this title, and the provisions of section 267 of this title insofar as such section 267 of this title requires payment of compensation by the master, owner, agent, or consignee of a vessel or conveyance, shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unloading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. At ports of entry and customs stations where any merchandise, baggage, or persons shall arrive in or depart from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, the appropriate customs officer, under such regulations as the Secretary of the Treasury may prescribe, shall assign customs officers and employees to duty at such times during the twenty-four hours of each day, including Sundays and holidays, as the Secretary of the Treasury in his discretion may determine to be necessary to facilitate the inspection and passage of such merchandise, baggage, or persons. Officers and employees assigned to such duty at night or on Sunday or a holiday shall be paid compensation in accordance with existing law as interpreted by the United States Supreme Court in the case of the United States v. Howard C. Myers (320 U.S. 561); but all compensation payable to such customs officers and employees shall be paid by the United States without requiring any license, bond, obligation, financial undertaking, or payment in connection therewith on the part of any owner, operator, or agent of any such highway vehicle, bridge, tunnel, or ferry, or other person. As used in this section, the term "ferry" shall mean a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as above provided.

(June 17, 1930, ch. 497, title IV, § 451, 46 Stat. 715; June 25, 1938, ch. 679, § 9, 52 Stat. 1082; June 3, 1944, ch. 233, § 1, 58 Stat. 269; Sept. 1, 1954, ch. 1213, title V, § 503, 68 Stat. 1141; Pub. L. 91-271, title III, § 301(f), June 2, 1970, 84 Stat. 288.)

PRIOR PROVISIONS

Provisions similar to those in this section, but applying also to the issuance of a permit for immediate lading or unloading after preliminary entry, were contained in act Feb. 13, 1911, ch. 46, § 3, 36 Stat. 900, which was superseded in part by act Sept. 21, 1922, ch. 356, title IV, § 451, 42 Stat. 954, and was repealed by section 643 thereof. Section 451 of the 1922 act was superseded by section 451 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91-271 substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

1954—Act Sept. 1, 1954, permitted the deposit of sufficient money to cover costs of night, Sunday, or holiday service in lieu of filing of bond.

1944—Act June 3, 1944, inserted proviso.

1938—Act June 25, 1938, amended third sentence generally.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1451a. Repealed. Pub. L. 103-66, title XIII, § 13811(b)(1), Aug. 10, 1993, 107 Stat. 670

Section, act June 3, 1944, ch. 233, § 2, 58 Stat. 270, provided that certain extra compensation of customs officers and employees assigned to performance of inspectional services in connection with traffic over highways, toll bridges, etc. on Sundays or holidays prior to June 3, 1944, was to be payable by the U.S. without reimbursement by the applicant for such services and that any reimbursement which had accrued and been collected since Jan. 6, 1941, was to be refunded.

EFFECTIVE DATE OF REPEAL

Repeal applicable to customs inspectional services provided on or after Jan. 1, 1994, see section 13811(c) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 267 of this title.

§ 1452. Lading on Sundays, holidays, or at night

No merchandise or baggage entered for transportation under bond or for exportation with the benefit of drawback, or other merchandise or baggage required to be laden under customs supervision, shall be laden on any vessel or vehicle at night or on Sunday or a holiday, except under special license therefor to be issued by the appropriate customs officer under the same conditions and limitations as pertain to the unloading of imported merchandise or merchandise being transported in bond.

(June 17, 1930, ch. 497, title IV, § 452, 46 Stat. 715; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 452, 42 Stat. 955. That section was superseded by section 452 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1453. Lading and unlading of merchandise or baggage; penalties

If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the appropriate customs officer, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is \$500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture.

(June 17, 1930, ch. 497, title IV, § 453, 46 Stat. 716; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 453, 42 Stat. 955. That section was superseded by section 453 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions imposing penalties and forfeitures for violation of R.S. § 2872, which required a special license for unloading or delivering merchandise otherwise than in open day, were contained in R.S. §§ 2873 and 2874, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1454. Unlading of passengers; penalty

If any passenger is unladen from any vessel or vehicle without a special license or permit therefor issued by the appropriate customs officer, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, shall each be liable to a penalty of \$1,000 for the first passenger and \$500 for each additional such passenger so unladen.

(June 17, 1930, ch. 497, title IV, § 454, 46 Stat. 716; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 99-570, title III, § 3114, Oct. 27, 1986, 100 Stat. 3207-82.)

AMENDMENTS

1986—Pub. L. 99-570 substituted “\$1,000 for the first passenger and \$500 for each additional such passenger” for “\$500 for each such passenger”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1455. Boarding and discharging inspectors

The appropriate customs officer for the district in which any vessel or vehicle arrives from a foreign port or place may put on board of such vessel or vehicle while within such district, and if necessary while going from one district to another, one or more inspectors or other customs officers to examine the cargo and contents of such vessel or vehicle and superintend the unlading thereof, and to perform such other duties as may be required by law or the customs regulations for the protection of the revenue. Such inspector or other customs officer may, if he shall deem the same necessary for the protection of the revenue, secure the hatches or other communications or outlets of such vessel or vehicle with customs seals or other proper fastenings while such vessel is not in the act of unlading and such fastenings shall not be removed without permission of the inspector or other customs officer. Such inspector or other customs officer may require any vessel or vehicle to discontinue or suspend unlading during the continuance of unfavorable weather or any conditions rendering the discharge of cargo dangerous or detrimental to the revenue. Any officer, owner, agent of the owner, or member of the crew of any such vessel who obstructs or hinders any such inspector or other customs officer in the performance of his duties, shall be liable to a penalty of not more than \$500.

(June 17, 1930, ch. 497, title IV, § 455, 46 Stat. 716; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 454, 42 Stat. 955. That section was superseded by section 455 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions on the subject matter of this section were contained in R.S. §§ 2834 (as amended by act Mar. 3, 1897, ch. 389, § 15, 29 Stat. 691), 2875, and 3070; and special provisions for particular ports in sections 2588, 2590 and 2832. Provisions as to the duties of inspectors, the records to be kept and returns to be made by them and the comparison of their returns with the manifests and entries, were contained in R.S. §§ 2876, 2877, 2888 and 2889. All the foregoing sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1456. Compensation and expenses of inspectors between ports; reimbursement

The compensation of any inspector or other customs officer, stationed on any vessel or vehicle while proceeding from one port to another and returning therefrom, shall be reimbursed to the Government by the master or owner of such vessel, together with the actual expense of such inspector or customs officer for subsistence, or in lieu of such expenses such vessel or vehicle may furnish such inspector or customs officer, the accommodations usually supplied to passengers.

(June 17, 1930, ch. 497, title IV, § 456, 46 Stat. 716.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 455, 42 Stat. 955. That section was superseded by section 456 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions on the subject matter of this section were contained in R.S. § 2878, and particular provisions for certain ports in sections 2588 and 2833. Section 2878 contained a further provision prohibiting inspectors from performing any other duties or service than what was required by that title. All these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

§ 1457. Time for unloading

Whenever any merchandise remains on board any vessel or vehicle from a foreign port more than twenty-five days after the date on which report of said vessel or vehicle was made, the appropriate customs officer may take possession of such merchandise and cause the same to be unladen at the expense and risk of the owners thereof, or may place one or more inspectors or other customs officers on board of said vessel or vehicle to protect the revenue. The compensation and expenses of any such inspector or customs officer for subsistence while on board of such vessel or vehicle shall be reimbursed to the Government by the owner or master of such vessel or vehicle.

(June 17, 1930, ch. 497, title IV, § 457, 46 Stat. 716; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §§ 2879, 2880 and 2969 (as amended by act May 9, 1896, ch. 164, 29 Stat. 115), which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 456, 42 Stat. 955, and were repealed by section 642 thereof. Section 456 of the 1922 act was superseded by section 457 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1458. Bulk cargo, time for unloading

The limitation of time for unloading shall not extend to vessels laden exclusively with merchandise in bulk consigned to one consignee and arriving at a port for orders, but if the master of such vessel requests a longer time to discharge its cargo, the compensation of the inspectors or other customs officers whose services are required in connection with the unloading shall, for every day consumed in unloading in excess of twenty-five days from the date of the vessel's entry, be reimbursed by the master or owner of such vessel.

(June 17, 1930, ch. 497, title IV, § 458, 46 Stat. 717.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 458, 42 Stat. 956. That section was superseded by section 458 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions somewhat similar to those in this section, but applicable only to vessels laden with specified articles, were contained in R.S. § 2881, as amended by act June 3, 1892, ch. 86, § 2, 27 Stat. 41, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

§ 1459. Reporting requirements for individuals

(a) Individuals arriving other than by conveyance

Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

(1) enter the United States only at a border crossing point designated by the Secretary; and

(2) immediately—

(A) report the arrival, and

(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

(b) Individuals arriving by reported conveyance

Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 1433 or 1644 of this title or section 1644a(b)(1) or (c)(1) of this title, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

(c) Individuals arriving by unreported conveyance

Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) of this section shall immediately notify a customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

(d) Departure from designated customs facilities

Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) of this section may not depart that facility until authorized to do so by the appropriate customs officer.

(e) Unlawful acts

It is unlawful—

(1) to fail to comply with subsection (a), (b), or (c) of this section;

(2) to present any forged, altered, or false document or paper to a customs officer under subsection (a), (b), or (c) of this section without revealing the facts;

(3) to violate subsection (d) of this section; or

(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d) of this section.

(f) Civil penalty

Any individual who violates any provision of subsection (e) of this section is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation.

(g) Criminal penalty

In addition to being liable for a civil penalty under subsection (f) of this section, any individual who intentionally violates any provision of subsection (e) of this section is, upon conviction, liable for a fine of not more than \$5,000, or imprisonment for not more than 1 year, or both.

(June 17, 1930, ch. 497, title IV, § 459, 46 Stat. 717; June 25, 1938, ch. 679, § 10(a), 52 Stat. 1082; Pub. L. 99-570, title III, § 3115(a), Oct. 27, 1986, 100 Stat. 3207-82.)

CODIFICATION

In subsec. (b), "section 1644a(b)(1) or (c)(1) of this title" substituted for "section 1109 of the Federal Aviation Act of 1958" on authority of Pub. L. 103-272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 459, 42 Stat. 956. That section was superseded by section 459 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

R.S. § 3109, as amended by act Feb. 17, 1898, ch. 26, § 4, 30 Stat. 248, was omitted from the Code as superseded by this section. It read as follows: "The master of any foreign vessel, laden or in ballast, arriving, whether by sea or otherwise, in the waters of the United States from any foreign territory adjacent to the northern, northeastern, or northwestern frontiers of the United States, shall report at the office of any collector or deputy collector of the customs, which shall be nearest to the point at which such vessel may enter such waters; and such vessel shall not transfer her cargo or passengers to another vessel or proceed farther inland, either to unlade or take in cargo, without a special permit from such collector or deputy collector, issued under and in accordance with such general or special regulations as the Secretary of the Treasury may, in his discretion, from time to time prescribe. This section shall also apply to trade with or through Alaska. For any violation of this section such vessel shall be seized and forfeited."

Provisions concerning the manner of importation, landing and unloading except in districts on the north-

ern, northwestern and western boundaries, were contained in R.S. § 3095, as amended by act April 27, 1904, ch. 1625, § 1, 33 Stat. 362.

Additional provisions concerning importations on the northern and northwestern boundaries, reports, manifests, entries, etc., were contained in R.S. §§ 3096 and 3097.

Provisions for the delivery of a manifest by the master of vessels, except registered vessels, and the person in charge of boats, vehicles, etc., coming from any foreign territory adjacent to the United States, were contained in R.S. § 3098.

R.S. § 3121, provided that the master of any vessel with cargo, passengers, or baggage from any foreign port, should obtain a permit and comply with existing laws before discharging or landing the same.

R.S. § 3128, made special provision for landing of merchandise imported by steamboat on Lake Champlain.

All of the foregoing sections of the Revised Statutes (3095-3098, 3109, 3121 and 3128) with the exception of R.S. § 3109, were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1986—Pub. L. 99-570 amended section generally. Prior to amendment, section read as follows: "The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicle shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection."

1938—Act June 25, 1938, substituted provisions requiring any person importing merchandise from a contiguous country otherwise than in a vessel to report his arrival at the nearest customhouse and present such merchandise for inspection for provisions setting penalties of \$100 for for the failure of the master of any vessel to report its arrival in the United States, forfeiture of vessel and goods for unloading without a permit, and \$500 for the unloading of any passenger without a permit.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

§ 1460. Repealed. Pub. L. 99-570, title III, § 3115(b), Oct. 27, 1986, 100 Stat. 3207-83

Section, acts June 17, 1930, ch. 497, title IV, § 460, 46 Stat. 717; June 25, 1938, ch. 679, § 10(b), 52 Stat. 1082, related to penalties for failure to report or file manifest.

§ 1461. Inspection of merchandise and baggage

All merchandise and baggage imported or brought in from any contiguous country, except as otherwise provided by law or by regulations of the Secretary of the Treasury, shall be unladen in the presence of and be inspected by a customs officer at the first port of entry at

which the same shall arrive; and such officer may require the owner, or his agent, or other person having charge or possession of any trunk, traveling bag, sack, valise, or other container, or of any closed vehicle, to open the same for inspection, or to furnish a key or other means for opening the same.

(June 17, 1930, ch. 497, title IV, § 461, 46 Stat. 717.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. § 3100, as amended by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 319, and act Feb. 27, 1877, ch. 69, § 1, 19 Stat. 248, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 461, 42 Stat. 956, and was repealed by section 642 thereof. Section 461 of the 1922 act was superseded by section 461 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

§ 1462. Forfeiture

If such owner, agent, or other person shall fail to comply with his demand, the officer shall retain such trunk, traveling bag, sack, valise, or other container or closed vehicle, and open the same, and, as soon thereafter as may be practicable, examine the contents, and if any article subject to duty or any article the importation of which is prohibited is found therein, the whole contents and the container or vehicle shall be subject to forfeiture.

(June 17, 1930, ch. 497, title IV, § 462, 46 Stat. 718.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. § 3101, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 462, 42 Stat. 956, and was repealed by section 642 thereof. Section 462 of the 1922 act was superseded by section 462 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

§ 1463. Sealed vessels and vehicles

To avoid unnecessary inspection of merchandise imported from a contiguous country at the first port of arrival, the master of the vessel or the person in charge of the vehicle in which such merchandise is imported may apply to the customs officer of the United States stationed in the place from which such merchandise is shipped, and such officer may seal such vessel or vehicle. Any vessel or vehicle so sealed may proceed with such merchandise to the port of destination under such regulations as the Secretary of the Treasury may prescribe.

(June 17, 1930, ch. 497, title IV, § 463, 46 Stat. 718.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 463, 42 Stat. 957. That section was superseded by section 463 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions somewhat similar to those in this section, and further provisions requiring the vessel, car, or vehicle sealed to proceed without unnecessary delay to the port of destination and be there inspected, and providing that nothing contained therein should exempt the vessel, car, or vehicle from examinations to prevent frauds, were contained in R.S. § 3102, and provisions authorizing and requiring the Secretary of the Treasury to make regulations for sealing vessels, cars, etc., were contained in section 3103, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 462, 42 Stat. 989.

§ 1464. Penalties in connection with sealed vessels and vehicles

If the master of such vessel or the person in charge of any such vehicle fails to proceed with reasonable promptness to the port of destination and to deliver such vessel or vehicle to the proper officers of the customs, or fails to proceed in accordance with such regulations of the Secretary of the Treasury, or unloads such merchandise or any part thereof at other than such port of destination, or disposes of any such merchandise by sale or otherwise, he shall be guilty of a felony and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than five years, or both; and any such vessel or vehicle, with its contents, shall be subject to forfeiture.

(June 17, 1930, ch. 497, title IV, § 464, 46 Stat. 718.)

PRIOR PROVISIONS

Provisions somewhat similar to those in this section, with a further provision for seizure of the vessel, car, or vehicle with its contents, and a provision that nothing therein should prevent sales of cargo prior to arrival, to be delivered per manifest and after due inspection, were contained in R.S. § 3104, which was superseded in part by act Sept. 21, 1922, ch. 356, title IV, § 464, 42 Stat. 957, and was repealed by section 642 thereof. Section 464 of the 1922 act was superseded by section 464 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

§ 1465. Repealed. Pub. L. 103-182, title VI, § 690(b)(7), Dec. 8, 1993, 107 Stat. 2223

Section, act June 17, 1930, ch. 497, title IV, § 465, 46 Stat. 718, required master of any vessel engaged in certain foreign and coasting trade and conductor of any railway car to file, upon arrival from foreign contiguous country, a list of all supplies or other merchandise purchased in such foreign country.

§ 1466. Equipment and repairs of vessels

(a) Vessels subject to duty; penalties

The equipments, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in a foreign country upon a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum on the cost thereof in such foreign country. If the owner or master willfully or knowingly neglects or fails to report, make entry, and pay duties as herein required, or if he makes any false statement in respect of such purchases or repairs without reasonable cause to believe the truth of such statements, or aids or procures the making of any false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, such vessel, or a monetary amount up to the value thereof as determined by the Secretary, to be recovered from the owner, shall be subject to seizure and forfeiture. For the purposes of this section, compensation paid to members of the regular crew of such vessel in connection with the installation of any such equipments or any part thereof, or the making of repairs, in a foreign country,

shall not be included in the cost of such equipment or part thereof, or of such repairs.

(b) Notice

If the appropriate customs officer has reasonable cause to believe a violation has occurred and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a penalty claim. Such notice shall—

- (1) describe the circumstances of the alleged violation;
- (2) specify all laws and regulations allegedly violated;
- (3) disclose all the material facts which establish the alleged violation;
- (4) state the estimated loss of lawful duties, if any, and taking into account all of the circumstances, the amount of the proposed penalty; and
- (5) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

(c) Violation

After considering representations, if any, made by the person concerned pursuant to the notice issued under subsection (b), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly notify, in writing, the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under paragraphs (1) through (4) of subsection (b).

(d) Remission for necessary repairs

If the owner or master of such vessel furnishes good and sufficient evidence that—

- (1) such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into such foreign port and purchase such equipments, or make such repairs, to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination;
- (2) such equipments or parts thereof or repair parts or materials, were manufactured or produced in the United States, and the labor necessary to install such equipments or to make such repairs was performed by residents of the United States, or by members of the regular crew of such vessel; or
- (3) such equipments, or parts thereof, or materials, or labor, were used as dunnage for cargo, or for the packing or shoring thereof, or in the erection of temporary bulkheads or other similar devices for the control of bulk cargo, or in the preparation (without permanent repair or alteration) of tanks for the carriage of liquid cargo;

then the Secretary of the Treasury is authorized to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for

the same shall be satisfied, from the oath of the owner or master, that all such equipments or parts thereof or materials and repairs made within the year immediately preceding such application have been duly accounted for under the provisions of this section, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.

(e) Exclusions for arrivals two or more years after last departure

(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

- (A) fish nets and netting, and
- (B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.

(f) Civil aircraft exception

The duty imposed under subsection (a) shall not apply to the cost of equipments, or any part thereof, purchased, of repair parts or materials used, or of repairs made in a foreign country with respect to a United States civil aircraft, within the meaning of general note 3(c)(iv) of the Harmonized Tariff Schedule of the United States.

(g) Fish net and netting purchases and repairs

The duty imposed by subsection (a) shall not apply to entries on and after October 1, 1979, and before January 1, 1982, of—

- (1) tuna purse seine nets and netting which are equipments or parts thereof,
- (2) repair parts for such nets and netting, or materials used in repairing such nets and netting, or
- (3) the expenses of repairs of such nets and netting,

for any United States documented tuna purse seine vessel of greater than 500 tons carrying capacity or any United States tuna purse seine vessel required to carry a certificate of inclusion under the general permit issued to the American Tunaboat Association pursuant to section 1374 of title 16.

(h) Foreign repair of vessels

The duty imposed by subsection (a) of this section shall not apply to—

- (1) the cost of any equipment, or any part of equipment, purchased for, or the repair parts or materials to be used, or the expense of repairs made in a foreign country with respect to, LASH (Lighter Aboard Ship) barges documented under the laws of the United States and utilized as cargo containers;
- (2) the cost of spare repair parts or materials (other than nets or nettings) which the owner

or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country;

(3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country; or

(4) the cost of equipment, repair parts, and materials that are installed on a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas, in foreign waters, or in a foreign port, and does not involve foreign shipyard repairs by foreign labor.

Declaration and entry shall not be required with respect to the installation, equipment, parts, and materials described in paragraph (4).

(June 17, 1930, ch. 497, title IV, § 466, 46 Stat. 719; Pub. L. 91-654, § 1, Jan. 5, 1971, 84 Stat. 1944; Pub. L. 95-410, title II, § 206, Oct. 3, 1978, 92 Stat. 900; Pub. L. 96-39, title VI, § 601(a)(3), July 26, 1979, 93 Stat. 268; Pub. L. 96-467, § 14(a)(3)(B), Oct. 17, 1980, 94 Stat. 2225; Pub. L. 96-609, title I, § 115(a), Dec. 28, 1980, 94 Stat. 3558; Pub. L. 98-573, title II, § 208, Oct. 30, 1984, 98 Stat. 2976; Pub. L. 100-418, title I, § 1214(h)(4), Aug. 23, 1988, 102 Stat. 1157; Pub. L. 101-382, title III, § 484E(a), Aug. 20, 1990, 104 Stat. 709; Pub. L. 103-465, title I, § 112(b), Dec. 8, 1994, 108 Stat. 4825; Pub. L. 108-429, title I, § 1554(a), Dec. 3, 2004, 118 Stat. 2578; Pub. L. 109-280, title XIV, § 1631(a), Aug. 17, 2006, 120 Stat. 1164.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsecs. (f) and (h)(2), (3), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section were contained respectively in R.S. §§ 3114 and 3115, as amended, which were formerly classified to sections 257 and 258 of this title prior to repeal by section 3 of Pub. L. 91-654.

AMENDMENTS

2006—Subsec. (h)(4). Pub. L. 109-280 added par. (4) and struck out former par. (4) which read as follows: “the cost of equipment, repair parts, and materials that are installed on a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas.”

2004—Subsec. (h). Pub. L. 108-429 added par. (4) and concluding provisions.

1994—Subsec. (h)(3). Pub. L. 103-465 added par. (3).

1990—Subsec. (h). Pub. L. 101-382 added subsec. (h).

1988—Subsec. (f). Pub. L. 100-418 substituted “general note 3(c)(iv) of the Harmonized Tariff Schedule of the United States” for “headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States”.

1984—Subsec. (e). Pub. L. 98-573 designated existing provisions as par. (1), in par. (1) as so designated substituted reference to any vessel referred to in subsec. (a) for reference to any vessel designed and used primarily for purposes other than transporting passengers or property in the foreign or coasting trade, redesignated former cls. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

1980—Subsec. (f). Pub. L. 96-467 substituted “of equipments, or any part thereof, purchased, of repair parts or materials used, or of repairs made in a foreign country with respect to” for “of repair parts, materials, or expenses of repairs in a foreign country upon” and “schedule 6” for “Schedule 6”.

Subsec. (g). Pub. L. 96-609 added subsec. (g).

1979—Subsec. (f). Pub. L. 96-39 added subsec. (f).

1978—Subsec. (a). Pub. L. 95-410, § 206(1), incorporated seizure and forfeiture provision formerly a part of first sentence in an inserted second sentence; substituted therein “willfully or knowingly” for “willfully and knowingly” and “such vessel, or a monetary amount up to the value thereof as determined by the Secretary, to be recovered from the owner, shall be subject to seizure and forfeiture” for “such vessel, with her tackle, apparel, and furniture, shall be seized and forfeited”; and authorized the seizure and forfeiture for making false statements in respect of purchases or repairs or aiding or procuring the making of false statements.

Subsecs. (b) to (e). Pub. L. 95-410, § 206(2), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

1971—Subsec. (c). Pub. L. 91-654 added subsec. (c).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title XIV, § 1631(c), Aug. 17, 2006, 120 Stat. 1165, provided that: “The amendments made by this section [amending this section] apply to vessel equipment, repair parts, and materials installed on or after April 25, 2001.”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title I, § 1554(c), Dec. 3, 2004, 118 Stat. 2578, provided that: “The amendments made by this section [amending this section] apply to vessel equipment, repair parts, and materials installed on or after April 25, 2001.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), see section 116(a) of Pub. L. 103-465, set out as an Effective Date note under section 3521 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-382, title III, § 484E(b), (c), Aug. 20, 1990, 104 Stat. 710, as amended by Pub. L. 103-465, title I, § 112(a), Dec. 8, 1994, 108 Stat. 4825; Pub. L. 104-295, § 27, Oct. 11, 1996, 110 Stat. 3533, provided that:

“(b) EFFECTIVE DATE.—The amendment made by this section [amending this section] shall apply to—

“(1) any entry made before the date of enactment of this Act [Aug. 20, 1990] that is not liquidated on the date of enactment of this Act,

“(2) any entry made—

“(A) on or after the date of enactment of this Act, and

“(B) on or before December 31, 1992,

“(3) any entry listed in subsection (c) that was made during the period beginning on January 1, 1993, and ending on December 31, 1994, to the extent such entry involves the purchase of equipment, the use of materials, or the expense of repairs in a foreign coun-

try for 66 LASH (Lighter Aboard Ship) barges documented under the laws of the United States if—

“(A) such entry was not liquidated on January 1, 1995; and

“(B) such entry, had it been made on or after January 1, 1995, would otherwise be eligible for the exemption provided in section 466(h)(1) of the Tariff Act of 1930 (19 U.S.C. 1466(h)(1)), and

“(4) any entry made pursuant to section 466(h)(1) or (2) of the Tariff Act of 1930 (19 U.S.C. 1466(h)(1) or (2)), on or after the date of the entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995].

“(c) ENTRIES.—The entries referred to in subsection (b)(3) are the following:

“(1) NUMBERED ENTRIES.—

Entry Number	Date of Entry
C14-0025455-8	August 18, 1993
C14-0025456-6	August 18, 1993
C14-0025457-4	August 18, 1993
C14-0025473-1	August 27, 1993
C14-0025478-0	September 13, 1993
C14-0025479-8	September 13, 1993
C14-0025480-6	September 13, 1993
C14-0025481-4	September 13, 1993
C14-0025511-8	April 16, 1993
C14-0025533-2	April 30, 1993
C14-0025545-6	May 21, 1993
C14-0025546-4	May 21, 1993
C14-0025547-2	May 21, 1993
C14-0025558-9	June 15, 1993
C14-0025560-5	June 15, 1993
C14-0025574-6	July 21, 1993
C14-0025575-3	July 21, 1993
C14-0025603-3	July 23, 1993
C14-0025604-1	July 23, 1993
C14-0025605-8	July 23, 1993
C14-0025623-1	October 25, 1993
C14-0025624-9	October 25, 1993
C14-0025625-6	October 25, 1993
C14-0025635-5	November 8, 1993
C14-0025636-3	November 8, 1993
C14-0025637-1	November 8, 1993
C14-0025653-8	November 30, 1993
C14-0025654-6	November 30, 1993
C14-0025655-3	November 30, 1993
C14-0025657-9	November 30, 1993
C14-0025679-3	January 3, 1994
C14-0025680-1	January 3, 1994
C14-0025688-4	February 14, 1994
C14-0025689-2	February 14, 1994
C14-0025690-0	February 14, 1994
C14-0025691-8	February 14, 1994
C14-0025692-6	February 14, 1994
C14-0026803-8	January 24, 1994
C14-0026804-6	January 24, 1994
C14-0026805-3	January 24, 1994
C14-0026807-9	January 24, 1994
C14-0026808-7	January 24, 1994
C14-0026809-5	January 24, 1994
C14-0026810-3	January 24, 1994
C14-0026811-1	January 24, 1994
C14-0026826-9	March 10, 1994
C14-0026827-7	March 10, 1994
C14-0026828-5	March 10, 1994
C14-0026829-3	March 10, 1994
C14-0026830-1	March 10, 1994
C14-0026831-9	March 10, 1994
C14-0026832-7	March 10, 1994
C14-0026833-5	March 10, 1994
C14-0026841-8	March 31, 1994
C14-0026843-4	March 31, 1994
C14-0026852-5	May 5, 1994
C14-0026853-3	May 5, 1994
C14-0026854-1	May 5, 1994
C14-0026867-3	May 18, 1994
C14-0026869-9	May 18, 1994
C14-0026874-9	June 8, 1994

Entry Number	Date of Entry
C14-0026875-6	June 8, 1994
C14-0026898-8	August 2, 1994
C14-0026899-6	August 2, 1994
C14-0040625-7	October 5, 1994.

“(2) ADDITIONAL ENTRY.—The entry of a 66th LASH barge (No. CG E69), for which no entry number is available, if, within 60 days after the date of the enactment of this subsection [Oct. 11, 1996], a proper entry is filed with the Customs Service.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to entries made in connection with arrivals of vessels on or after the 15th day after Oct. 30, 1984, with certain exceptions for vessels transporting passengers or property, see section 214(a), (c)(3) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-467, §14(b), Oct. 17, 1980, 94 Stat. 2226, provided in part that: “The amendment made by paragraph (3) of subsection (a) [amending this section] shall apply with respect to entries made under section 466 of the Tariff Act of 1930 [this section] on or after January 1, 1980.”

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-39, title VI, §601(a), July 26, 1979, 93 Stat. 267, provided that the amendment made by section 601(a)(3) is effective upon a Presidential proclamation authorized to be made after Sept. 30, 1979, when the conditions under section 2503(b) of this title on acceptance of the Agreement on Trade in Civil Aircraft are fulfilled.

ENTRIES MADE IN CONNECTION WITH ARRIVAL OF VESSELS ON OR AFTER OCTOBER 1, 1979, AND BEFORE DECEMBER 28, 1980

Pub. L. 96-609, title I, §115(b), Dec. 28, 1980, 94 Stat. 3558, provided that: “Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act [Dec. 28, 1980], the entry of any article to which section 466(a) of the Tariff Act of 1930 [subsec. (a) of this section] applied and—

“(1) that was made on or after October 1, 1979, and before the date of the enactment of this Act; and

“(2) with respect to which there would have been no duty if the amendment made by subsection (a) [adding subsec. (g) of this section] applied to such entry or withdrawal;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 [section 1514 of this title] or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.”

ENTRIES MADE IN CONNECTION WITH ARRIVALS OF VESSELS ON OR AFTER JANUARY 5, 1971; ENTRIES IN CONNECTION WITH THE ARRIVAL OF SHRIMP VESSELS AFTER JANUARY 1, 1969, AND BEFORE JANUARY 5, 1971

Pub. L. 91-654, §2, Jan. 5, 1971, 84 Stat. 1945, provided that:

“(a) The amendment made by the first section of this Act [amending this section] shall apply with respect to entries made in connection with arrivals of vessels on or after the date of the enactment of this Act [Jan. 5, 1971].

“(b) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for the catching of shrimp—

“(1) which was made after January 1, 1969, and before the date of the enactment of this Act, and

“(2) with respect to which there would have been no duty if the amendment made by the first section of this Act applied to such entry, shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 [section 1514 of this title] or any other provision of law, be liquidated or reliquidated as though such entry had been made on the day after the date of the enactment of this Act.”

§ 1467. Special inspection, examination, and search

Whenever a vessel from a foreign port or place or from a port or place in any Territory or possession of the United States arrives at a port or place in the United States or the Virgin Islands, whether directly or via another port or place in the United States or the Virgin Islands, the appropriate customs officer for such port or place of arrival may, under such regulations as the Secretary of the Treasury may prescribe and for the purpose of assuring compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, cause inspection, examination, and search to be made of the persons, baggage, and merchandise discharged or unladen from such vessel, whether or not any or all such persons, baggage, or merchandise has previously been inspected, examined, or searched by officers of the customs.

(June 17, 1930, ch. 497, title IV, § 467, as added June 25, 1938, ch. 679, § 11, 52 Stat. 1083; amended Pub. L. 91-271, title III, § 301(g), June 2, 1970, 84 Stat. 288.)

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector of customs.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE

This section effective on the thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as an Effective Date of 1938 Amendment note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(l), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all other officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

PART III—ASCERTAINMENT, COLLECTION, AND RECOVERY OF DUTIES

§ 1481. Invoice; contents

(a) In general

All invoices of merchandise to be imported into the United States and any electronic equivalent thereof considered acceptable by the Secretary in regulations prescribed under this section shall set forth, in written, electronic, or such other form as the Secretary shall prescribe, the following:

(1) The port of entry to which the merchandise is destined;

(2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;

(3) A detailed description of the merchandise, including the commercial name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;

(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;

(5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;

(6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;

(7) The kind of currency, whether gold, silver, or paper;

(8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices when the amounts for such charges are unknown to the seller or shipper;

(9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise; and

(10) Any other fact that the Secretary may by regulation require as being necessary to a proper appraisalment, examination and classification of the merchandise.

(b) Shipments not purchased and not shipped by manufacturer

If the merchandise is shipped to a person in the United States by a person other than the manufacturer, otherwise than by purchase, such person shall state on the invoice the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper.

(c) Importer provision of information

Any information required to be set forth on an invoice may alternatively be provided by any of the parties qualifying as an “importer of record” under section 1484(a)(2)(B) of this title by such means, in such form or manner, and within such time as the Secretary shall by regulation prescribe.

(d) Exceptions by regulations

The Secretary of the Treasury may by regulations provide for such exceptions from the requirements of this section as he deems advisable and may allow for the submission or electronic transmission of partial invoices, electronic equivalents of invoices, bills, or other documents or parts thereof, required under this section.

(June 17, 1930, ch. 497, title IV, § 481, 46 Stat. 719; Pub. L. 103-182, title VI, § 636, Dec. 8, 1993, 107 Stat. 2200.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 481, 42 Stat. 958. That section was superseded by section 481 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions as to the weights or measures, and currency, in which invoices should be made out and the contents of invoices, with additional provisions as to invoices of merchandise intended for immediate transportation without appraisalment, and a provision as to the signing of the invoice, were contained in R.S. § 2837 and act Oct. 3, 1913, ch. 16, § III, C, 38 Stat. 181 (superseding Customs Administrative Act of June 10, 1890, ch. 407, § 2, 26 Stat. 131, as amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 91), which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 481, 42 Stat. 958, and repealed by sections 642 and 643 thereof.

R.S. §§ 2838, 2853 (as amended by Act June 10, 1880, ch. 190) and 2860, contained provisions concerning invoices and their contents, prior to repeal by Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

Act May 27, 1921, ch. 14, § 401, 42 Stat. 16, required invoices to contain, in addition to statements then required by law, such other statements as the Secretary of the Treasury should prescribe, and a statement as to the currency in which made out, and section 402 of that Act required the owner, importer, etc., to set forth on the invoice or statement in form of an invoice, and in the entry, in addition to statements then required by law such statements, under oath if required, as the Secretary might prescribe. These provisions were omitted from the Code as superseded by this section, and section 1485(a) of this title.

Provisions on the subject matter of subdivision (c) of this section were contained in act Oct. 3, 1913, ch. 16, § III, W, 38 Stat. 190, which was superseded by act Sept.

21, 1922, ch. 356, title IV, § 481, 42 Stat. 958, and repealed by section 643 thereof.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-182, § 636(1)(A), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “All invoices of merchandise to be imported into the United States shall set forth—”.

Subsec. (a)(3). Pub. L. 103-182, § 636(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;”.

Subsec. (a)(10). Pub. L. 103-182, § 636(1)(C), amended par. (10) generally. Prior to amendment, par. (10) read as follows: “Any other facts deemed necessary to a proper appraisalment, examination, and classification of the merchandise that the Secretary of the Treasury may require.”

Subsec. (c). Pub. L. 103-182, § 636(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “When the merchandise has been purchased in different consular districts for shipment to the United States and is assembled for shipment and embraced in a single invoice which is produced for certification under the provisions of paragraph (2) of subdivision (a) of section 1482 of this title, the invoice shall have attached thereto the original bills or invoices received by the shipper, or extracts therefrom, showing the actual prices paid or to be paid for such merchandise. The consular officer to whom the invoice is so produced for certification may require that any such original bill or invoice be certified by the consular officer for the district in which the merchandise was purchased.”

Subsec. (d). Pub. L. 103-182, § 636(3), inserted before period at end “and may allow for the submission or electronic transmission of partial invoices, electronic equivalents of invoices, bills, or other documents or parts thereof, required under this section”.

§ 1482. Repealed. Pub. L. 103-182, title VI, § 690(b)(8), Dec. 8, 1993, 107 Stat. 2223

Section, acts June 17, 1930, ch. 497, title IV, § 482, 46 Stat. 720; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Oct. 25, 1951, ch. 562, § 4(4), 65 Stat. 640; Aug. 8, 1953, ch. 397, § 16(a), 67 Stat. 517; June 2, 1970, Pub. L. 91-271, title III, § 301(h), 84 Stat. 288, set forth requirements for certified invoices including time of certification, declarations, number and destination of copies, and certification by other than an American consulate in remote areas.

§ 1483. Repealed. Pub. L. 97-446, title II, § 201(c), Jan. 12, 1983, 96 Stat. 2349

Section, acts June 17, 1930, ch. 497, title IV, § 483, 46 Stat. 721; Oct. 3, 1978, Pub. L. 95-410, title II, § 207, 92 Stat. 901, provided that for specified purposes the consignee of merchandise be deemed the owner.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as an Effective Date of 1983 Amendment note under section 1484 of this title.

§ 1484. Entry of merchandise

(a) Requirement and time

(1) Except as provided in sections 1490, 1498, 1552, and 1553 of this title, one of the parties qualifying as “importer of record” under paragraph (2)(B), either in person or by an agent au-

thorized by the party in writing, shall, using reasonable care—

(A) make entry therefor by filing with the Bureau of Customs and Border Protection such documentation or, pursuant to an authorized electronic data interchange system, such information as is necessary to enable the Bureau of Customs and Border Protection to determine whether the merchandise may be released from custody of the Bureau of Customs and Border Protection;¹

(B) complete the entry, or substitute 1 or more reconfigured entries on an import activity summary statement, by filing with the Customs Service the declared value, classification and rate of duty applicable to the merchandise, and such other documentation or, pursuant to an electronic data interchange system, such other information as is necessary to enable the Customs Service to—

(i) properly assess duties on the merchandise,

(ii) collect accurate statistics with respect to the merchandise, and

(iii) determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

(2)(A) The documentation or information required under paragraph (1) with respect to any imported merchandise shall be filed or transmitted in such manner and within such time periods as the Secretary shall by regulation prescribe. Such regulations shall provide for the filing of import activity summary statements, and permit the filing of reconfigured entries, covering merchandise released under a special delivery permit pursuant to section 1448(b) of this title and entries or warehouse withdrawals made during a calendar month, within such time period as is prescribed in regulations but not to exceed the 20th day following such calendar month. Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 1500, 1501, or 1504 of this title.

(B) When an entry of merchandise is made under this section, the required documentation or information shall be filed or electronically transmitted either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 1641 of this title. When a consignee declares on entry that he is the owner or purchaser of merchandise the Customs Service may, without liability, accept the declaration. For the purposes of this chapter, the importer of record must be one of the parties who is eligible to file the documentation or information required by this section.

(C) The Secretary, in prescribing regulations to carry out this subsection, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics

relevant to the classification and valuation of imports. Corrections of errors in such statistical data shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau. The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the enforcement of laws governing the importation and exportation of merchandise, the facilitation of the commerce of the United States, and the equal treatment of all importers of record of imported merchandise.

(b) Reconciliation

(1) In general

A party may elect to file a reconciliation with regard to such entry elements as are identified by the party pursuant to regulations prescribed by the Secretary. If the party so elects, the party shall declare that a reconciliation will be filed. The declaration shall be made in such manner as the Secretary shall prescribe and at the time the documentation or information required by subsection (a)(1)(B) or the import activity summary statement is filed with, or transmitted to, the Customs Service, or at such later time as the Customs Service may, in its discretion, permit. The reconciliation shall be filed by the importer of record at such time and in such manner as the Secretary prescribes but not later than 21 months after the date the importer declares his intent to file the reconciliation. In the case of reconciling issues relating to the assessment of antidumping and countervailing duties, the reconciliation shall be filed not later than 90 days after the date the Customs Service advises the importer that the period of review for antidumping or countervailing duty purposes has been completed. Before filing a reconciliation, an importer of record shall post bond or other security pursuant to such regulations as the Secretary may prescribe.

(2) Regulations regarding AD/CV duties

The Secretary shall prescribe, in consultation with the Secretary of Commerce, such regulations as are necessary to adapt the reconciliation process for use in the collection of antidumping and countervailing duties.

(c) Release of merchandise

The Customs Service may permit the entry and release of merchandise from customs custody in accordance with such regulations as the Secretary may prescribe. No officer of the Customs Service shall be liable to any person with respect to the delivery of merchandise released from customs custody in accordance with such regulations.

(d) Signing and contents

(1) Entries shall be signed by the importer of record, or his agent, unless filed pursuant to an electronic data interchange system. If electronically filed, each transmission of data shall be certified by an importer of record or his agent, one of whom shall be resident in the United States for purposes of receiving service of process, as being true and correct to the best of his knowledge and belief, and such transmission shall be binding in the same manner and to the

¹ So in original. The word "and" probably should appear at end.

same extent as a signed document. The entry shall set forth such facts in regard to the importation as the Secretary may require and shall be accompanied by such invoices, bills of lading, certificates, and documents, or their electronically submitted equivalents, as are required by regulation.

(2) The Secretary, in prescribing regulations governing the content of entry documentation, shall require that entry documentation contain such information as may be necessary to determine whether the imported merchandise bears an infringing trademark in violation of section 1124 of title 15 or any other applicable law, including a trademark appearing on the goods or packaging.

(e) Production of invoice

The Secretary may provide by regulation for the production of an invoice, parts thereof, or the electronic equivalents thereof, in such manner and form, and under such terms and conditions, as the Secretary considers necessary.

(f) Statistical enumeration

The Secretary, the Secretary of Commerce, and the United States International Trade Commission shall establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.

(g) Statement of cost of production

Under such regulations as the Secretary may prescribe, the Customs Service may require a verified statement from the manufacturer or producer showing the cost of producing the imported merchandise, if the Customs Service considers such verification necessary for the appraisal of such merchandise.

(h) Admissibility of data electronically transmitted

Any entry or other information transmitted by means of an authorized electronic data interchange system shall be admissible in any and all administrative and judicial proceedings as evidence of such entry or information.

(i) Special rule for foreign trade zone operations

(1) In general

Notwithstanding any other provision of law and except as provided in paragraph (3), all merchandise (including merchandise of different classes, types, and categories), withdrawn from a foreign trade zone during any 7-day period, shall, at the option of the operator or user of the zone, be the subject of a single estimated entry or release filed on or before

the first day of the 7-day period in which the merchandise is to be withdrawn from the zone. The estimated entry or release shall be treated as a single entry and a single release of merchandise for purposes of section 58c(a)(9)(A) of this title and all fee exclusions and limitations of such section 58c of this title shall apply, including the maximum and minimum fee amounts provided for under subsection (b)(8)(A)(i) of such section. The entry summary for the estimated entry or release shall cover only the merchandise actually withdrawn from the foreign trade zone during the 7-day period.

(2) Other requirements

The Secretary of the Treasury may require that the operator or user of the zone—

(A) use an electronic data interchange approved by the Customs Service—

(i) to file the entries described in paragraph (1); and

(ii) to pay the applicable duties, fees, and taxes with respect to the entries; and

(B) satisfy the Customs Service that accounting, transportation, and other controls over the merchandise are adequate to protect the revenue and meet the requirements of other Federal agencies.

(3) Exception

The provisions of paragraph (1) shall not apply to merchandise the entry of which is prohibited by law or merchandise for which the filing of an entry summary is required before the merchandise is released from customs custody.

(4) Foreign trade zone; zone

In this subsection, the terms “foreign trade zone” and “zone” mean a zone established pursuant to the Act of June 18, 1934, commonly known as the Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(j) Treatment of multiple entries of merchandise as single transaction

In the case of merchandise that is purchased and invoiced as a single entity but—

(1) is shipped in an unassembled or disassembled condition in separate shipments due to the size or nature of the merchandise, or

(2) is shipped in separate shipments due to the inability of the carrier to include all of the merchandise in a single shipment (at the instruction of the carrier),

the Customs Service may, upon application by an importer in advance, treat such separate shipments for entry purposes as a single transaction.

(June 17, 1930, ch. 497, title IV, § 484, 46 Stat. 722; June 25, 1938, ch. 679, § 12, 52 Stat. 1083; Aug. 8, 1953, ch. 397, §§ 3(b), 16(b), (c), 67 Stat. 509, 517; Pub. L. 91-271, title III, § 301(i), June 2, 1970, 84 Stat. 288; Pub. L. 93-618, title VI, § 608(a), Jan. 3, 1975, 88 Stat. 2073; Pub. L. 95-106, § 4, Aug. 17, 1977, 91 Stat. 869; Pub. L. 95-410, title I, § 102(a), Oct. 3, 1978, 92 Stat. 888; Pub. L. 97-446, title II, § 201(d), Jan. 12, 1983, 96 Stat. 2349; Pub. L. 103-182, title VI, § 637(a), Dec. 8, 1993, 107 Stat. 2200; Pub. L. 104-153, § 12, July 2, 1996, 110 Stat.

1389; Pub. L. 104-295, §§18(b), 21(e)(6), Oct. 11, 1996, 110 Stat. 3524, 3531; Pub. L. 106-200, title IV, §410(a), May 18, 2000, 114 Stat. 297; Pub. L. 106-476, title I, §1460(a), Nov. 9, 2000, 114 Stat. 2171; Pub. L. 108-429, title II, §2101, Dec. 3, 2004, 118 Stat. 2597; Pub. L. 109-280, title XIV, §1635(a), Aug. 17, 2006, 120 Stat. 1170.)

REFERENCES IN TEXT

The Foreign Trade Zones Act, referred to in subsec. (i)(4), is act June 18, 1934, ch. 590, 48 Stat. 998, as amended, which is classified generally to chapter 1A (§81a et seq.) of this title. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §484, 42 Stat. 960. That section was superseded by section 484 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions requiring entry of goods, and prescribing the manner of making it, the documents to be produced, etc., were contained in R.S. §2785. Provision for entry when the particulars of the merchandise were unknown was made by R.S. §2788. A special provision regarding entry of distilled spirits and wines was contained in R.S. §2794. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Provisions relating to the production of certified invoices were contained in act Oct. 3, 1913, ch. 16, §III, E, 38 Stat. 182, which reenacted the provisions of the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 92, which amended Customs Administrative Act of June 10, 1890, ch. 407, §4, 26 Stat. 131. Said section III, E, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989. Earlier provisions were contained in R.S. §2860, and act June 22, 1874, ch. 391, §§9, 10, and 11, all repealed by act June 10, 1890, ch. 407, §29, 26 Stat. 141.

R.S. §2842 required bond for the production of an invoice duly certified by the oath of the owner or one of them, in the case of merchandise belonging to a resident of the United States absent from the place of entry. R.S. §2852, provided that when merchandise was admitted to entry on invoice, the collector should certify the same, and no other evidence of value should be admitted on the part of the owner, except in corroboration of the entry. R.S. §2859, made special provision for entry of merchandise from countries where there was no United States consul, etc. These sections were all repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §§2847 and 2848 authorized the Secretary of the Treasury to admit to entry in certain cases merchandise subject to ad valorem duty, belonging to a person not residing in the United States, not accompanied with an invoice verified and authenticated as required by preceding section. They became inoperative by the repeal of R.S. §§2843, 2845, by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 104, and the enactment of provisions for entry of goods without invoice by section 4 of said Customs Administrative Act amended by the Payne-Aldrich Tariff Act, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, §III, E, and were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §2858, provided that the Secretary of the Treasury, whenever it had become impracticable for the person desiring to make entry of merchandise to produce any invoice thereof, might authorize the entry thereof, and remit forfeitures in such cases, as in other cases under the revenue laws. It was repealed by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, reenacted by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 104.

A provision relating to statistical enumeration of merchandise, except that the "accurate statement" was to be a part of the declaration therein provided for, and a further provision making it the duty of the consular officer to whom the invoice should be produced to require the information to be given, were contained in act Oct. 3, 1913, ch. 16, §III, F, 38 Stat. 182, amending the Customs Administrative Act of June 10, 1890, ch. 407, §5, 26 Stat. 132, as previously amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 95. Said section III, F, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

Prior provisions on the subject of subsequent entry of part of merchandise and separate entry of packages contained in packages for delivery to others were contained in act May 1, 1876, ch. 89, §1, 19 Stat. 49, which was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989; and in act Oct. 3, 1913, ch. 16, §III, F, 38 Stat. 182, amending Customs Administrative Act of June 10, 1890, ch. 407, §5, 26 Stat. 132, as previously amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 95. Said section III, F, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

AMENDMENTS

2006—Subsec. (a)(1)(A). Pub. L. 109-280, §1635(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "make entry therefor by filing with the Customs Service—

"(i) such documentation or, pursuant to an electronic data interchange system, such information as is necessary to enable the Customs Service to determine whether the merchandise may be released from customs custody, and

"(ii) notification whether an import activity summary statement will be filed; and"

Subsec. (a)(2)(A). Pub. L. 109-280, §1635(a)(2), inserted "merchandise released under a special delivery permit pursuant to section 1448(b) of this title and" after "covering" in second sentence.

2004—Subsec. (a)(1)(B). Pub. L. 108-429, §2101(a)(1), inserted ", or substitute 1 or more reconfigured entries on an import activity summary statement," after "entry" in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 108-429, §2101(a)(2), in second sentence, inserted "and permit the filing of reconfigured entries," after "statements," and, at end, inserted "Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 1500, 1501, or 1504 of this title."

Subsec. (b)(1). Pub. L. 108-429, §2101(b), substituted "21 months" for "15 months" in fourth sentence.

2000—Subsec. (j). Pub. L. 106-200 added subsec. (j).

Subsec. (j). Pub. L. 106-476 added subsec. (j).

1996—Subsec. (a)(1). Pub. L. 104-295, §21(e)(6), substituted "and 1553" for "1553, and 1336(j)".

Subsec. (b)(1). Pub. L. 104-295, §18(b), substituted "A party may elect to file a reconciliation with regard to such entry elements as are identified by the party pursuant to regulations prescribed by the Secretary. If the party so elects, the party shall declare that a reconciliation will be filed. The declaration shall be made in such manner as the Secretary shall prescribe and at the time the documentation or information required by subsection (a)(1)(B) of this section or the import activity summary statement is filed with, or transmitted to, the Customs Service, or at such later time as the Customs Service may, in its discretion, permit. The reconciliation shall be filed by the importer of record at such time and in such manner as the Secretary prescribes but not later than 15 months after the date the importer declares his intent to file the reconciliation. In the case of reconciling issues relating to the assessment of antidumping and countervailing duties, the reconciliation shall be filed not later than 90 days after the date the Customs Service advises the importer that the period of review for antidumping or countervailing

duty purposes has been completed.” for “A party that electronically transmits an entry summary or import activity summary statement may at the time of filing such summary or statement notify the Customs Service of his intention to file a reconciliation pursuant to such regulations as the Secretary may prescribe. Such reconciliation must be filed by the importer of record within such time period as is prescribed by regulation but no later than 15 months following the filing of the entry summary or import activity summary statement; except that the prescribed time period for reconciliation issues relating to the assessment of antidumping and countervailing duties shall require filing no later than 90 days after the Customs Service advises the importer that a period of review for antidumping or countervailing duty purposes has been completed.”

Subsec. (d). Pub. L. 104-153 designated existing provisions as par. (1) and added par. (2).

1993—Pub. L. 103-182 amended section generally, substituting present provisions for provisions relating to entry of merchandise and providing specifically for requirement and time, production of certified invoice, production of bill of lading, signing and contents of entry, statistical enumeration, packages included, statement of cost of production, certification of owner by carrier, acceptance of duplicate bill of lading, and release of merchandise from customs custody.

1983—Subsec. (a)(1). Pub. L. 97-446, § 201(d)(1)(A), substituted “one of the parties qualifying as ‘importer of record’ under paragraph (2)(C) of this subsection” for “the consignee of imported merchandise”, and “authorized by him” for “authorized by the consignee”.

Subsec. (a)(2)(C), (D). Pub. L. 97-446, § 201(d)(1)(B), (C), added subpar. (C), redesignated former subpar. (C) as (D), and in subpar. (D) as so redesignated substituted “importers of record” for “consignees” after “treatment of all”.

Subsec. (c). Pub. L. 97-446, § 201(d)(2), substituted “importer of record” for “consignee” before “shall produce”.

Subsec. (d). Pub. L. 97-446, § 201(d)(2), substituted “importer of record” for “consignee” after “signed by the”.

Subsec. (h). Pub. L. 97-446, § 201(d)(3), substituted provision relating to authority of carrier of merchandise bringing it into the port to certify any person to receive the merchandise if the carrier has actual knowledge of the accuracy of the certification, for provision that any person certified by the carrier bringing the merchandise to the port at which entry was to be made to be the owner or consignee of the merchandise, or an agent of such owner or consignee, might make entry thereof, either in person or by an authorized agent, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 1483 of this title.

Subsec. (i). Pub. L. 97-446, § 201(d)(3), substituted provision authorizing appropriate customs officer to accept a duplicate bill of lading, for provision that any person might, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry was to be made, make entry for the merchandise in respect to which such bill of lading was issued, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 1483 of this title, except that such person was to make such entry in his own name.

1978—Subsec. (a). Pub. L. 95-410, § 102(a)(1), incorporated first sentence in introductory text of par. designated (1), added subpars. (A) and (B) and par. (2), and struck out second sentence which required the entry to be made at the customhouse within five days, exclusive of Sundays and holidays, after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless the appropriate customs officer authorized in writing a longer time.

Subsec. (c)(3). Pub. L. 95-410, § 102(a)(2), substituted “subsection” for “subdivision”.

Subsec. (j). Pub. L. 95-410, § 102(a)(3), struck out “The custom officer shall return to the person making entry the bill of lading (if any is produced) with a notation thereon to the effect that entry for such merchandise has been made.”

1977—Subsec. (e). Pub. L. 95-106 substituted “production and programs for achieving international harmonization of trade statistics,” for “production.”

1975—Subsec. (e). Pub. L. 93-618 substituted “United States International Trade Commission” for “United States Tariff Commission” and inserted references to an enumeration of articles exported from the United States and, in conjunction with statistical programs for domestic production, to the establishment of the comparability thereof with the enumeration of articles.

1970—Subsec. (a). Pub. L. 91-271, § 301(i)(1), substituted reference to appropriate customs officer for reference to collector.

Subsec. (c). Pub. L. 91-271, § 301(i)(2), (3), substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

Subsec. (g). Pub. L. 91-271, § 301(i)(4), substituted reference to appropriate customs officer for reference to collector or appraiser.

Subsec. (j). Pub. L. 91-271, § 301(i)(5), (6), substituted references to customs officer or such customs officer for references to collector wherever appearing.

1953—Subsec. (a). Act Aug. 8, 1953, § 16(b), substituted “five days” for “forty-eight hours”.

Subsec. (b). Act Aug. 8, 1953, § 16(c), granted the Secretary of the Treasury discretion to require certified invoices with respect to merchandise entered as he deems advisable and to establish terms under which merchandise may be imported without a certified invoice, in lieu of former provision that all such merchandise should be accompanied by an invoice certified by a United States consulate except in certain enumerated situations, and of the former provision that the Secretary might grant certain other exceptions.

Subsec. (f). Act Aug. 8, 1953, § 3(b), inserted provision relating to acceptance at port of entry designated by consignee or his agent in cases of articles not subject to a quantitative or tariff-rate quota.

1938—Subsec. (f). Act June 25, 1938, inserted provision relating to authorization by the Secretary for inclusion of portions of merchandise in separate entries under such rules and regulations as he may prescribe.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

Pub. L. 106-200, title IV, § 410(b), May 18, 2000, 114 Stat. 298, provided that: “The amendment made by this section [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [May 18, 2000].”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-446, title II, § 201(g), Jan. 12, 1983, 96 Stat. 2350, provided that: “The amendments made by this

section [amending the General headnotes of the Tariff Schedules, this section, and sections 1485, 1487, 1494, 1505, and 1557 of this title, and repealing section 1483 of this title] shall apply with respect to merchandise entered on and after the 30th day after the date of the enactment of this Act [Jan. 12, 1983].”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-410, title I, §102(b), Oct. 3, 1978, 92 Stat. 889, provided that: “The amendments made by this section [amending this section] shall take effect 60 days after the date of enactment of this Act [Oct. 3, 1978].”

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93-618, title VI, §608(e), Jan. 3, 1975, 88 Stat. 2074, provided that: “The amendment made by subsection (a) [amending this section] insofar as it related to export declarations shall take effect on January 1, 1976.”

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

REGULATIONS

Pub. L. 106-476, title I, §1460(b), Nov. 9, 2000, 114 Stat. 2171, provided that: “Not later than 6 months after the date of the enactment of this Act [Nov. 9, 2000], the Secretary of the Treasury shall issue regulations to carry out section 484(j) of the Tariff Act of 1930 [19 U.S.C. 1484(j)], as added by subsection (a).”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE

Pub. L. 110-234, title XV, §15422, May 22, 2008, 122 Stat. 1547, and Pub. L. 110-246, §4(a), title XV, §15422, June 18, 2008, 122 Stat. 1664, 2309, provided that:

“(a) REQUIREMENT ON IMPORTERS.—

“(1) IN GENERAL.—Pursuant to sections 484 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484 and 1485), the Commissioner responsible for U.S. Customs and Border Protection shall require each importer of merchandise to provide to U.S. Customs and Border Protection at the time of entry of the merchandise the information described in paragraph (2).

“(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) is a declaration as to whether the transaction value of the imported mer-

chandise is determined on the basis of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

“(3) EFFECTIVE DATE.—The requirement to provide information under this subsection shall be effective for the 1-year period beginning 90 days after the date of the enactment of this Act [June 18, 2008].

“(b) REPORT TO INTERNATIONAL TRADE COMMISSION.—

“(1) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection shall submit to the United States International Trade Commission on a monthly basis for the 1-year period specified in subsection (a)(3) a report on the information provided by importers under subsection (a)(2) during the preceding month. The report required under this paragraph shall be submitted in a form agreed upon between U.S. Customs and Border Protection and the United States International Trade Commission.

“(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

“(A) the number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2);

“(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States; and

“(C) the transaction value of such imported merchandise.

“(c) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 90 days after the submission of the final report under subsection (b), the United States International Trade Commission shall submit to the appropriate congressional committees a report on the information contained in all reports submitted under subsection (b).

“(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

“(A) the aggregate number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2), including a description of the frequency of the use of such method;

“(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States on an aggregate basis, including an analysis of the tariff classification of such imported merchandise on a sectoral basis;

“(C) the aggregate transaction value of such imported merchandise, including an analysis of the transaction value of such imported merchandise on a sectoral basis; and

“(D) the aggregate transaction value of all merchandise imported into the United States during the 1-year period specified in subsection (a)(3).

“(d) SENSE OF CONGRESS REGARDING PROHIBITION ON PROPOSED INTERPRETATION OF THE TERM ‘SOLD FOR EXPORTATION TO THE UNITED STATES’.—

“(1) IN GENERAL.—It is the sense of Congress that the Commissioner responsible for U.S. Customs and Border Protection should not implement a change to U.S. Customs and Border Protection’s interpretation (as such interpretation is in effect on the date of the enactment of this Act [June 18, 2008]) of the term ‘sold for exportation to the United States’, as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, before January 1, 2011.

“(2) EXCEPTION.—It is the sense of Congress that beginning on January 1, 2011, the Commissioner responsible for U.S. Customs and Border Protection may propose to change or change U.S. Customs and Border Protection’s interpretation of the term ‘sold for exportation to the United States’, as described in paragraph (1), only if U.S. Customs and Border Protection—

“(A) consults with, and provides notice to, the appropriate congressional committees—

“(i) not less than 180 days prior to proposing a change; and

“(ii) not less than 90 days prior to publishing a change;

“(B) consults with, provides notice to, and takes into consideration views expressed by, the Commercial Operations Advisory Committee—

“(i) not less than 120 days prior to proposing a change; and

“(ii) not less than 60 days prior to publishing a change; and

“(C) receives the explicit approval of the Secretary of the Treasury prior to publishing a change.

“(3) CONSIDERATION OF INTERNATIONAL TRADE COMMISSION REPORT.—It is the sense of Congress that prior to publishing a change to U.S. Customs and Border Protection’s interpretation (as such interpretation is in effect on the date of the enactment of this Act [June 18, 2008]) of the term ‘sold for exportation to the United States’, as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, the Commissioner responsible for U.S. Customs and Border Protection should take into consideration the matters included in the report prepared by the United States International Trade Commission under subsection (c).

“(e) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

“(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term ‘Commercial Operations Advisory Committee’ means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100-203] (former 19 U.S.C. 2071 note) or any successor committee [see 19 U.S.C. 4316(a)].

“(3) IMPORTER.—The term ‘importer’ means one of the parties qualifying as an ‘importer of record’ under section 484(a)(2)(B) in the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

“(4) TRANSACTION VALUE OF THE IMPORTED MERCHANDISE.—The term ‘transaction value of the imported merchandise’ has the meaning described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)).” [Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

DRUG PARAPHERNALIA

Pub. L. 101-382, title I, §137, Aug. 20, 1990, 104 Stat. 652, provided that:

“(a) STATISTICAL ANNOTATIONS.—The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission shall take actions under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) to implement the recommendations of the Commission regarding additional statistical annotations that were made in the report of the Commission on Investigation 332-277.

“(b) REPORT.—By no later than the date that is 1 year after the date of enactment of this Act [Aug. 20, 1990], the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the operational response of the United States Customs Service to the recommendations contained in the report of the United States Trade Commission described in subsection (a). The report submitted by the Commissioner of Customs under this subsection shall address the effectiveness of the United States Customs Service in monitoring and seizing drug paraphernalia, including crack bags, vials, and pipes.”

STUDY OF COMMODITY CLASSIFICATION SYSTEMS

Pub. L. 93-618, title VI, §608(b), Jan. 3, 1975, 88 Stat. 2074, mandated a joint study by the Secretary of Com-

merce and the United States International Trade Commission with a view toward development of an enumeration of articles resulting in comparability of import, production, and export data, with the submission of a report to both Houses of Congress and to the President no later than Aug. 1, 1975.

INVESTIGATION BY UNITED STATES INTERNATIONAL TRADE COMMISSION; FORMULATION OF INTERNATIONAL COMMODITY CODE

Pub. L. 93-618, title VI, §608(c), Jan. 3, 1975, 88 Stat. 2074, authorized an investigation by the United States International Trade Commission to provide the basis for the formulation of an international commodity code (with a report to be submitted to both Houses of Congress and to the President no later than June 1, 1975) and to provide the basis for full and immediate participation by the Trade Commission in the United States contribution to technical work of the Harmonized Systems Committee to assure recognition of the needs of the business community in the development of a harmonized code.

COOPERATION OF GOVERNMENTAL AGENCIES WITH SECRETARY OF COMMERCE AND UNITED STATES INTERNATIONAL TRADE COMMISSION IN STUDIES AND INVESTIGATIONS

Pub. L. 93-618, title VI, §608(d), Jan. 3, 1975, 88 Stat. 2074, provided that: “The President is requested to direct the appropriate agencies to cooperate fully with the Secretary of Commerce and the United States International Trade Commission in carrying out their responsibilities under subsections (a) [amending this section], (b), and (c) [see notes set out above].”

§ 1484a. Articles returned from space not to be construed as importation

The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

(A) wholly by United States persons, or

(B) in substantial part by United States persons, or

(C) by the United States;

(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section; and

(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process of manufacture or other means while in space.

(June 17, 1930, ch. 497, title IV, §484a, as added Pub. L. 98-573, title II, §209(a), Oct. 30, 1984, 98 Stat. 2976.)

EFFECTIVE DATE

Section applicable with respect to articles launched into space from the customs territory of the United States on or after Jan. 1, 1985, see section 214(c)(4) of Pub. L. 98-573, set out as an Effective Date of 1984 Amendment note under section 1304 of this title.

§ 1484b. Deferral of duty on large yachts imported for sale at United States boat shows

(a) In general

Notwithstanding any other provision of law, any vessel meeting the definition of a large yacht as provided in subsection (b) and which is otherwise dutiable may be imported without the payment of duty if imported with the intention to offer for sale at a boat show in the United States. Payment of duty shall be deferred, in accordance with this section, until such large yacht is sold.

(b) Definition

As used in this section, the term “large yacht” means a vessel that exceeds 79 feet in length, is used primarily for recreation or pleasure, and has been previously sold by a manufacturer or dealer to a retail consumer.

(c) Deferral of duty

At the time of importation of any large yacht, if such large yacht is imported for sale at a boat show in the United States and is otherwise dutiable, duties shall not be assessed and collected if the importer of record—

(1) certifies to the Customs Service that the large yacht is imported pursuant to this section for sale at a boat show in the United States; and

(2) posts a bond, which shall have a duration of 6 months after the date of importation, in an amount equal to twice the amount of duty on the large yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States.

(d) Procedures upon sale

(1)¹ Deposit of duty

If any large yacht (which has been imported for sale at a boat show in the United States with the deferral of duties as provided in this section) is sold within the 6-month period after importation—

(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

(e) Procedures upon expiration of bond period

(1) In general

If the large yacht entered with deferral of duties is neither sold nor exported within the 6-month period after importation—

(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

(2) Additional requirements

No extensions of the bond period shall be allowed. Any large yacht exported in compliance with the bond period may not be reentered for purposes of sale at a boat show in the United States (in order to receive duty deferral benefits) for a period of 3 months after such exportation.

(f) Regulations

The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(June 17, 1930, ch. 497, title IV, § 484b, as added Pub. L. 106-36, title II, § 2406(a), June 25, 1999, 113 Stat. 170.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsecs. (c)(2), (d)(1)(A), and (e)(1)(A), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

EFFECTIVE DATE

Pub. L. 106-36, title II, § 2406(b), June 25, 1999, 113 Stat. 171, provided that: “The amendment made by subsection (a) [enacting this section] shall apply with respect to any large yacht imported into the United States after the date that is 15 days after the date of the enactment of this Act [June 25, 1999].”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1485. Declaration

(a) Requirement; form and contents

Every importer of record making an entry under the provisions of section 1484 of this title shall make and file or transmit electronically therewith, in a form and manner to be prescribed by the Secretary of the Treasury, a declaration under oath, stating—

(1) Whether the merchandise is imported in pursuance of a purchase or an agreement to purchase, or whether it is imported otherwise than in pursuance of a purchase or agreement to purchase;

(2) That the prices set forth in the invoice are true, in the case of merchandise purchased or agreed to be purchased; or in the case of merchandise secured otherwise than by purchase or agreement to purchase, that the statements in such invoice as to value or price

¹ So in original. No par. (2) has been enacted.

are true to the best of his knowledge and belief;

(3) That all other statements in the invoice or other documents filed with the entry, or in the entry itself, are true and correct; and

(4) That he will produce at once to the appropriate customs officer any invoice, paper, letter, document, or information received showing that any such prices or statements are not true or correct.

(b) Books and periodicals

The Secretary of the Treasury is authorized to prescribe regulations for one declaration in the case of books, magazines, newspapers, and periodicals published and imported in successive parts, numbers, or volumes, and entitled to free entry.

(c) Agents

In the event that an entry is made by an agent under the provisions of section 1484 of this title and such agent is not in possession of such declaration of the importer of record, such agent shall give a bond to produce such declaration.

(d) Liability of importer of record for increased duties

An importer of record shall not be liable for any additional or increased duties if (1) he declares at the time of entry that he is not the actual owner of the merchandise, (2) he furnishes the name and address of such owner, and (3) within ninety days from the date of entry he produces a declaration of such owner conditioned that he will pay all additional and increased duties, under such regulations as the Secretary of the Treasury may prescribe. Such owner shall possess all the rights of an importer of record.

(e) Separate forms for purchase and nonpurchase importations

The Secretary of the Treasury shall prescribe separate forms for the declaration in the case of merchandise which is imported in pursuance of a purchase or agreement to purchase and merchandise which is imported otherwise than in pursuance of a purchase or agreement to purchase.

(f) Deceased or insolvent persons; partnerships and corporations

Whenever such merchandise is consigned to a deceased person, or to an insolvent person who has assigned the same for the benefit of his creditors, the executor or administrator, or the assignee of such person or trustee in a case under title 11, shall be considered as the importer of record; when consigned to a partnership the declaration of one of the partners only shall be required, and when consigned to a corporation such declaration may be made by any officer of such corporation. Whether the importer of record is an individual, a partnership, or a corporation, the declaration may be made by any person who has knowledge of the facts and who is specifically authorized by such individual, a member of such partnership, or an officer of such corporation to make such declaration.

(g) Exported merchandise returned as undeliverable

With respect to any importation of merchandise to which General Headnote 4(e) of the Harmonized Tariff Schedule of the United States applies, any person who gained any benefit from, or met any obligation to, the United States as a result of the prior exportation of such merchandise shall, in accordance with regulations prescribed by the Secretary, within a reasonable time inform the Customs Service of the return of the merchandise.

(June 17, 1930, ch. 497, title IV, §485, 46 Stat. 724; June 25, 1938, ch. 679, §13, 52 Stat. 1083; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 95-598, title III, §315, Nov. 6, 1978, 92 Stat. 2678; Pub. L. 97-446, title II, §201(e), Jan. 12, 1983, 96 Stat. 2350; Pub. L. 103-182, title VI, §657, Dec. 8, 1993, 107 Stat. 2212.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (g), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §485, 42 Stat. 961. That section was superseded by section 485 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions for a declaration to be filed when merchandise was entered by invoice, were contained in the Customs Administrative Act of June 10, 1890, ch. 407, §5, 26 Stat. 132, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 95, and by act Oct. 3, 1913, ch. 16, §III, F, 38 Stat. 182. The sections of the acts of 1890 and 1913, referred to, were repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

R.S. §2786, requiring entries to be verified by oath, was superseded by the Customs Administrative Act of June 10, 1890, ch. 407, §§4, 5, 22, 26 Stat. 131, 132, 140, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 92, 102, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, §III, E, F, and section IV, S, of that act, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §2841 prescribed the forms of oaths of which one, according to the nature of the case, was required to be administered by the collector at the time of the entry of merchandise by invoice. It was modified by act May 1, 1876, ch. 89, §2, 19 Stat. 49, and repealed by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, amended and reenacted by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 104, and declarations in lieu of oaths were required to accompany the invoice by section 5 of the Customs Administrative Act, amended by the Payne-Aldrich Act and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, §III, F. All oaths administered by officers of the customs, except as provided in the Customs Administrative Act, were abolished by section 22 thereof amended by section 28 of the Payne-Aldrich Act.

The provisions for the abolition of fees and oaths on entry of goods, made by the Customs Administrative Act of June 10, 1890, ch. 407, §22, 26 Stat. 140, as amended by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 102, were superseded by a proviso annexed to section IV, S, of the Underwood Tariff Act of Oct. 3, 1913, which provided that "nothing in this act shall be construed to permit any oaths to be demanded or fees to be charged except as provided in this act," etc.

Act May 1, 1876, ch. 89, §2, 19 Stat. 49, modifying the form of oath prescribed by R.S. §2841, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

R.S. §2849, relative to oaths when merchandise belonged in part to a resident of the United States and in part to a non-resident was superseded in part by the Customs Administrative Act of June 10, 1890, ch. 407, §§5, 22, 29, 26 Stat. 132, 140, 141, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 92, 102, 104, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, §III, B–J, and was repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Prior provisions requiring a bond to be taken when entry was made by an agent, factor, or person other than the owner or ultimate consignee, and prescribing the conditions, etc., of the bond, and the circumstances under which it might be canceled with a proviso authorizing the taking of a general penal bond, were contained in R.S. §2787, as amended by act Mar. 2, 1905, ch. 1306, 33 Stat. 826, which was repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Provisions concerning the statement to be presented to the collector when merchandise entered for customs duty had been consigned for sale to a person, agent, partner, or consignee, were contained in act Oct. 3, 1913, ch. 16, §III, J, 38 Stat. 185, which reenacted the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, and the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 96, and which was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

A prior provision relative to oaths to invoices when merchandise belonged to estates of deceased persons or of persons insolvent was contained in R.S. §2846, which was superseded, in part, by the abolition of all oaths administered by officers of the customs, except as provided therein, by the Customs Administrative Act of June 10, 1890, ch. 407, §22, 26 Stat. 140, and by the repeal, by section 29 of that act, 26 Stat. 141, of R.S. §§2841, 2843, 2845, which required oaths to accompany invoices on entry of merchandise, and the substitution of declarations for such oaths, by sections 3–5 of said act, 26 Stat. 131, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 102, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, §III, D, F, and §IV, S, 38 Stat. 181.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–182, §657(1), in introductory provisions, inserted “or transmit electronically” after “file” and “and manner” after “form”.

Subsec. (d). Pub. L. 103–182, §657(2), substituted “An importer” for “A importer” and “an importer” for “a importer”.

Subsec. (g). Pub. L. 103–182, §657(3), added subsec. (g). 1983—Subsec. (a). Pub. L. 97–446 substituted “importer of record” for “consignee” before “making an entry”.

Subsec. (c). Pub. L. 97–446 substituted “importer of record” for “consignee” after “declaration of the”.

Subsecs. (d), (f). Pub. L. 97–446 substituted “importer of record” for “consignee” wherever appearing.

1978—Subsec. (f). Pub. L. 95–598 substituted “trustee in a case under title 11” for “receiver or trustee in bankruptcy”.

1970—Subsec. (a). Pub. L. 91–271 substituted reference to appropriate customs officer for reference to collector.

1938—Subsec. (f). Act June 25, 1938, changed the comma to a period after “such declaration may be made by any officer of such corporation”, struck out “or by any other person specifically authorized by any officer of such corporation to make the same” after said comma, and inserted in lieu thereof a new sentence providing that whether the consignee is an individual, a partnership, or a corporation, the declaration may be made by any person having knowledge of the facts and authorized to make such declaration.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97–446, set out as a note under section 1484 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91–271, see section 203 of Pub. L. 91–271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

§ 1486. Administration of oaths

(a) Customs officers

The following officers and employees may administer any oaths required or authorized by law or regulations promulgated thereunder in respect of any matter coming before such officers or employees in the performance of their official duties: (1) Any customs officer appointed by the President; (2) the chief assistant of any such officer, or any officer or employee of the customs field service designated for the purpose by such officer or by the Secretary of the Treasury; and (3) any officer or employee of the United States Customs Service designated for the purpose by the Secretary of the Treasury.

(b) Postmasters

The postmaster or assistant postmaster of the United States at any post office where customs officers are not stationed, is authorized to administer any oaths required to be made to statements in customs documents by importers of merchandise, not exceeding \$100 in value, through the mails.

(c) No compensation

No compensation or fee shall be demanded or accepted for administering any oath under the provisions of this section.

(d) Verification in lieu of oath

The Secretary of the Treasury may by regulation prescribe that any document required by any law administered by the Customs Service to be under oath may be verified by a written declaration in such form as he shall prescribe, such declaration to be in lieu of the oath otherwise required.

(June 17, 1930, ch. 497, title IV, §486, 46 Stat. 725; Aug. 8, 1953, ch. 397, §17, 67 Stat. 517.)

AMENDMENTS

1953—Subsec. (d). Act Aug. 8, 1953, added subsec. (d).

CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1487. Value in entry; amendment

The importer of record or his agent may, under such regulations as the Secretary of the Treasury may prescribe, at the time entry is made, make in the entry such additions to or deductions from the cost or value given in the invoice as, in his opinion, may raise or lower the same to the value of such merchandise.

(June 17, 1930, ch. 497, title IV, § 487, 46 Stat. 725; Aug. 8, 1953, ch. 397, § 18(a), 67 Stat. 517; Pub. L. 97-446, title II, § 201(e), Jan. 12, 1983, 96 Stat. 2350.)

PRIOR PROVISIONS

Provisions somewhat similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § III, I, 38 Stat. 184, which were substituted for provisions made by the Customs Administrative Act of June 10, 1890, ch. 407, § 7, 26 Stat. 134, as amended by act July 24, 1897, ch. 11, § 32, 30 Stat. 211, and as further amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 95. Section III of the act of 1913 was superseded by act Sept. 21, 1922, ch. 356, title IV, § 487, 42 Stat. 962, and was repealed by section 643 thereof. Section 487 of the 1922 act was superseded by section 487 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for addition to the invoice values made by R.S. § 2900, were repealed by section 29 of the Customs Administrative Act.

AMENDMENTS

1983—Pub. L. 97-446 substituted “importer of record” for “consignee” before “or his agent”.

1953—Act Aug. 8, 1953, struck out “or at any time before the invoice or the merchandise has come under the observation of the appraiser for the purpose of appraisalment,” after “at the time entry is made,”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

§ 1488. Repealed. Pub. L. 91-271, title II, § 204(b), June 2, 1970, 84 Stat. 283

Section, act June 17, 1930, ch. 497, title IV, § 488, 46 Stat. 725, authorized a collector to cause the appraisal of entered merchandise.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 203 of Pub. L. 91-271, set out as an Effective Date of 1970 Amendment note under section 1500 of this title.

§ 1489. Repealed. Pub. L. 87-456, title III, § 301(a), May 24, 1962, 76 Stat. 75

Section, acts June 17, 1930, ch. 497, title IV, § 489, 46 Stat. 725; Aug. 8, 1953, ch. 397, § 18(b), 67 Stat. 517, related to entry of antique furniture at designated ports.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 501(a) of Pub. L. 87-456, set out as an Effective Date of Tariff Classification Act of 1962 note preceding section 1202 of this title.

§ 1490. General orders

(a) Incomplete entry

(1) Whenever—

(A) the entry of any imported merchandise is not made within the time provided by law or by regulation prescribed by the Secretary;

(B) the entry of imported merchandise is incomplete because of failure to pay the estimated duties, fees, or interest;

(C) in the opinion of the Customs Service, the entry of imported merchandise cannot be made for want of proper documents or other cause; or

(D) the Customs Service believes that any merchandise is not correctly and legally invoiced;

the carrier (unless subject to subsection (c)) shall notify the bonded warehouse of such unentered merchandise.

(2) After notification under paragraph (1), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until—

(A) entry is made or completed and the proper documents are produced;

(B) the information and data necessary for entry are transmitted to the Customs Service pursuant to an authorized electronic data interchange system; or

(C) a bond is given for the production of documents or the transmittal of data.

(b) Request for possession by Customs

At the request of the consignee of any merchandise, or of the owner or master of the vessel or the person in charge of the vehicle in which the same is imported, any merchandise may be taken possession of by the Customs Service after the expiration of one day after the entry of the vessel or report of the vehicle and may be unladen and held at the risk and expense of the consignee until entry thereof is made.

(c) Government merchandise

Any imported merchandise that—

- (1) is described in any of subparagraphs (A) through (D) of subsection (a)(1); and
- (2) is consigned to, or owned by, the United States Government;

shall be stored and disposed of in accordance with such rules and procedures as the Secretary shall by regulation prescribe.

(June 17, 1930, ch. 497, title IV, § 490, 46 Stat. 726; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 658, Dec. 8, 1993, 107 Stat. 2212; Pub. L. 104-295, § 21(e)(9), Oct. 11, 1996, 110 Stat. 3531.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 490, 42 Stat. 963. That section was superseded by section 490 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions authorizing the collector to take possession of, or store merchandise were contained in the following sections, all of which were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989:

R.S. § 2789, authorizing the collector, when an entry was imperfect, to take the merchandise into his custody until the quantity, quality, or value could be ascertained;

R.S. § 2840, providing that when the collector should suspect that merchandise was not invoiced at a sum equal to that for which it had usually been sold, he should take possession and retain the same until its value had been ascertained and the duties paid or secured;

R.S. § 2926, providing that merchandise of which incomplete entry had been made, or entry without specification of particulars, should be conveyed to some warehouse or designated by the collector to remain until the particulars, cost or value should have been ascertained, and the duties paid or secured, and a permit for delivery granted;

R.S. § 2963, providing that when merchandise had not been entered it should be deposited in a public warehouse, and there remain until an invoice was produced, but that it should not be construed to prohibit sales of merchandise to discharge duties and charges;

R.S. § 2964, authorizing the collector to take possession of merchandise, and deposit it in public stores, or other stores to be agreed on, in case of failure or neglect to pay duties, or when the owner, etc., should make entry for warehousing;

R.S. § 2965, providing for the storage in a public warehouse, or private bonded warehouse, of unclaimed merchandise required to be taken possession of by collectors, and making provision for payment of charges and expenses;

R.S. § 2966, as amended by act June 26, 1884, ch. 121, § 24, 23 Stat. 58, providing for the deposit in a bonded warehouse of merchandise imported in vessels, when it should appear by the bills of lading that it was to be delivered immediately after entry of the vessel, or on request, when it did not so appear.

A prior provision authorizing the collector to require a bond for the production of proof to enable the collec-

tor to ascertain the class or description of manufacture, or rate of duty to which merchandise was liable, was contained in R.S. § 2925, which was also repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104-295 substituted “subparagraphs (A) through (D) of subsection (a)(1)” for “paragraphs (1) through (4) of subsection (a)”.

1993—Subsec. (a). Pub. L. 103-182, § 658(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Whenever entry of any imported merchandise is not made within the time provided by law or the regulations prescribed by the Secretary of the Treasury, or whenever entry of such merchandise is incomplete because of failure to pay the estimated duties, or whenever, in the opinion of the appropriate customs officer, entry of such merchandise can not be made for want of proper documents or other cause, or whenever the appropriate customs officer believes that any merchandise is not correctly and legally invoiced, he shall take the merchandise into his custody and send it to a bonded warehouse or public store, to be held at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production.”

Subsec. (b). Pub. L. 103-182, § 658(2), substituted heading for one which read “At request of consignee” and in text substituted “Customs Service” for “appropriate customs officer”.

Subsec. (c). Pub. L. 103-182, § 658(3), added subsec. (c). 1970—Pub. L. 91-271 substituted references to appropriate customs officer for references to collector wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1491. Unclaimed merchandise; disposition of forfeited distilled spirits, wines and malt liquor**(a) Appraisal and sale of unclaimed merchandise**

Any entered or unentered merchandise (except merchandise entered under section 1557 of this title, but including merchandise entered for transportation in bond or for exportation) which shall remain in a bonded warehouse pursuant to section 1490 of this title for 6 months from the date of importation thereof, without all estimated duties, taxes, fees, interest, storage, or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government and shall be appraised and sold by the Customs Service at public auction under such regulations as the Secretary of the Treasury shall prescribe. All gunpowder and other explosive substances and merchandise liable to depre-

ciation in value by damage, leakage, or other cause to such extent that the proceeds of sale thereof may be insufficient to pay the duties, taxes, fees, interest, storage, and other charges, if permitted to remain in¹ pursuant to section 1490 of this title in a bonded warehouse for 6 months, may be sold forthwith, under such regulations as the Secretary of the Treasury may prescribe. Merchandise subject to sale hereunder or under section 1559 of this title may be entered or withdrawn for consumption at any time prior to such sale upon payment of all duties, taxes, fees, interest, storage, and other charges, and expenses that may have accrued thereon, but such merchandise after becoming subject to sale may not be exported prior to sale without the payment of such duties, taxes, fees, interest, charges, and expenses nor may it be entered for warehouse. The computation of duties, taxes, interest, and fees for the purposes of this section and sections 1493 and 1559 of this title shall be at the rate or rates applicable at the time the merchandise becomes subject to sale.

(b) Notice of title vesting in United States

At the end of the 6-month period referred to in subsection (a), the Customs Service may, in lieu of sale of the merchandise, provide notice to all known interested parties that the title to such merchandise shall be considered to vest in the United States free and clear of any liens or encumbrances, on the 30th day after the date of the notice unless, before such 30th day—

(1) the subject merchandise is entered or withdrawn for consumption; and

(2) payment is made of all duties, taxes, fees, transfer and storage charges, and other expenses that may have accrued thereon.

(c) Retention, transfer, destruction, or other disposition

If title to any merchandise vests in the United States by operation of subsection (b), such merchandise may be retained by the Customs Service for official use, transferred to any other Federal agency or to any State or local agency, destroyed, or otherwise disposed of in accordance with such regulations as the Secretary shall prescribe. All transfer and storage charges or expenses accruing on retained or transferred merchandise shall be paid by the receiving agency.

(d) Petition

Whenever any party, having lost a substantial interest in merchandise by virtue of title vesting in the United States under subsection (b), can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the United States under subsection (b), or can establish to the satisfaction of the Secretary that the party did not receive notice under subsection (b), the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Treasury of the United States the amount the Secretary believes the party would have received under section 1493 of this title had the merchandise been sold and a proper claim filed. The decision of the Secretary with respect to

any such petition is final and conclusive on all parties.

(e) Appraisal and sale or other disposition of forfeited distilled spirits, wines, and malt liquor

All distilled spirits, wines, and malt liquor forfeited to the Government summarily or by order of court, under any provision of law administered by the United States Customs Service, shall be appraised and disposed of by—

(1) delivery to such Government agencies, as in the opinion of the Secretary have a need for such distilled spirits, wines, and malt liquor for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency;

(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines, and malt liquor for medical purposes;

(3) sale by Customs Service at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and malt liquor under paragraph (1) or (2); or

(4) destruction.

(June 17, 1930, ch. 497, title IV, § 491, 46 Stat. 726; June 25, 1938, ch. 679, § 14, 52 Stat. 1083; Pub. L. 91-271, title III, § 301(j), June 2, 1970, 84 Stat. 289; Pub. L. 95-410, title II, § 208, Oct. 3, 1978, 92 Stat. 901; Pub. L. 103-182, title VI, § 659, Dec. 8, 1993, 107 Stat. 2213; Pub. L. 104-295, § 21(e)(8), Oct. 11, 1996, 110 Stat. 3531.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §§ 2973, 2975 and 2976, all of which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 491, 42 Stat. 963, and repealed by section 642 thereof. Section 491 of the 1922 act was superseded by section 491 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-295 substituted “in a bonded warehouse pursuant to section 1490” for “in a bonded warehouse pursuant to section 1490” and “Customs Service” for “appropriate customs officer”.

1993—Subsec. (a). Pub. L. 103-182, § 659(1), substituted “in a bonded warehouse pursuant to section 1490 of this title for 6 months” for “customs custody for one year”, “estimated duties, taxes, fees, interest, storage,” for “estimated duties and storage”, “duties, taxes, fees, interest, storage, and other charges, if permitted” for “duties, storage, and other charges, if permitted”, “pursuant to section 1490 of this title in a bonded warehouse for 6 months” for “public store or bonded warehouse for a period of one year”, “duties, taxes, fees, interest, storage, and other charges” for “duties, storage, and other charges”, “duties, taxes, fees, interest, charges, and expenses” for “duties, charges, and expenses”, and “computation of duties, taxes, interest, and fees for the purposes” for “computation of duties for the purposes”.

Subsecs. (b) to (d). Pub. L. 103-182, § 659(2), added subsecs. (b) to (d). Former subsec. (b) redesignated (e).

Subsec. (e). Pub. L. 103-182, § 659(2), (3), redesignated subsec. (b) as (e) and substituted “Customs Service” for “appropriate customs officer” in par. (3).

1978—Pub. L. 95-410 amended section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

¹ So in original. The word “in” probably should not appear.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector, and struck out reference to appraiser of merchandise.

1938—Act June 25, 1938, amended generally so much of this section as preceded “shall be considered unclaimed and abandoned”.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

EXTENSION OF ONE-YEAR PERIOD

For extension of one year period prescribed in this section, see Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41, set out as a note under section 1318 of this title.

Proc. No. 2599, Nov. 6, 1943, 8 F.R. 15359, 57 Stat. 758, as amended by Proc. No. 2712, Dec. 4, 1946, 11 F.R. 14133, 61 Stat. 1947, was superseded by Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41.

§ 1492. Destruction of abandoned or forfeited merchandise

Except as provided in R.S. § 3369 (relating to tobacco and snuff), and in section 901 of the Revenue Act of 1926 (relating to distilled spirits), any merchandise abandoned or forfeited to the Government under the preceding or any other provision of the customs laws, which is subject to internal revenue tax and which the Customs Service shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed, retained for official use, or otherwise disposed of under regulations to be prescribed by the Secretary of the Treasury, instead of being sold at auction.

(June 17, 1930, ch. 497, title IV, § 492, 46 Stat. 727; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 660, Dec. 8, 1993, 107 Stat. 2214.)

REFERENCES IN TEXT

R.S. § 3369, referred to in text, is covered by sections 5723(a) and 5753 of Title 26, Internal Revenue Code.

Section 901 of Revenue Act of 1926, referred to in text, is covered by section 5243 of Title 26.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 492, 42 Stat. 963. That section was superseded by section 492 of

act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior to its incorporation into the Code, this section read: “Except as provided in section 3369 of the Revised Statutes, as amended,” etc. R.S. § 3369, as amended by act Oct. 14, 1921, ch. 107, 42 Stat. 205, related in part to abandoned, condemned or forfeited tobacco, snuff, cigars, or cigarettes, which would not bring a price equal to the internal revenue tax thereon. So far as it related to tobacco and snuff, it was incorporated into the Code as sections 702(a)(1), 803(a)(1), (c), (d), and 890, of Title 26, Internal Revenue Code, and so far as it applied to cigars and cigarettes, it was incorporated into the Code as sections 812(d)(2) and 890, of Title 26.

AMENDMENTS

1993—Pub. L. 103-182 substituted “Customs Service” for “appropriate customs officer” and inserted “, retained for official use, or otherwise disposed of” after “destroyed”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1493. Proceeds of sale

The surplus of the proceeds of sales under section 1491 of this title, after the payment of storage charges, expenses, duties, taxes, and fees, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited in the Treasury of the United States, if claim therefor shall not be filed with the Customs Service within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Treasury the amount of any surplus of the proceeds of sale.

(June 17, 1930, ch. 497, title IV, § 493, 46 Stat. 727; Pub. L. 91-271, title III, § 301(e), June 2, 1970, 84 Stat. 288; Pub. L. 103-182, title VI, § 661, Dec. 8, 1993, 107 Stat. 2214.)

PRIOR PROVISIONS

Provisions substantially similar in most respects to those in this section, with further provisions concerning the documents to be forwarded by the collector to the Treasury Department, were contained in R.S. § 2974, which was superseded and more nearly assimilated to the present section by act Sept. 21, 1922, ch. 356, title IV, § 493, 42 Stat. 964, and repealed by section 642 thereof. Section 493 of the 1922 act was superseded by section

493 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1993—Pub. L. 103-182 inserted “taxes, and fees,” after “duties,” struck out “by the appropriate customs officer” after “shall be deposited”, and substituted “the Customs Service” for “such customs officer”.

1970—Pub. L. 91-271 substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

APPROPRIATIONS

Act June 26, 1934, ch. 756, §2, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title “Refunding proceeds of unclaimed merchandise (Customs) (2x326)” effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 1494. Expense of weighing and measuring

In all cases in which the invoice or entry does not state the weight, quantity, or measure of the merchandise, the expense of ascertaining the same shall be collected from the importer of record before its release from customs custody.

(June 17, 1930, ch. 497, title IV, §494, 46 Stat. 727; Pub. L. 97-446, title II, §201(e), Jan. 12, 1983, 96 Stat. 2350.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §494, 42 Stat. 964. That section was superseded by section 494 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision requiring merchandise to be weighed, gauged or measured at the expense of the owner, agent or consignee, in cases in which the invoice or entry did not contain the weight, quantity or measure was contained in R.S. §2920, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1983—Pub. L. 97-446 substituted “importer of record” for “consignee” after “collected from the”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan.

12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 of this title.

§ 1495. Partnership bond

When any bond is required by law or regulations to be executed by any partnership for any purpose connected with the transaction of business at any customhouse, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same.

(June 17, 1930, ch. 497, title IV, §495, 46 Stat. 727.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §495, 42 Stat. 964. That section was superseded by section 495 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions substantially similar to those in this section, except that they applied to bonds for the payment of duties or for any other purpose connected with the general transaction of business at any customs house, were contained in act June 20, 1876, ch. 136, 19 Stat. 60, as amended by act Aug. 27, 1894, ch. 349, §70, 28 Stat. 569, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

§ 1496. Examination of baggage

The appropriate customs officer may cause an examination to be made of the baggage of any person arriving in the United States in order to ascertain what articles are contained therein and whether subject to duty, free of duty, or prohibited notwithstanding a declaration and entry therefor has been made.

(June 17, 1930, ch. 497, title IV, §496, 46 Stat. 727; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §496, 42 Stat. 964. That section was superseded by section 496 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1496a. Clearance restrictions of individuals returning from abroad; special circumstances; “baggage and effects” defined

Except as otherwise provided by law, no individual returning to the United States from abroad shall be—

(1) entitled to the admission of his or her baggage and effects free of duty without entry; or

(2) entitled to expedited customs examination and clearance of his or her baggage and effects.

Paragraph (2) shall not apply to individuals in special circumstances (including being seriously ill or infirm, having been summoned by news of affliction or disaster, and accompanying the body of a deceased relative). For purposes of this section, the term “baggage and effects” means any article which was in the possession of the individual while abroad and is being imported in connection with his or her arrival and is intended for his or her bona fide personal or household use. Such term does not include any article imported as an accommodation to others or for sale or other commercial use.

(Pub. L. 95-410, title II, §215, Oct. 3, 1978, 92 Stat. 904.)

CODIFICATION

Section was enacted as part of Customs Procedural Reform and Simplification Act of 1978, and not as part of Tariff Act of 1930 which comprises this chapter.

CLEARANCE PROCEDURES STUDY; REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 95-410, title II, §216, Oct. 3, 1978, 92 Stat. 904, provided that the Comptroller General, in cooperation with the Customs Service of the Department of the Treasury and the Immigration and Naturalization Service of the Department of Justice, study clearance procedures for individuals entering or reentering the United States, and to report the results of his study and any recommendations for expediting the clearance process to specific committees of the United States Senate and the House of Representatives not later than Sept. 1, 1979.

§ 1497. Penalties for failure to declare

(a) In general

(1) Any article which—

(A) is not included in the declaration and entry as made or transmitted; and

(B) is not mentioned before examination of the baggage begins—

(i) in writing by such person, if written declaration and entry was required, or

(ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

(A) if the article is a controlled substance, either \$500 or an amount equal to 1,000 percent of the value of the article, whichever amount is greater; and

(B) if the article is not a controlled substance, the value of the article.

(b) Value of controlled substances

(1) Notwithstanding any other provision of this chapter, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

(2) The Secretary and the Attorney General of the United States shall establish a method of de-

termining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.

(June 17, 1930, ch. 497, title IV, §497, 46 Stat. 728; Pub. L. 99-570, title III, §3116, Oct. 27, 1986, 100 Stat. 3207-83; Pub. L. 100-690, title VII, §7367(a), Nov. 18, 1988, 102 Stat. 4479; Pub. L. 103-182, title VI, §612, Dec. 8, 1993, 107 Stat. 2170.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §497, 42 Stat. 964. That section was superseded by section 497 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision for forfeiture of any article subject to duty found in baggage, and not mentioned to the collector before whom entry was made, and for a penalty of treble the value of the article, was contained in R.S. §2802, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1993—Subsec. (a)(1)(A). Pub. L. 103-182, §612(1), inserted “or transmitted” after “made”.

Subsec. (a)(2)(A). Pub. L. 103-182, §612(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “if the article is a controlled substance, 1,000 percent of the value of the article; and”.

1988—Subsec. (a)(2)(A). Pub. L. 100-690 substituted “1,000 percent” for “200 percent”.

1986—Pub. L. 99-570 amended section generally. Prior to amendment, section read as follows: “Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article.”

§ 1498. Entry under regulations

(a) Authorized for certain merchandise

The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

(1) Merchandise, when—

(A) the aggregate value of the shipment does not exceed an amount specified by the Secretary by regulation, but not more than \$2,500; or

(B) different commercial facilitation and risk considerations that may vary for different classes or kinds of merchandise or different classes of transactions may dictate;

(2) Products of the United States, when the aggregate value of the shipment does not exceed such amounts as the Secretary may prescribe and the products are imported.

(A) for the purposes of repair or alteration prior to reexportation, or

(B) after having been either rejected or returned by the foreign purchaser to the United States for credit;

(3) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

(4) Merchandise recovered from a wrecked or stranded vessel;

(5) Household effects used abroad and personal effects, not imported in pursuance of a

purchase or agreement for purchase and not intended for sale;

(6) Articles sent by persons in foreign countries as gifts to persons in the United States;

(7) Articles carried on the person or contained in the baggage of a person arriving in the United States;

(8) Tools of trade of a person arriving in the United States;

(9) Personal effects of citizens of the United States who have died in a foreign country;

(10) Merchandise within the provisions of sections 1465¹ and 1466 of this title (relating to supplies, repairs, and equipment on vessels and railway cars) at the first port of arrival;

(11) Merchandise when in the opinion of the Secretary of the Treasury the value thereof cannot be declared; and

(12) Merchandise within the provisions of paragraph 1631 of section 1201 of this title.

(b) Application of general provisions

The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 1484 or 1485 of this title (relating, respectively, to entry and to declaration of merchandise generally).

(June 17, 1930, ch. 497, title IV, § 498, 46 Stat. 728; Aug. 8, 1953, ch. 397, § 16(d), (e), 67 Stat. 517; Pub. L. 96-609, title II, § 202, Dec. 28, 1980, 94 Stat. 3561; Pub. L. 98-573, title II, § 206, Oct. 30, 1984, 98 Stat. 2975; Pub. L. 100-418, title I, § 1214(h)(5), Aug. 23, 1988, 102 Stat. 1157; Pub. L. 103-182, title VI, § 662, Dec. 8, 1993, 107 Stat. 2214.)

REFERENCES IN TEXT

Section 1465 of this title, referred to in subsec. (a)(10), was repealed by Pub. L. 103-182, title VI, § 690(b)(7), Dec. 8, 1993, 107 Stat. 2223.

Section 1201 of this title, referred to in subsec. (a)(12), which comprised the free list for articles imported into the United States, was repealed by Pub. L. 87-456, title I, § 101(a), May 24, 1962, 76 Stat. 72, which act also revised the Tariff Schedules of the United States. See notes under section 1202 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 498, 42 Stat. 964. That section was superseded by section 498 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provision for an entry, separate from that of other merchandise, of wearing apparel, personal baggage, and tools and implements of a mechanical trade, was made by R.S. § 2799, which also prescribed the contents of such entry, and of the accompanying oath. R.S. § 2800 provided for a bond when the person making entry was not the owner. R.S. § 2801 provided for a landing permit, and for an examination of baggage when deemed proper by the collector and naval officer, and for entry of articles not exempt from duty. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-182, § 662(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than \$1,250 as the Secretary of the Treasury shall specify in the regula-

tions, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions, except that this paragraph does not apply to articles valued in excess of \$250 classified in—

"(A) chapters 50 through 63;

"(B) chapters 39 through 43, 61 through 65, 67 and 95; and

"(C) subchapters III and IV of chapter 99;

of the Harmonized Tariff Schedule of the United States, or to any other article for which formal entry is required without regard to value.;"

Subsec. (a)(2). Pub. L. 103-182, § 662(2), substituted "such amounts as the Secretary may prescribe" for "\$10,000" in introductory provisions.

1988—Subsec. (a)(1). Pub. L. 100-418, substituted "the Harmonized Tariff Schedule of the United States" for "the Tariff Schedules of the United States" in closing provisions, added subpars. (A) to (C), and struck out former subpars. (A) to (C) which read as follows:

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix.;"

1984—Subsec. (a)(1). Pub. L. 98-573 substituted "\$1,250" for "\$250" and inserted provision that this paragraph does not apply to articles valued in excess of \$250 classified in schedule 3, parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and parts 2 and 3 of the Appendix, of the Tariff Schedules, or to any other article for which formal entry is required without regard to value.

1980—Subsec. (a). Pub. L. 96-609 added par. (2) and redesignated former pars. (2) to (11) as (3) to (12), respectively.

1953—Subsec. (a)(1). Act Aug. 8, 1953, § 16(d), increased valuation figure with respect to informal entries from \$100 to \$250, and inserted provisions with respect to possible variation for different classes or kinds of merchandise and different classes of transactions.

Subsec. (a)(11). Act Aug. 8, 1953, § 16(e), substituted "paragraph 1631 of section 1201 of this title" for "sections 472 to 574 of this title".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

CUSTOMS DECLARATIONS; PROXIMITY OF LIVESTOCK

Pub. L. 108-90, title V, § 513, Oct. 1, 2003, 117 Stat. 1154, provided that: "For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used for the production of customs declarations that do not inquire whether the passenger had been in the proximity of livestock."

§ 1499. Examination of merchandise

(a) Entry examination

(1) In general

Imported merchandise that is required by law or regulation to be inspected, examined, or appraised shall not be delivered from customs custody (except under such bond or other security as may be prescribed by the Sec-

¹ See References in Text note below.

retary to assure compliance with all applicable laws, regulations, and instructions which the Secretary or the Customs Service is authorized to enforce) until the merchandise has been inspected, appraised, or examined and is reported by the Customs Service to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States.

(2) Examination

The Customs Service—

(A) shall designate the packages or quantities of merchandise covered by any invoice or entry which are to be opened and examined for the purpose of appraisalment or otherwise;

(B) shall order such packages or quantities to be sent to such place as is designated by the Secretary by regulation for such purpose;

(C) may require such additional packages or quantities as the Secretary considers necessary for such purpose; and

(D) shall inspect a sufficient number of shipments, and shall examine a sufficient number of entries, to ensure compliance with the laws enforced by the Customs Service.

(3) Unspecified articles

If any package contains any article not specified in the invoice or entry and, in the opinion of the Customs Service, the article was omitted from the invoice or entry—

(A) with fraudulent intent on the part of the seller, shipper, owner, agent, importer of record, or entry filer, the contents of the entire package in which such article is found shall be subject to seizure; or

(B) without fraudulent intent, the value of the article shall be added to the entry and the duties, fees, and taxes thereon paid accordingly.

(4) Deficiency

If a deficiency is found in quantity, weight, or measure in the examination of any package, the person finding the deficiency shall make a report thereof to the Customs Service. The Customs Service shall make allowance for the deficiency in the liquidation of duties.

(5) Information required for release

If an examination is conducted, any information required for release shall be provided, either electronically or in paper form, to the Customs Service at the port of examination. The absence of such information does not limit the authority of the Customs Service to conduct an examination.

(b) Testing laboratories

(1) Accreditation of private testing laboratories

The Customs Service shall establish and implement a procedure, under regulations promulgated by the Secretary, for accrediting private laboratories within the United States which may be used to perform tests (that would otherwise be performed by Customs Service laboratories) to establish the characteristics, quantities, or composition of imported merchandise. Such regulations—

(A) shall establish the conditions required for the laboratories to receive and maintain accreditation for purposes of this subsection;

(B) shall establish the conditions regarding the suspension and revocation of accreditation, which may include the imposition of a monetary penalty not to exceed \$100,000 and such penalty is in addition to the recovery, from a gauger or laboratory accredited under paragraph (1), of any loss of revenue that may have occurred, but the Customs Service—

(i) may seek to recover lost revenue only in cases where the gauger or laboratory intentionally falsified the analysis or gauging report in collusion with the importer; and

(ii) shall neither assess penalties nor seek to recover lost revenue because of a good faith difference of professional opinion; and

(C) may provide for the imposition of a reasonable charge for accreditation and periodic reaccreditation.

The collection of any charge for accreditation and reaccreditation under this section is not prohibited by section 58c(e)(6) of this title.

(2) Appeal of adverse accreditation decisions

A laboratory applying for accreditation, or that is accredited, under this section may contest any decision or order of the Customs Service denying, suspending, or revoking accreditation, or imposing a monetary penalty, by commencing an action in accordance with chapter 169 of title 28 in the Court of International Trade within 60 days after issuance of the decision or order.

(3) Testing by accredited laboratories

When requested by an importer of record of merchandise, the Customs Service shall authorize the release to the importer of a representative sample of the merchandise for testing, at the expense of the importer, by a laboratory accredited under paragraph (1). The testing results from a laboratory accredited under paragraph (1) that are submitted by an importer of record with respect to merchandise in an entry shall, in the absence of testing results obtained from a Customs Service laboratory, be accepted by the Customs Service if the importer of record certifies that the sample tested was taken from the merchandise in the entry. Nothing in this subsection shall be construed to limit in any way or preclude the authority of the Customs Service to test or analyze any sample or merchandise independently.

(4) Availability of testing procedure, methodologies, and information

Testing procedures and methodologies used by the Customs Service, and information resulting from any testing conducted by the Customs Service, shall be made available as follows:

(A) Testing procedures and methodologies shall be made available upon request to any person unless the procedures or methodologies are—

(i) proprietary to the holder of a copyright or patent related to such procedures or methodologies, or

(ii) developed by the Customs Service for enforcement purposes.

(B) Information resulting from testing shall be made available upon request to the importer of record and any agent thereof unless the information reveals information which is—

(i) proprietary to the holder of a copyright or patent; or

(ii) developed by the Customs Service for enforcement purposes.

(5) Miscellaneous provisions

For purposes of this subsection—

(A) any reference to a private laboratory includes a reference to a private gauger; and

(B) accreditation of private laboratories extends only to the performance of functions by such laboratories that are within the scope of those responsibilities for determinations of the elements relating to admissibility, quantity, composition, or characteristics of imported merchandise that are vested in, or delegated to, the Customs Service.

(c) Detentions

Except in the case of merchandise with respect to which the determination of admissibility is vested in an agency other than the Customs Service, the following apply:

(1) In general

Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented for customs examination, the Customs Service shall decide whether to release or detain the merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise.

(2) Notice of detention

The Customs Service shall issue a notice to the importer or other party having an interest in detained merchandise no later than 5 days, excluding weekends and holidays, after the decision to detain the merchandise is made. The notice shall advise the importer or other interested party of—

(A) the initiation of the detention;

(B) the specific reason for the detention;

(C) the anticipated length of the detention;

(D) the nature of the tests or inquiries to be conducted; and

(E) the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

(3) Testing results

Upon request by the importer or other party having an interest in detained merchandise, the Customs Service shall provide the party with copies of the results of any testing conducted by the Customs Service on the merchandise and a description of the testing procedures and methodologies (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by the Customs Service for enforcement

purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

(4) Seizure and forfeiture

If otherwise provided by law, detained merchandise may be seized and forfeited.

(5) Effect of failure to make determination

(A) The failure by the Customs Service to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for customs examination, or such longer period if specifically authorized by law, shall be treated as a decision of the Customs Service to exclude the merchandise for purposes of section 1514(a)(4) of this title.

(B) For purposes of section 1581 of title 28, a protest against the decision to exclude the merchandise which has not been allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day.

(C) Notwithstanding section 2639 of title 28, once an action respecting a detention is commenced, unless the Customs Service establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.

(June 17, 1930, ch. 497, title IV, § 499, 46 Stat. 728; June 25, 1938, ch. 679, §§ 15, 16(a), 52 Stat. 1084; Pub. L. 91-271, title III, § 301(k), June 2, 1970, 84 Stat. 289; Pub. L. 103-182, title VI, § 613(a), Dec. 8, 1993, 107 Stat. 2171.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 499, 42 Stat. 965. That section was superseded by section 499 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision prohibiting delivery of merchandise liable to be inspected or appraised, until it had been inspected or appraised, or until the packages sent to be inspected or appraised, should be found correctly invoiced, and be so reported, with a further provision as to the taking of bonds conditioned for delivery of the merchandise, and the forfeiture of such bonds, was contained in R.S. § 2899.

Provisions substantially similar to those in this section concerning the number of packages to be examined (not including the provision for designation of a less number by the Secretary of the Treasury) and concerning packages found to contain articles not specified in the invoice, with a further provision for remission of the forfeiture, were contained in R.S. § 2901.

A prior provision, concerning deficiencies somewhat similar to that in this section, was contained in R.S. § 2921.

A special provision concerning the number of packages to be examined and appraised at the port of New York was contained in R.S. § 2939.

A provision concerning returns by weighers, gaugers, and measurers, was contained in R.S. § 2890.

All of the foregoing sections of the Revised Statutes were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Pub. L. 103-182 amended section generally, substituting present provisions for provisions which re-

quired imported merchandise to be inspected, examined, appraised, and reported by appropriate customs officer to have been truly and correctly invoiced and found to comply with requirements of laws of the United States prior to release of such merchandise from customs custody.

1970—Pub. L. 91-271 substituted references to appropriate customs officer or such officer for references to collector or appraiser wherever appearing, and struck out references to duties of appraiser.

1938—Act June 25, 1938, amended section generally and among other changes inserted provision relating to invalidity of appraisements made after effective date of Customs Administrative Act of 1938.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(l), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all other officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

EXISTING LABORATORIES

Pub. L. 103-182, title VI, §613(b), Dec. 8, 1993, 107 Stat. 2174, provided that: "Accreditation under section 499(b) of the Tariff Act of 1930 [19 U.S.C. 1499(b)] (as added by subsection (a)) is not required for any private laboratory (including any gauger) that was accredited or approved by the Customs Service as of the day before the date of the enactment of this Act [Dec. 8, 1993]; but any such laboratory is subject to reaccreditation under the provisions of such section and the regulations promulgated thereunder."

§ 1500. Appraisal, classification, and liquidation procedure

The Customs Service shall, under rules and regulations prescribed by the Secretary—

(a) fix the final appraisal of merchandise by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, other document to the contrary notwithstanding;

(b) fix the final classification and rate of duty applicable to such merchandise;

(c) fix the final amount of duty to be paid on such merchandise and determine any increased or additional duties, taxes, and fees due or any excess of duties, taxes, and fees deposited;

(d) liquidate the entry and reconciliation, if any, of such merchandise; and

(e) give or transmit, pursuant to an electronic data interchange system, notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall by regulation prescribe.

(June 17, 1930, ch. 497, title IV, §500, 46 Stat. 729; Aug. 2, 1956, ch. 887, §4(b), 70 Stat. 948; Pub. L. 91-271, title II, §204(a), June 2, 1970, 84 Stat. 283; Pub. L. 96-39, title II, §202(a)(4), July 26, 1979, 93 Stat. 202; Pub. L. 103-182, title VI, §638, Dec. 8, 1993, 107 Stat. 2203.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §500, 42 Stat. 965. That section was superseded by section 500 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions dealing with the subject matter of subdivision (a) of this section were contained in act Oct. 3, 1913, ch. 16, §III, K, 38 Stat. 185, reenacting without change the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, §10, 26 Stat. 136, as reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 97. A provision somewhat similar to subdivision (a)(5) of this section was contained in section III, M, of the 1913 act, the provisions of which were substituted for provisions of the same nature contained in section 13 of the Customs Administrative Act of June 10, 1890, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 99. Said section III of the 1913 act was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

R.S. §§2609, 2610, relative to merchant appraisers, were superseded by the provisions relating to appraisers and appraisements in the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, and later acts, and were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §2902 prescribed the mode of appraisal of merchandise, prior to repeal by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141.

R.S. §2911 required appraisers to adopt the value of the best article in a package containing articles wholly or in part of wool or cotton of similar kind but different quality, charged at an average price, and R.S. §2912 related to appraisal of wool of different qualities when imported in the same bale, bag, or package, and of bales of different qualities when embraced in the same invoice, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §2945 imposed a penalty on any merchant chosen by the collector to make any appraisal required under any act respecting imports and tonnage, who should, after due notice, decline or neglect to assess at such appraisal. This section was repealed by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, and was again repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §2946 related to the ascertainment of value at ports where there were no appraisers, prior to repeal by section 642 of the act of Sept. 21, 1922, ch. 356.

A prior provision similar to subdivision (b) was contained in act Oct. 3, 1913, ch. 16, §III, M, 38 Stat. 186, the provisions of which were substitutes for those of the Customs Administrative Act of June 10, 1890, ch. 407, §13, 26 Stat. 136, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 99. Section III, M, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

An earlier provision on the subject was contained in R.S. §2929, prior to repeal by Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141.

Somewhat similar to subdivision (d), R.S. §2943 provided that one of the assistant appraisers at the port of New York should be detailed for the supervision of examination of merchandise damaged on the voyage of importation, and to make examinations and appraisals and to report, etc. It was repealed, with R.S. §2927, which provided for appraisal of such goods, and other sections, by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, reenacted and designated as section 28 by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 104.

AMENDMENTS

1993—Pub. L. 103-182, §638(1), substituted “The Customs Service” for “The appropriate customs officer” in introductory provisions.

Subd. (a). Pub. L. 103-182, §638(2), substituted “fix the final appraisal of” for “appraise”.

Subd. (b). Pub. L. 103-182, §638(3), substituted “fix the final” for “ascertain the”.

Subd. (c). Pub. L. 103-182, §638(4), inserted “final” after “fix the” and “, taxes, and fees” after “duties” in two places.

Subds. (d) and (e). Pub. L. 103-182, §638(5), amended subds. (d) and (e) generally. Prior to amendment, subds. (d) and (e) read as follows:

“(d) liquidate the entry of such merchandise; and
“(e) give notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in such regulations.”

1979—Subd. (a). Pub. L. 96-39 substituted “by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document” for “in the unit of quantity in which the merchandise is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document”.

1970—Pub. L. 91-271 struck out “(a)” preceding first sentence and, in such provisions, as so redesignated, substituted provisions which set forth the customs functions to be performed by the appropriate customs officer for provisions which set forth the customs functions to be performed by the appraiser, and struck out subds. (b) to (f), which allocated specific customs functions to appraisers, assistant and deputy appraisers, and examiners, and authorized the designation of acting appraisers where necessary.

1956—Subd. (f). Act Aug. 2, 1956, struck out “take the oath,” before “perform all the duties” in second sentence, and struck out comma after “perform all duties”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-271, title II, §203, June 2, 1970, 84 Stat. 283, provided that: “Titles II and III of this Act [see Short Title of 1970 Amendment note set out under section 1654 of this title] shall take effect with respect to articles entered, or withdrawn, from warehouse for consumption, on or after October 1, 1970, and such other articles entered or withdrawn from warehouse for consumption prior to such date, the appraisal of which has not become final before October 1, 1970, and for which an appeal for reappraisal has not been timely filed with the Bureau of Customs [now the United States Customs Service] before October 1, 1970, or with respect to which a protest has not been disallowed in whole or in part before October 1, 1970.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1501. Voluntary reliquidations by U.S. Customs and Border Protection

A liquidation made in accordance with section 1500 or 1504 of this title or any reliquidation thereof made in accordance with this section may be reliquidated in any respect by U.S. Customs and Border Protection, notwithstanding the filing of a protest, within ninety days from the date of the original liquidation. Notice of such reliquidation shall be given or transmitted in the manner prescribed with respect to original liquidations under section 1500(e) of this title.

(June 17, 1930, ch. 497, title IV, §501, 46 Stat. 730; June 25, 1938, ch. 679, §16(b), 52 Stat. 1084; June 25, 1948, ch. 646, §§25, 39, 62 Stat. 990, 992; Aug. 8, 1953, ch. 397, §18(c), 67 Stat. 517; Pub. L. 91-271, title II, §205, June 2, 1970, 84 Stat. 283; Pub. L. 103-182, title VI, §639, Dec. 8, 1993, 107 Stat. 2203; Pub. L. 108-429, title II, §2107, Dec. 3, 2004, 118 Stat. 2598; Pub. L. 114-125, title IX, §911, Feb. 24, 2016, 130 Stat. 240.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §501, 42 Stat. 966. That section was superseded by section 501 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions for appeals to reappraisal and for a further appeal to be assigned to a board of general appraisers, with further provisions as to the fee to be paid, the proceedings on appeal, and the conclusiveness of decisions, were contained in act Oct. 3, 1913, ch. 16, §III, M, 38 Stat. 186, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

The provisions of section III, M, of the 1913 act, were substituted for provisions of the same nature made by the Customs Administrative Act of June 10, 1890, ch. 407, §13, 26 Stat. 136, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 99.

Provisions similar to some extent to those in section 13 of the Customs Administrative Act of 1890 were contained in R.S. §§2929, 2930, prior to repeal by section 29 of that Act.

R.S. §2950 provided that the certificate of the appraiser should be deemed to be the appraisal. It was superseded by the provisions relating to appraisers

made by the Customs Administrative Act of June 10, 1890, ch. 407, § 13, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, and the Underwood Tariff Act of Oct. 3, 1913, ch. 16, § III, M, 38 Stat. 186, and was repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

2016—Pub. L. 114-125, in section catchline, substituted “U.S. Customs and Border Protection” for “the Customs Service” and, in text, substituted “U.S. Customs and Border Protection” for “the Customs Service” and “of the original liquidation” for “on which notice of the original liquidation is given or transmitted to the importer, his consignee or agent”.

2004—Pub. L. 108-429 inserted “or 1504” after “section 1500” in first sentence.

1993—Pub. L. 103-182, in section catchline, inserted “by the Customs Service” after “reliquidations” and, in text, substituted “the Customs Service” for “the appropriate customs officer on his own initiative” and inserted “or transmitted” after “given” in two places.

1970—Pub. L. 91-271 amended generally, substituting provisions authorizing a reliquidation in any respect by the appropriate customs officer on his own initiative for a liquidation made in accordance with section 1500 of this title or any reliquidation thereof made in accordance with this section for provisions setting forth the procedure for an appeal for a reappraisal by the collector or the consignee.

1953—Subsec. (a). Act. Aug. 8, 1953, inserted cl. (3) and “including all determinations entering into the same.” in second sentence, and struck out third sentence which provided that “No such appeal filed by the consignee or his agent shall be deemed valid, unless he has complied with all the provisions of this chapter relating to the entry and appraisement of such merchandise”.

1948—Subsec. (a). Act June 25, 1948, struck out fourth sentence and substituted new fourth sentence, and repealed the fifth, sixth, seventh, and eighth sentences dealing with review by Customs Court of Reappraisements of this material. See section 1582 of Title 28, Judiciary and Judicial Procedure.

Subsecs. (b) and (c), relating to practice and procedure in Customs Court, were repealed by Act June 25, 1948. See sections 2631 to 2637 of Title 28, Judiciary and Judicial Procedure.

1938—Act June 25, 1938, designated paragraphs as subsecs. (a) and (b) and added subsec. (c).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Act June 25, 1948, ch. 646, § 38, 62 Stat. 992, provided that the amendment made by that act is effective Sept. 1, 1948.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specially provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1502. Regulations for appraisement and classification

(a) Powers of Secretary of the Treasury

The Secretary of the Treasury shall establish and promulgate such rules and regulations not inconsistent with the law (including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned), and may disseminate such information as may be necessary to secure a just, impartial, and uniform appraisement of imported merchandise and the classification and assessment of duties thereon at the various ports of entry. The Secretary may direct any customs officer to go from one port of entry to another for the purpose of appraising or classifying or assisting in appraising or classifying merchandise imported at any port, and may direct any customs officer at any port to review entries of merchandise filed at any other port.

(b) Duties of customs officers

It shall be the duty of all officers of the customs to execute and carry into effect all instructions of the Secretary of the Treasury relative to the execution of the revenue laws; and in case any difficulty arises as to the true construction or meaning of any part of the revenue laws, the decision of the Secretary shall be binding upon all officers of the customs.

(June 17, 1930, ch. 497, title IV, § 502, 46 Stat. 731; Pub. L. 91-271, title III, § 301(l), June 2, 1970, 84 Stat. 289; Pub. L. 96-417, title VI, § 601(3), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 100-449, title IV, § 403(a), Sept. 28, 1988, 102 Stat. 1884; Pub. L. 103-182, title IV, § 412(a), title VI, § 640, Dec. 8, 1993, 107 Stat. 2146, 2203.)

AMENDMENT OF SECTION

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 502, 42

Stat. 967. That section was superseded by section 502 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision, authorizing the Secretary of the Treasury to direct appraisers for any collection district, to attend in any other collection district, was contained in R.S. §2947. Prior provisions requiring the Secretary to establish rules and regulations to secure a just, faithful, and impartial appraisal, just and proper entries, and to report such rules and regulations to the next session of Congress, were contained in R.S. §2949. Both of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Provisions similar to those in subsec. (b) of this section, except that reversal or modification was permitted in concurrence with a judicial decision of a circuit or district court, instead of a final decision of the Board of General Appraisers, were contained in act Mar. 3, 1875, ch. 136, §2, 18 Stat. 469, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

Provisions almost identical with those in subsec. (c) of this section were contained in R.S. §2652, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-182, §640(1), inserted “(including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned)” after “law”, substituted “ports of entry. The Secretary” for “ports of entry, and”, inserted “or classifying” after “appraising” in two places, and substituted “any port, and may direct any customs officer at any port to review entries of merchandise filed at any other port” for “such port”.

Subsec. (b). Pub. L. 103-182, §640(2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “No ruling or decision once made by the Secretary of the Treasury, giving construction to any law imposing customs duties, shall be reversed or modified adversely to the United States, by the same or a succeeding Secretary, except in concurrence with an opinion of the Attorney General recommending the same, a final decision of the United States Court of International Trade, or a final decision of a binational panel pursuant to article 1904 of the United States-Canada Free-Trade Agreement.”

Pub. L. 103-182, §412(a), which directed the insertion of “the North American Free Trade Agreement or” before “the United States-Canada Free-Trade Agreement”, could not be executed because the words “the United States-Canada Free-Trade Agreement” did not appear in subsec. (b) subsequent to amendment by Pub. L. 103-182, §640(2), effective Dec. 8, 1993. See above.

Subsec. (c). Pub. L. 103-182, §640(2), redesignated subsec. (c) as (b).

1988—Subsec. (b). Pub. L. 100-449 temporarily substituted “a final decision of the United States Court of International Trade, or a final decision of a binational panel pursuant to article 1904 of the United States-Canada Free-Trade Agreement” for “or a final decision of the United States Court of International Trade”. See Effective and Termination Dates of 1988 Amendment note below.

1980—Subsec. (b). Pub. L. 96-417 redesignated the United States Customs Court as the United States Court of International Trade.

1970—Subsec. (a). Pub. L. 91-271 substituted “customs officer” for “appraiser, deputy appraiser, assistant appraiser, or examiner of merchandise”.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 412(a) of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of this title, notice of which is published in the Federal Register before such date, or to a

determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada or Mexico before such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or to any extraordinary challenge arising out of any such review, that was commenced before such date, see section 416 of Pub. L. 103-182, set out as an Effective Date note under section 3431 of this title.

Amendment by section 640 of Pub. L. 103-182 effective Dec. 8, 1993, see section 692 of Pub. L. 103-182, set out as a note under section 58c of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury under subsec. (a) of this section, insofar as subsec. (a) of this section provides authority to issue regulations and disseminate information and insofar as Secretary of the Treasury had responsibility under sections 1303 and 1671 et seq. of this title for functions transferred to Secretary of Commerce by section 5(a)(1)(C) of Reorg. Plan No. 3 of 1979, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(F), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title, to be exercised in consultation with Secretary of the Treasury.

Functions of Secretary of the Treasury under subsec. (b) of this section, with respect to functions transferred to Secretary of Commerce in section 1303 and 1671 et seq. of this title by section 5(a)(1)(C) of Reorg. Plan No. 3 of 1979, transferred to Secretary of Commerce pursuant to section 5(a)(1)(F) of Reorg. Plan No. 3 of 1979.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103-182, see section 3451 of this title.

§ 1503. Dutiable value

Except as provided in section 1520(c)¹ of this title (relating to reliquidations on the basis of authorized corrections of errors) or section 1562 of this title (relating to withdrawal from manip-

¹ See References in Text note below.

ulating warehouses), the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty or rates based upon or regulated in any manner by the value of the merchandise, shall be the appraised value determined upon liquidation, in accordance with section 1500 of this title or any adjustment thereof made pursuant to section 1501 of this title. *Provided, however,* That if reliquidation is required pursuant to a final judgment or order of the United States Court of International Trade which includes a reappraisal of imported merchandise, the basis for such assessment shall be the final appraised value determined by such court.

(June 17, 1930, ch. 497, title IV, § 503, 46 Stat. 731; Aug. 8, 1953, ch. 397, § 18(d), 67 Stat. 518; Pub. L. 91-271, title II, § 206, June 2, 1970, 84 Stat. 284; Pub. L. 96-417, title VI, § 601(4), Oct. 10, 1980, 94 Stat. 1744.)

REFERENCES IN TEXT

Section 1520(c) of this title, referred to in text, was repealed by Pub. L. 108-429, title II, § 2105, Dec. 3, 2004, 118 Stat. 2598.

PRIOR PROVISIONS

Provisions somewhat similar to those in subsecs. (a) and (b) were contained in act Sept. 21, 1922, ch. 356, title IV, § 503, 42 Stat. 967. Provisions similar to former subsec. (b) relating to entries pending reappraisal were contained in act Sept. 21, 1922, ch. 356, title IV, § 489, 42 Stat. 962. Both of the acts of 1922 were in part superseded by act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A provision for assessment of duty on merchandise of different values when invoiced at an average price, was contained in R.S. § 2910, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1980—Pub. L. 96-417 redesignated the United States Customs Court as the United States Court of International Trade.

1970—Pub. L. 91-271 substituted provisions that, except as provided in section 1520(c) or 1562 of this title, the basis for the assessment of duties on imported merchandise be the appraised value determined upon liquidation, in accordance with section 1500 of this title or any adjustment thereof pursuant to section 1501 of this title, and be the final appraised value where reliquidation is required pursuant to a final judgment or order of the United States Customs Court, for provisions that, except as provided in section 1562 of this title, the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty be the final appraised value, and provisions that for the purpose of determining the rate of duty assessed upon any merchandise when the rate is based upon or regulated in any manner by the value of the merchandise, the final appraised value, except as provided in section 1562 of this title, be taken as the value of merchandise.

1953—Subsec. (a). Act Aug. 8, 1953, struck out “and in subdivision (b) of this section” after reference to section 1562 of this title, “the entered value or” after “shall be”, and “whichever is higher” at the end.

Subsecs. (b), (c). Act Aug. 8, 1953, redesignated subsec. (c) as (b). Former subsec. (b), which related to entries pending reappraisal, was repealed by act Aug. 8, 1953.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after the thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

§ 1503a. Repealed. Aug. 8, 1953, ch. 397, § 18(e), 67 Stat. 518

Section, act July 12, 1932, ch. 473, 47 Stat. 657, related to the construction of former subsection (b) of section 1503 of this title, which was omitted by section 18(d) of act Aug. 8, 1953.

EFFECTIVE DATE OF REPEAL; SAVINGS PROVISION

Repeal effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

§ 1504. Limitation on liquidation

(a) Liquidation

(1) Entries for consumption

Unless an entry of merchandise for consumption is extended under subsection (b) of this section or suspended as required by statute or court order, except as provided in section 1675(a)(3) of this title, an entry of merchandise for consumption not liquidated within 1 year from—

(A) the date of entry of such merchandise,

(B) the date of the final withdrawal of all such merchandise covered by a warehouse entry,

(C) the date of withdrawal from warehouse of such merchandise for consumption if, pursuant to regulations issued under section 1505(a) of this title, duties may be deposited after the filing of any entry or withdrawal from warehouse,

(D) if a reconciliation is filed, or should have been filed, the date of the filing under section 1484 of this title or the date the reconciliation should have been filed, whichever is earlier; or

(E)¹ if a reconfigured entry is filed under an import activity summary statement, the date the import activity summary statement is filed or should have been filed, whichever is earlier;

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer of record. Notwithstanding section 1500(e) of this title, notice of liquidation need not be given of an entry deemed liquidated.

(2) Entries or claims for drawback

(A) In general

Except as provided in subparagraph (B) or (C), unless an entry or claim for drawback is extended under subsection (b) or suspended as required by statute or court order, an entry or claim for drawback not liquidated

¹ See 2004 Amendment notes below.

within 1 year from the date of entry or claim shall be deemed liquidated at the drawback amount asserted by the claimant or claim. Notwithstanding section 1500(e) of this title, notice of liquidation need not be given of an entry deemed liquidated.

(B) Unliquidated imports

An entry or claim for drawback whose designated or identified import entries have not been liquidated and become final within the 1-year period described in subparagraph (A), or within the 1-year period described in subparagraph (C), shall be deemed liquidated upon the deposit of estimated duties on the unliquidated imported merchandise, and upon the filing with the Customs Service of a written request for the liquidation of the drawback entry or claim. Such a request must include a waiver of any right to payment or refund under other provisions of law. The Secretary of the Treasury shall prescribe any necessary regulations for the purpose of administering this subparagraph.

(C) Exception

An entry or claim for drawback filed before December 3, 2004, the liquidation of which is not final as of December 3, 2004, shall be deemed liquidated on the date that is 1 year after December 3, 2004, at the drawback amount asserted by the claimant at the time of the entry or claim.

(3) Payments or refunds

Payment or refund of duties owed pursuant to paragraph (1) or (2) shall be made to the importer of record or drawback claimant, as the case may be, not later than 90 days after liquidation.

(b) Extension

The Secretary of the Treasury may extend the period in which to liquidate an entry if—

- (1) the information needed for the proper appraisal or classification of the imported or withdrawn merchandise, or for determining the correct drawback amount, or for ensuring compliance with applicable law, is not available to the Customs Service; or
- (2) the importer of record or drawback claimant, as the case may be, requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record or drawback claimant, as the case may be, and the surety of such importer of record or drawback claimant. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted by the importer of record, or the drawback amount asserted by the drawback claimant, at the expiration of 4 years from the applicable date specified in subsection (a).

(c) Notice of suspension

If the liquidation of any entry is suspended, the Secretary shall by regulation require that

notice of the suspension be provided, in such manner as the Secretary considers appropriate, to the importer of record or drawback claimant, as the case may be, and to any authorized agent and surety of such importer of record or drawback claimant.

(d) Removal of suspension

Except as provided in section 1675(a)(3) of this title, when a suspension required by statute or court order is removed, the Customs Service shall liquidate the entry, unless liquidation is extended under subsection (b), within 6 months after receiving notice of the removal from the Department of Commerce, other agency, or a court with jurisdiction over the entry. Any entry (other than an entry with respect to which liquidation has been extended under subsection (b)) not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted by the importer of record or (in the case of a drawback entry or claim) at the drawback amount asserted by the drawback claimant.

(June 17, 1930, ch. 497, title IV, §504, as added Pub. L. 95-410, title II, §209(a), Oct. 3, 1978, 92 Stat. 902; amended Pub. L. 98-573, title I, §191(d), Oct. 30, 1984, 98 Stat. 2971; Pub. L. 103-182, title VI, §641, Dec. 8, 1993, 107 Stat. 2204; Pub. L. 103-465, title II, §220(c), Dec. 8, 1994, 108 Stat. 4865; Pub. L. 104-295, §3(a)(7), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 108-429, title I, §1563(e), title II, §2102, Dec. 3, 2004, 118 Stat. 2585, 2597.)

PRIOR PROVISIONS

A prior section 1504, act June 17, 1930, ch. 497, title IV, §504, 46 Stat. 732, related to duties on coverings and containers, prior to repeal by Pub. L. 87-456, title III, §301(a), May 24, 1962, 76 Stat. 75, effective, pursuant to section 501(a) of Pub. L. 87-456, with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963.

AMENDMENTS

2004—Pub. L. 108-429, §2102(2), struck out “at the time of entry” after “duties asserted” in subsec. (a)(1) (concluding provisions), after “asserted by the claimant” in subsec. (a)(2)(A), and after “of duty asserted” and “drawback amount asserted” in subssecs. (b) (concluding provisions) and (d).

Subsec. (a). Pub. L. 108-429, §2102(1), which directed striking “or” at end of par. (3), substituting “filed, whichever is earlier; or” for “filed;” in par. (4), and adding par. (5) after par. (4), was executed by striking “or” at end of par. (1)(C), substituting “filed, whichever is earlier; or” for “filed;” in par. (1)(D), and adding the text of par. (5) after par. (1)(D) and editorially redesignating it as par. (1)(E). Pub. L. 108-429, §2102(1), was technically incapable of execution subsequent to the amendments by Pub. L. 108-429, §1563(e)(1). See below.

Pub. L. 108-429, §1563(e)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “Unless an entry is extended under subsection (b) of this section or suspended as required by statute or court order, except as provided in section 1675(a)(3) of this title, an entry of merchandise not liquidated within one year from:

- “(1) the date of entry of such merchandise;
- “(2) the date of the final withdrawal of all such merchandise covered by a warehouse entry;

“(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued under section 1505(a) of this title, duties may be deposited after the filing of an entry or withdrawal from warehouse; or

“(4) if a reconciliation is filed, or should have been filed, the date of the filing under section 1484 of this title or the date the reconciliation should have been filed;

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer of record. Notwithstanding section 1500(e) of this title, notice of liquidation need not be given of an entry deemed liquidated.”

Subsec. (b). Pub. L. 108-429, §1563(e)(1), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “The Secretary may extend the period in which to liquidate an entry if—

“(1) the information needed for the proper appraisal or classification of the merchandise, or for insuring compliance with applicable law, is not available to the Customs Service; or

“(2) the importer of record requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record and the surety of such importer of record. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record at the expiration of 4 years from the applicable date specified in subsection (a) of this section.”

Subsec. (c). Pub. L. 108-429, §1563(e)(2), inserted “or drawback claimant, as the case may be,” after “to the importer of record” and “or drawback claimant” after “of such importer of record”.

Subsec. (d). Pub. L. 108-429, §1563(e)(3), inserted “or (in the case of a drawback entry or claim) at the drawback amount asserted at the time of entry by the drawback claimant” before period at end.

1996—Subsec. (d). Pub. L. 104-295 inserted “, unless liquidation is extended under subsection (b),” after “shall liquidate the entry” in first sentence, and “(other than an entry with respect to which liquidation has been extended under subsection (b))” after “Any entry” in second sentence.

1994—Subsec. (a). Pub. L. 103-465, §220(c)(1), inserted “except as provided in section 1675(a)(3) of this title,” before “an entry of merchandise not liquidated” in introductory provisions.

Subsec. (d). Pub. L. 103-465, §220(c)(2), substituted “Except as provided in section 1675(a)(3) of this title, when a suspension” for “When a suspension”.

1993—Subsec. (a). Pub. L. 103-182, §641(1)(A), substituted “Unless an entry is extended under subsection (b) or suspended as required by statute or court order” for “Except as provided in subsection (b) of this section” in introductory provisions.

Subsec. (a)(4). Pub. L. 103-182, §641(1)(B)–(D), added par. (4).

Subsec. (b). Pub. L. 103-182, §641(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary may extend the period in which to liquidate an entry by giving notice of such extension to the importer of record in such form and manner as the Secretary shall prescribe in regulations, if—

“(1) information needed for the proper appraisal or classification of the merchandise is not available to the appropriate customs officer;

“(2) liquidation is suspended as required by statute or court order; or

“(3) the importer of record requests such extension and shows good cause therefor.”

Subsec. (c). Pub. L. 103-182, §641(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “If the liquidation of any entry is suspended, the Secretary shall, by regulation, require that notice of such suspension be provided to the importer of record concerned and to any authorized agent and surety of such importer of record.”

Subsec. (d). Pub. L. 103-182, §641(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) “Limita-

tion” read as follows: “Any entry of merchandise not liquidated at the expiration of four years from the applicable date specified in subsection (a) of this section, shall be deemed liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record, unless liquidation continues to be suspended as required by statute or court order. When such a suspension of liquidation is removed, the entry shall be liquidated within 90 days therefrom.”

1984—Subsec. (a). Pub. L. 98-573, §191(d)(1), substituted “importer of record” for “importer, his consignee, or agent” in provisions following par. (3).

Subsec. (b). Pub. L. 98-573, §191(d)(2), substituted “importer of record” for “importer, his consignee, or agent” in provisions preceding par. (1), and substituted “importer of record” for “importer, consignee, or his agent” in par. (3).

Subsec. (c). Pub. L. 98-573, §191(d)(3), substituted “importer of record” for “importer or consignee” in two places.

Subsec. (d). Pub. L. 98-573, §191(d)(4), substituted “importer of record” for “importer, his consignee, or agent”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title I, §1563(g)(2), Dec. 3, 2004, 118 Stat. 2587, provided that: “The amendments made by subsection (e) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to—

“(A) any entry of merchandise for consumption or entry or claim for drawback filed on and after such date of enactment; and

“(B) any entry or claim for drawback filed before such date of enactment if the liquidation of the entry or claim is not final on such date of enactment.”

Amendment by section 2102 of Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective, except as otherwise provided, on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), and applicable with respect to investigations, reviews, and inquiries initiated and petitions filed under specified provisions of this chapter after such date, see section 291 of Pub. L. 103-465, set out as a note under section 1671 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to articles entered on or after 15th day after Oct. 30, 1984, see section 195(a) of Pub. L. 98-573, set out as a note under section 1322 of this title.

EFFECTIVE DATE

Pub. L. 95-410, title II, §209(b), Oct. 3, 1978, 92 Stat. 903, provided that: “The amendment made by this section [enacting this section] applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act [Oct. 3, 1978].”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and

557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1505. Payment of duties and fees

(a) Deposit of estimated duties and fees

Unless the entry is subject to a periodic payment referred to in this subsection or the merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of entry, or at such later time as the Secretary may prescribe by regulation (but not later than 12 working days after entry or release) the amount of duties and fees estimated to be payable on such merchandise. As soon as a periodic payment module of the Automated Commercial Environment is developed, but no later than October 1, 2004, the Secretary shall promulgate regulations, after testing the module, permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.

(b) Collection or refund of duties, fees, and interest due upon liquidation or reliquidation

The Customs Service shall collect any increased or additional duties and fees due, together with interest thereon, or refund any excess moneys deposited, together with interest thereon, as determined on a liquidation or reliquidation. Duties, fees, and interest determined to be due upon liquidation or reliquidation are due 30 days after issuance of the bill for such payment. Refunds of excess moneys deposited, together with interest thereon, shall be paid within 30 days of liquidation or reliquidation.

(c) Interest

Interest assessed due to an underpayment of duties, fees, or interest shall accrue, at a rate determined by the Secretary, from the date the importer of record is required to deposit estimated duties, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation. Interest on excess moneys deposited shall accrue, at a rate determined by the Secretary, from the date the importer of record deposits estimated duties, fees, and interest or, in a case in which a claim is made under section 1520(d) of this title, from the date on which such claim is made, to the date of liquidation or reliquidation of the applicable entry or reconciliation. The Secretary may prescribe an alternative mid-point interest accounting methodology, which may be employed by the importer, based upon aggregate data in lieu of accounting for such interest from each deposit data provided in this subsection.

(d) Delinquency

If duties, fees, and interest determined to be due or refunded are not paid in full within the

30-day period specified in subsection (b), any unpaid balance shall be considered delinquent and bear interest by 30-day periods, at a rate determined by the Secretary, from the date of liquidation or reliquidation until the full balance is paid. No interest shall accrue during the 30-day period in which payment is actually made.

(June 17, 1930, ch. 497, title IV, §505, 46 Stat. 732; Pub. L. 91-271, title II, §204(c), June 2, 1970, 84 Stat. 283; Pub. L. 95-410, title I, §103, Oct. 3, 1978, 92 Stat. 889; Pub. L. 97-446, title II, §201(e), Jan. 12, 1983, 96 Stat. 2350; Pub. L. 98-573, title II, §210(a), Oct. 30, 1984, 98 Stat. 2977; Pub. L. 103-182, title VI, §642(a), Dec. 8, 1993, 107 Stat. 2205; Pub. L. 104-295, §2(a), Oct. 11, 1996, 110 Stat. 3515; Pub. L. 106-36, title II, §2418(e), June 25, 1999, 113 Stat. 177; Pub. L. 106-476, title I, §1451, Nov. 9, 2000, 114 Stat. 2167; Pub. L. 107-210, div. A, title III, §383, Aug. 6, 2002, 116 Stat. 992; Pub. L. 108-429, title II, §2004(c), Dec. 3, 2004, 118 Stat. 2592.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §504, 42 Stat. 967. That section was superseded by section 505 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision that the collector or person acting as such should ascertain, fix, and liquidate the rate and amount of duties, and the dutiable costs and charges, was contained in act Oct. 3, 1913, ch. 16, §III, M, 38 Stat. 186, the provisions of which were substituted for provisions of the same nature contained in the Customs Administrative Act of June 10, 1890, ch. 407, §13, 26 Stat. 136, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 99.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-429, in first sentence, inserted “referred to in this subsection” after “subject to a periodic payment” and substituted “12 working days” for “10 working days” and, in second sentence, substituted “the Secretary shall promulgate regulations, after testing the module, permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first” for “a participating importer of record, or the importer’s filer, may deposit estimated duties and fees for entries of merchandise no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first”.

2002—Subsec. (a). Pub. L. 107-210 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Unless merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of making entry, or at such later time as the Secretary may prescribe by regulation, the amount of duties and fees estimated to be payable thereon. Such regulations may provide that estimated duties and fees shall be deposited before or at the time an import activity summary statement is filed. If an import activity summary statement is filed, the estimated duties and fees shall be deposited together with interest, at a rate determined by the Secretary, accruing from the first date of the month the statement is required to be filed until the date such statement is actually filed.”

2000—Subsec. (c). Pub. L. 106-476 substituted “The Secretary may prescribe” for “For the period beginning on October 1, 1998, and ending on the date on which the

‘Revised National Customs Automation Test Regarding Reconciliation’ of the Customs Service is terminated, or October 1, 2000, whichever occurs earlier, the Secretary may prescribe” in last sentence.

1999—Subsec. (c). Pub. L. 106-36 inserted at end “For the period beginning on October 1, 1998, and ending on the date on which the ‘Revised National Customs Automation Test Regarding Reconciliation’ of the Customs Service is terminated, or October 1, 2000, whichever occurs earlier, the Secretary may prescribe an alternative mid-point interest accounting methodology, which may be employed by the importer, based upon aggregate data in lieu of accounting for such interest from each deposit data provided in this subsection.”

1996—Subsec. (c). Pub. L. 104-295 inserted “or, in a case in which a claim is made under section 1520(d) of this title, from the date on which such claim is made,” after “deposits estimated duties, fees, and interest”.

1993—Pub. L. 103-182 amended section generally, substituting provisions relating to deposit, collection or refund of duties, fees, and interest for provisions relating to deposit, collection, or refund of duties and interest.

1984—Subsec. (c). Pub. L. 98-573 added subsec. (c).

1983—Subsec. (a). Pub. L. 97-446 substituted “importer of record” for “consignee” before “shall deposit”.

1978—Subsec. (a). Pub. L. 95-410 authorized deposit of estimated duties to be made as prescribed by regulations after time of making entry but not later than thirty days after date of entry.

1970—Pub. L. 91-271 reorganized existing provisions into subsecs. (a) and (b), and struck out provisions authorizing receipt by a collector of various reports and the performance of certain functions in connection with the liquidation of an entry.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-36 effective 30 days after June 25, 1999, see section 2418(f) of Pub. L. 106-36, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-295, §2(b), Oct. 11, 1996, 110 Stat. 3515, provided that: “The amendment made by subsection (a) [amending this section] shall apply to claims made pursuant to section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) on or after June 7, 1996.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 30th day after Oct. 30, 1984, see section 214(c)(5)(A) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1506. Allowance for abandonment and damage

Allowance shall be made in the estimation and liquidation of duties under regulations prescribed by the Secretary of the Treasury in the following cases:

(1) Abandonment within thirty days

Where the importer abandons to the United States, within thirty days after entry in the case of merchandise released without an examination, or within thirty days after the release in the case of merchandise sent to the Customs Service for examination, any imported merchandise representing 5 per centum or more of the total value of all the merchandise of the same class or kind entered in the invoice or entry in which the item appears, and delivers, within the applicable thirty-day period, the portion so abandoned to such place as the Customs Service directs unless the Customs Service is satisfied that the merchandise is so far destroyed as to be nondeliverable;

(2) Perishable merchandise, condemned

Where fruit or other perishable merchandise has been condemned at the port of entry, within ten days after landing, by the health officers or other legally constituted authorities, and the consignee, within five days after such condemnation, files, electronically or otherwise, with the Customs Service notice thereof, an invoiced description and the location thereof, and the name of the vessel or vehicle in which imported.

(June 17, 1930, ch. 497, title IV, §506, 46 Stat. 732; Pub. L. 91-271, title III, §301(m), June 2, 1970, 84 Stat. 289; Pub. L. 103-182, title VI, §643, Dec. 8, 1993, 107 Stat. 2205.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, §III, X, 38 Stat. 190, reenacting the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, §23, 26 Stat. 140, as amended by Act May 17, 1898, ch. 341, 30 Stat. 417, and further amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 103. Section III of the 1913 act was superseded by act Sept. 21, 1922, ch. 356, title IV, §505, 42 Stat. 967, and repealed by section 643 thereof. Section 505 of the 1922 act was superseded by section 506 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

R.S. §2927 provided for the appraisal of articles damaged during the voyage, and for the allowances for such damages in estimating duties, prior to repeal by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141.

R.S. § 2928, providing for appraisement of merchandise taken from any wreck and of damages sustained during the course of the voyage, was superseded by the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, § 23, 26 Stat. 140, and repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Par. (1). Pub. L. 103-182, § 643(1), (2), substituted “merchandise released without an examination” for “merchandise not sent to the appraiser’s stores for examination”, struck out “of the examination packages or quantities of merchandise” after “thirty days after the release”, substituted “merchandise sent to the Customs Service” for “merchandise sent to the appraiser’s stores”, inserted “or entry” after “invoice”, and substituted “such place as the Customs Service” for “such place as the appropriate customs officer” and “unless the Customs Service” for “unless such customs officer”.

Par. (2). Pub. L. 103-182, § 643(1), (3), inserted “, electronically or otherwise,” after “files” and substituted “the Customs Service notice” for “the appropriate customs officer written notice”.

1970—Par. (1). Pub. L. 91-271, § 301(m)(1), substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

Par. (2). Pub. L. 91-271, § 301(m)(2), substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1507. Tare and draft

(a) In general

The Secretary of the Treasury is authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but (except as otherwise provided in this section) there shall not be any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise.

(b) Crude oil and petroleum products

In ascertaining tare on imports of crude oil, and on imports of petroleum products, allowance shall be made for all detectable moisture and impurities present in, or upon, the imported crude oil or petroleum products.

(June 17, 1930, ch. 497, title IV, § 507, 46 Stat. 732; Pub. L. 100-418, title I, § 1902(a), Aug. 23, 1988, 102 Stat. 1312.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 506, 42 Stat. 968. That section was superseded by section 507 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision relative to the allowance of tare, prohibiting any allowance for draught, was contained in R.S. § 2898, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1988—Pub. L. 100-418 designated existing provision as subsec. (a), substituted “(except as otherwise provided in this section) there shall not be” for “in no case shall there be”, and added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-418, title I, § 1902(b), Aug. 23, 1988, 102 Stat. 1313, as amended by Pub. L. 100-647, title IX, § 9001(a)(18), Nov. 10, 1988, 102 Stat. 3808, provided that: “The amendment made by this section [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after October 1, 1988.”

§ 1508. Recordkeeping

(a) Requirements

Any—

(1) owner, importer, consignee, importer of record, entry filer, or other party who—

(A) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or

(B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

(2) agent of any party described in paragraph (1); or

(3) person whose activities require the filing of a declaration or entry, or both;

shall make, keep, and render for examination and inspection records (which for purposes of this section include, but are not limited to, statements, declarations, documents and electronically generated or machine readable data) which—

(A) pertain to any such activity, or to the information contained in the records required by this chapter in connection with any such activity; and

(B) are normally kept in the ordinary course of business.

(b) Exportations to NAFTA countries

(1) Definitions

As used in this subsection—

(A) The term “associated records” means, in regard to an exported good under paragraph (2), records associated with—

(i) the purchase of, cost of, value of, and payment for, the good;

(ii) the purchase of, cost of, value of, and payment for, all material, including indirect materials, used in the production of the good; and

(iii) the production of the good.

For purposes of this subparagraph, the terms “indirect material”, “material”, “pref-

erential tariff treatment”, “used”, and “value” have the respective meanings given them in articles 415 and 514 of the North American Free Trade Agreement.

(B) The term “NAFTA Certificate of Origin” means the certification, established under article 501 of the North American Free Trade Agreement, that a good qualifies as an originating good under such Agreement.

(2) Exports to NAFTA countries

(A) In general

Any person who completes and signs a NAFTA Certificate of Origin for a good for which preferential treatment under the North American Free Trade Agreement is claimed shall make, keep, and render for examination and inspection all records relating to the origin of the good (including the Certificate or copies thereof) and the associated records.

(B) Claims for certain waivers, reductions, or refunds of duties or for credit against bonds

(i) In general

Any person that claims with respect to an article—

(I) a waiver or reduction of duty under the eleventh paragraph of section 1311 of this title, section 1312(b)(1) or (4) of this title, section 1562(2) of this title, or the proviso preceding the last proviso to section 81c(a) of this title;

(II) a credit against a bond under section 1312(d) of this title; or

(III) a refund, waiver, or reduction of duty under section 1313(n)(2) or (o)(1) of this title;

must disclose to the Customs Service the information described in clause (ii).

(ii) Information required

Within 30 days after making a claim described in clause (i) with respect to an article, the person making the claim must disclose to the Customs Service whether that person has prepared, or has knowledge that another person has prepared, a NAFTA Certificate of Origin for the article. If after such 30-day period the person making the claim either—

(I) prepares a NAFTA Certificate of Origin for the article; or

(II) learns of the existence of such a Certificate for the article;

that person, within 30 days after the occurrence described in subclause (I) or (II), must disclose the occurrence to the Customs Service.

(iii) Action on claim

If the Customs Service determines that a NAFTA Certificate of Origin has been prepared with respect to an article for which a claim described in clause (i) is made, the Customs Service may make such adjustments regarding the previous customs treatment of the article as may be warranted.

(3) Exports under the Canadian agreement

Any person who exports, or who knowingly causes to be exported, any merchandise to

Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to the exportations.

(c) Period of time

The records required by subsections (a) and (b) shall be kept for such periods of time as the Secretary shall prescribe; except that—

(1) no period of time for the retention of the records required under subsection (a) or (b)(3) may exceed 5 years from the date of entry, filing of a reconciliation, or exportation, as appropriate;

(2) the period of time for the retention of the records required under subsection (b)(2) of this section shall be at least 5 years from the date of signature of the NAFTA Certificate of Origin; and

(3) records for any drawback claim shall be kept until the 3rd anniversary of the date of liquidation of the claim.

(d) Limitation

For the purposes of this section and section 1509 of this title, a person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported unless—

(1) the terms and conditions of the importation are controlled by the person placing the order; or

(2) technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise.

(e) Subsection (b) penalties

(1) Relating to NAFTA exports

Any person who fails to retain records required by paragraph (2) of subsection (b) or the regulations issued to implement that paragraph shall be liable for—

(A) a civil penalty not to exceed \$10,000; or

(B) the general recordkeeping penalty that applies under the customs laws;

whichever penalty is higher.

(2) Relating to Canadian agreement exports

Any person who fails to retain the records required by paragraph (3) of subsection (b) or the regulations issued to implement that paragraph shall be liable for a civil penalty not to exceed \$10,000.

(f) Certificates of Origin for goods exported under the United States-Chile Free Trade Agreement

(1) Definitions

In this subsection:

(A) Records and supporting documents

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

(i) the purchase, cost, and value of, and payment for, the good;

(ii) if applicable, the purchase, cost, and value of, and payment for, all materials, including recovered goods, used in the production of the good; and

(iii) if applicable, the production of the good in the form in which it was exported.

(B) Chile FTA Certificate of Origin

The term “Chile FTA Certificate of Origin” means the certification, established under article 4.13 of the United States-Chile Free Trade Agreement, that a good qualifies as an originating good under such Agreement.

(2) Exports to Chile

Any person who completes and issues a Chile FTA Certificate of Origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the Certificate or copies thereof).

(3) Retention period

Records and supporting documents shall be kept by the person who issued a Chile FTA Certificate of Origin for at least 5 years after the date on which the certificate was issued.

(g) Certifications of origin for goods exported under the Dominican Republic-Central America-United States Free Trade Agreement

(1) Definitions

In this subsection:

(A) Records and supporting documents

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

(i) the purchase, cost, and value of, and payment for, the good;

(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) the production of the good in the form in which it was exported.

(B) CAFTA–DR certification of origin

The term “CAFTA–DR certification of origin” means the certification established under article 4.16 of the Dominican Republic-Central America-United States Free Trade Agreement that a good qualifies as an originating good under such Agreement.

(2) Exports to CAFTA–DR countries

Any person who completes and issues a CAFTA–DR certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

(3) Retention period

Records and supporting documents shall be kept by the person who issued a CAFTA–DR certification of origin for at least 5 years after the date on which the certification was issued.

(h) Certifications of origin for goods exported under the United States-Peru Trade Promotion Agreement

(1) Definitions

In this subsection:

(A) Records and supporting documents

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

(i) the purchase, cost, and value of, and payment for, the good;

(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) the production of the good in the form in which it was exported.

(B) PTPA certification of origin

The term “PTPA certification of origin” means the certification established under article 4.15 of the United States-Peru Trade Promotion Agreement that a good qualifies as an originating good under such Agreement.

(2) Exports to Peru

Any person who completes and issues a PTPA certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

(3) Retention period

The person who issues a PTPA certification of origin shall keep the records and supporting documents relating to that certification of origin for a period of at least 5 years after the date on which the certification is issued.

(i) Certifications of origin for goods exported under the United States-Korea Free Trade Agreement

(1) Definitions

In this subsection:

(A) Records and supporting documents

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

(i) the purchase, cost, and value of, and payment for, the good;

(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) the production of the good in the form in which it was exported.

(B) KFTA certification of origin

The term “KFTA certification of origin” means the certification established under article 6.15 of the United States–Korea Free Trade Agreement that a good qualifies as an originating good under such Agreement.

(2) Exports to Korea

Any person who completes and issues a KFTA certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

(3) Retention period

The person who issues a KFTA certification of origin shall keep the records and supporting documents relating to that certification of origin for a period of at least 5 years after the date on which the certification is issued.

(j) Certifications of origin for goods exported under the United States–Colombia Trade Promotion Agreement**(1) Definitions**

In this subsection:

(A) Records and supporting documents

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

- (i) the purchase, cost, and value of, and payment for, the good;
- (ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and
- (iii) the production of the good in the form in which it was exported.

(B) CTPA certification of origin

The term “CTPA certification of origin” means the certification established under article 4.15 of the United States–Colombia Trade Promotion Agreement that a good qualifies as an originating good under such Agreement.

(2) Exports to Colombia

Any person who completes and issues a CTPA certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

(3) Retention period

The person who issues a CTPA certification of origin shall keep the records and supporting documents relating to that certification of origin for a period of at least 5 years after the date on which the certification is issued.

(k) Certifications of origin for goods exported under the United States–Panama Trade Promotion Agreement**(1) Definitions**

In this subsection:

(A) Records and supporting documents

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

- (i) the purchase, cost, and value of, and payment for, the good;
- (ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and
- (iii) the production of the good in the form in which it was exported.

(B) Panama TPA certification of origin

The term “Panama TPA certification of origin” means the certification established under article 4.15 of the United States–Panama Trade Promotion Agreement that a good qualifies as an originating good under such Agreement.

(2) Exports to Panama

Any person who completes and issues a Panama TPA certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

(3) Retention period

The person who issues a Panama TPA certification of origin shall keep the records and supporting documents relating to that certification of origin for a period of at least 5 years after the date on which the certification is issued.

(l) Penalties

Any person who fails to retain records and supporting documents required by subsection (f), (g), (h), (i), (j), or (k) or the regulations issued to implement any such subsection shall be liable for the greater of—

- (1) a civil penalty not to exceed \$10,000; or
- (2) the general record keeping penalty that applies under the customs laws of the United States.

(June 17, 1930, ch. 497, title IV, §508, as added Pub. L. 95–410, title I, §104, Oct. 3, 1978, 92 Stat. 889; amended Pub. L. 100–449, title II, §205(b), Sept. 28, 1988, 102 Stat. 1864; Pub. L. 103–182, title II, §205(a), title VI, §614, Dec. 8, 1993, 107 Stat. 2093, 2174; Pub. L. 104–295, §3(a)(6)(B), Oct. 11, 1996, 110 Stat. 3515; Pub. L. 108–77, title II, §§207, 209, Sept. 3, 2003, 117 Stat. 931, 933; Pub. L. 109–53, title II, §208, Aug. 2, 2005, 119 Stat. 485; Pub. L. 110–138, title II, §207, Dec. 14, 2007, 121 Stat. 1476; Pub. L. 112–41, title II, §206, Oct. 21, 2011, 125 Stat. 449; Pub. L. 112–42, title II, §207, Oct. 21, 2011, 125 Stat. 484; Pub. L. 112–43, title II, §207, Oct. 21, 2011, 125 Stat. 520; Pub. L. 114–125, title IX, §906(o), Feb. 24, 2016, 130 Stat. 233.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 112-43, see *Effective and Termination Dates of 2011 Amendment note below*.

For termination of amendment by section 107(c) of Pub. L. 112-42, see *Effective and Termination Dates of 2011 Amendment note below*.

For termination of amendment by section 107(c) of Pub. L. 112-41, see *Effective and Termination Dates of 2011 Amendment note below*.

For termination of amendment by section 107(c) of Pub. L. 110-138, see *Effective and Termination Dates of 2007 Amendment note below*.

For termination of amendment by section 107(d) of Pub. L. 109-53, see *Effective and Termination Dates of 2005 Amendment note below*.

For termination of amendment by section 107(c) of Pub. L. 108-77, see *Effective and Termination Dates of 2003 Amendment note below*.

For termination of amendment by section 501(c) of Pub. L. 100-449, see *Effective and Termination Dates of 1988 Amendment note below*.

PRIOR PROVISIONS

A prior section 1508, acts June 17, 1930, ch. 497, title IV, § 508, 46 Stat. 732; Aug. 8, 1953, ch. 397, § 19, 67 Stat. 518, related to commingling of goods, prior to repeal by Pub. L. 87-456, title III, § 301(a), May 24, 1962, 76 Stat. 75, effective, pursuant to section 501(a) of Pub. L. 87-456, with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963.

AMENDMENTS

2016—Subsec. (c)(3). Pub. L. 114-125 substituted “liquidation” for “payment”.

2011—Subsec. (i). Pub. L. 112-41, §§ 107(c), 206(2), temporarily added subsec. (i). Former subsec. (i) redesignated (j). See *Effective and Termination Dates of 2011 Amendment note below*.

Subsec. (j). Pub. L. 112-42, §§ 107(c), 207(2), temporarily added subsec. (j). Former subsec. (j) redesignated (k). See *Effective and Termination Dates of 2011 Amendment note below*.

Pub. L. 112-41, §§ 107(c), 206(1), (3), temporarily redesignated subsec. (i) as (j) and, in introductory provisions, substituted “(g), (h), or (i)” for “(g), or (h)”. See *Effective and Termination Dates of 2011 Amendment note below*.

Subsec. (k). Pub. L. 112-43, §§ 107(c), 207(2), temporarily added subsec. (k). Former subsec. (k) redesignated (l). See *Effective and Termination Dates of 2011 Amendment note below*.

Pub. L. 112-42, §§ 107(c), 207(1), (3), temporarily redesignated former subsec. (j) as (k) and, in introductory provisions, substituted “(h), (i), or (j)” for “(h), or (i)”. See *Effective and Termination Dates of 2011 Amendment note below*.

Subsec. (l). Pub. L. 112-43, §§ 107(c), 207(1), (3), temporarily redesignated subsec. (k) as (l), and, in introductory provisions, substituted “(i), (j), or (k)” for “(i), or (j)”. See *Effective and Termination Dates of 2011 Amendment note below*.

2007—Subsec. (h). Pub. L. 110-138, §§ 107(c), 207(2), temporarily added subsec. (h). Former subsec. (h) redesignated (i). See *Effective and Termination Dates of 2007 Amendment note below*.

Subsec. (i). Pub. L. 110-138, §§ 107(c), 207(1), (3), temporarily redesignated subsec. (h) as (i) and, in introductory provisions, substituted “(f), (g), or (h)” for “(f) or (g)” and “any such subsection” for “either such subsection”. See *Effective and Termination Dates of 2007 Amendment note below*.

2005—Subsec. (g). Pub. L. 109-53, §§ 107(d), 208(2), temporarily added subsec. (g). Former subsec. (g) redesignated (h). See *Effective and Termination Dates of 2005 Amendment note below*.

Subsec. (h). Pub. L. 109-53, §§ 107(d), 208(1), (3), temporarily redesignated subsec. (g) as (h) and, in introductory provisions, inserted “or (g)” after “(f)” and substituted “either such subsection” for “that subsection”. See *Effective and Termination Dates of 2005 Amendment note below*.

2003—Subsec. (b). Pub. L. 108-77, §§ 107(c), 207(1), temporarily substituted “Exportations to NAFTA countries” for “Exportations to free trade countries” in heading. See *Effective and Termination Dates of 2003 Amendment note below*.

Subsec. (b)(2)(B)(i)(I). Pub. L. 108-77, §§ 107(c), 209, temporarily substituted “the eleventh paragraph of section 1311 of this title” for “the last paragraph of section 1311 of this title” and “the proviso preceding the last proviso to section 81c(a) of this title” for “the last proviso to section 81c(a) of this title”. See *Effective and Termination Dates of 2003 Amendment note below*.

Subsecs. (f), (g). Pub. L. 108-77, §§ 107(c), 207(2), temporarily added subsecs. (f) and (g). See *Effective and Termination Dates of 2003 Amendment note below*.

1996—Subsec. (c)(1). Pub. L. 104-295 inserted “, filing of a reconciliation,” after “entry”.

1993—Subsec. (a). Pub. L. 103-182, § 614(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records (including statements, declarations, and other documents) which—

“(1) pertain to any such importation, or to the information contained in the documents required by this chapter in connection with the entry of merchandise; and

“(2) are normally kept in the ordinary course of business.”

Subsec. (b). Pub. L. 103-182, § 205(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Any person who exports, or who knowingly causes to be exported, any merchandise to Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to such exportations.”

Subsec. (c). Pub. L. 103-182, § 205(a)(2), amended generally subsec. (c), as amended by Pub. L. 103-182, § 614(2) (see below). Prior to amendment, subsec. (c) read as follows: “The records required by subsections (a) and (b) of this section shall be kept for such period of time, not to exceed 5 years from the date of entry or exportation, as appropriate, as the Secretary shall prescribe; except that records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.” See *Construction of 1993 Amendment note below*.

Pub. L. 103-182, § 614(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The records required by subsection (a) and (b) of this section shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.” See *Construction of 1993 Amendment note below*.

Subsec. (e). Pub. L. 103-182, § 205(a)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Any person who fails to retain records required by subsection (b) of this section or the regulations issued to implement that subsection shall be liable to a civil penalty not to exceed \$10,000.”

1988—Subsecs. (b) to (e). Pub. L. 100-449 temporarily added subsec. (b), redesignated former subsec. (b) as (c) and inserted “and (b)” after “subsection (a)”, redesignated former subsec. (c) as (d), and added subsec. (e). See *Effective and Termination Dates of 1988 Amendment note below*.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-125 effective Feb. 24, 2016, and, except as otherwise provided, applicable to drawback claims filed on or after the date that is 2 years

after such date, see section 906(q) of Pub. L. 114-125, set out as a note under section 1313 of this title.

EFFECTIVE AND TERMINATION DATES OF 2011
AMENDMENT

Amendment by Pub. L. 112-43 effective Oct. 21, 2011, applicable with respect to Panama on the date the United States-Panama Trade Promotion Agreement enters into force (Oct. 31, 2012), and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-43, set out in a note under section 3805 of this title.

Amendment by Pub. L. 112-42 effective Oct. 21, 2011, applicable with respect to Colombia on the date the United States-Colombia Trade Promotion Agreement enters into force (May 15, 2012), and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-42, set out in a note under section 3805 of this title.

Amendment by Pub. L. 112-41 effective Oct. 21, 2011, applicable with respect to Korea on the date the United States-Korea Free Trade Agreement enters into force (Mar. 15, 2012), and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-41, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2007
AMENDMENT

Amendment by Pub. L. 110-138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2005
AMENDMENT

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

EFFECTIVE AND TERMINATION DATES OF 2003
AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 205(a) of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988
AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 205(a) of Pub. L. 103-182 to be made after amendment by section 614 of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1509. Examination of books and witnesses

(a) Authority

In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

(1) examine, or cause to be examined, upon reasonable notice, any record (which for purposes of this section, includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry, except that—

(A) if such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry) it shall be provided to the Customs Service within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and

(B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under subsection (g);

(2) summon, upon reasonable notice—

(A) the person who—

(i) imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

(ii) exported merchandise, or knowingly caused merchandise to be exported, to a NAFTA country (as defined in section 3301(4) of this title) or to Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada,

(iii) transported or stored merchandise that was or is carried or held under cus-

toms bond, or knowingly caused such transportation or storage, or

(iv) filed a declaration, entry, or drawback claim with the Customs Service;

(B) any officer, employee, or agent of any person described in subparagraph (A);

(C) any person having possession, custody or care of records relating to the importation or other activity described in subparagraph (A); or

(D) any other person he may deem proper;

to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce records, as defined in subsection (d)(1)(A), and to give such testimony, under oath, as may be relevant to such investigation or inquiry; and

(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant to such investigation or inquiry.

(b) Regulatory audit procedures

(1) In conducting a regulatory audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone), the Customs Service auditor shall provide the person being audited, in advance of the audit, with a reasonable estimate of the time to be required for the audit. If in the course of an audit it becomes apparent that additional time will be required, the Customs Service auditor shall immediately provide a further estimate of such additional time.

(2) Before commencing an audit, the Customs Service auditor shall inform the party to be audited of his right to an entry conference at which time the purpose will be explained and an estimated termination date set. Upon completion of on-site audit activities, the Customs Service auditor shall schedule a closing conference to explain the preliminary results of the audit.

(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Service auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the officer designated pursuant to regulations, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

(4) Except as provided in paragraph (5), the Customs Service auditor shall complete the formal written audit report within 90 days following the closing conference unless the officer designated pursuant to regulations provides written notice to the person being audited of the reason for any delay and the anticipated completion date. After application of any exemption contained in section 552 of title 5, a copy of the formal written audit report shall be sent to the person audited no later than 30 days following completion of the report.

(5) Paragraphs (3) and (4) shall not apply after the Customs Service commences a formal investigation with respect to the issue involved.

(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 1592 of this title, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries, if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 1520 of this title.

(c) Service of summons

A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons is prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable specificity.

(d) Special procedures for third-party summonses

(1) For purposes of this subsection—

(A) The term “records” includes those—

(i) required to be kept under section 1508 of this title; or

(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.

(B) The term “summons” means any summons issued under subsection (a) of this section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

(C) The term “third-party recordkeeper” means—

(i) any customhouse broker, unless such customhouse broker is the importer of record on an entry;

(ii) any attorney; and

(iii) any accountant.

(2) If—

(A) any summons is served on any person who is a third-party recordkeeper; and

(B) the summons requires the production of, or the giving of testimony relating to, any

portion of records made or kept of the transactions described in section 1508 of this title of any person (other than the person summoned) who is identified in the description of the records contained in such summons;

then notice of such summons shall be given to any persons so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person.

(4) Paragraph (2) of this subsection shall not apply to any summons—

(A) served on the person with respect to whose liability for duties, fees, or taxes the summons is issued, or any officer or employee of such person; or

(B) to determine whether or not records of the transactions described in section 1508 of this title of an identified person have been made or kept.

(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right—

(A) to intervene in any proceeding with respect to the enforcement of such summons under section 1510 of this title; and

(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given—

(i) notice in writing is given to the person summoned not to comply with the summons; and

(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (2) of this subsection may be made—

(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or

(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

(7) The provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may

lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(e) List of records and information

The Customs Service shall identify and publish a list of the records or entry information that is required to be maintained and produced under subsection (a)(1)(A).

(f) Recordkeeping compliance program

(1) In general

After consultation with the importing community, the Customs Service shall by regulation establish a recordkeeping compliance program which the parties listed in section 1508(a) of this title may participate in after being certified by the Customs Service under paragraph (2). Participation in the recordkeeping compliance program by recordkeepers is voluntary.

(2) Certification

A recordkeeper may be certified as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established under the program or after negotiating an alternative program suited to the needs of the recordkeeper and the Customs Service. Certification requirements shall take into account the size and nature of the importing business and the volume of imports. In order to be certified, the recordkeeper must be able to demonstrate that it—

(A) understands the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the time periods involved;

(B) has in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance, and production of required records;

(C) has in place procedures regarding the preparation and maintenance of required records, and the production of such records to the Customs Service;

(D) has designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program and whose duties include maintaining familiarity with the recordkeeping requirements of the Customs Service;

(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternative records or recordkeeping formats other than the original records; and

(F) has procedures for notifying the Customs Service of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or the negotiated alternative programs, and for taking corrective action when notified by the Customs Service of violations or problems regarding such program.

(g) Penalties

(1) "Information" defined

For purposes of this subsection, the term "information" means any record, statement,

declaration, document, or electronically stored or transmitted information or data referred to in subsection (a)(1)(A).

(2) Effects of failure to comply with demand

Except as provided in paragraph (4), if a person fails to comply with a lawful demand for information under subsection (a)(1)(A) the following provisions apply:

(A) If the failure to comply is a result of the willful failure of the person to maintain, store, or retrieve the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed \$100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

(B) If the failure to comply is a result of the negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed \$10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

(C) In addition to any penalty imposed under subparagraph (A) or (B) regarding demanded information, if such information related to the eligibility of merchandise for a column 1 special rate of duty under title I, the entry of such merchandise—

(i) if unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

(ii) if liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in section 1514 or 1520 of this title, at the applicable column 1 general rate of duty;

except that any liquidation or reliquidation under clause (i) or (ii) shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

(3) Avoidance of penalty

No penalty may be assessed under this subsection if the person can show—

(A) that the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

(B) on the basis of other evidence satisfactory to the Customs Service, that the demand was substantially complied with; or

(C) the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand.

(4) Penalties not exclusive

Any penalty imposed under this subsection shall be in addition to any other penalty provided by law except for—

(A) a penalty imposed under section 1592 of this title for a material omission of the demanded information, or

(B) disciplinary action taken under section 1641 of this title.

(5) Remission or mitigation

A penalty imposed under this section may be remitted or mitigated under section 1618 of this title.

(6) Customs summons

Nothing in this subsection shall limit or preclude the Customs Service from issuing, or seeking the enforcement of, a customs summons.

(7) Alternatives to penalties

(A) In general

When a recordkeeper who—

(i) has been certified as a participant in the recordkeeping compliance program under subsection (f); and

(ii) is generally in compliance with the appropriate procedures and requirements of the program;

does not produce a demanded record or information for a specific release or provide the information by acceptable alternative means, the Customs Service, in the absence of willfulness or repeated violations, shall issue a written notice of the violation to the recordkeeper in lieu of a monetary penalty. Repeated violations by the recordkeeper may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

(B) Contents of notice

A notice of violation issued under subparagraph (A) shall—

(i) state that the recordkeeper has violated the recordkeeping requirements;

(ii) indicate the record or information which was demanded; and

(iii) warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties.

(C) Response to notice

Within a reasonable time after receiving written notice under subparagraph (A), the recordkeeper shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

(D) Regulations

The Secretary shall promulgate regulations to implement this paragraph. Such regulations may specify the time periods for compliance with a demand for information and provide guidelines which define repeated violations for purposes of this paragraph. Any penalty issued for a recordkeeping violation shall take into account the degree of compliance compared to the total number of importations, the nature of the demanded records and the recordkeeper's cooperation.

(June 17, 1930, ch. 497, title IV, § 509, 46 Stat. 733; June 25, 1948, ch. 646, § 26, 62 Stat. 990; Pub. L. 91-271, title III, § 301(m), June 2, 1970, 84 Stat. 289; Pub. L. 95-410, title I, § 105, Oct. 3, 1978, 92 Stat. 889; Pub. L. 99-570, title III, § 3117, Oct. 27, 1986, 100 Stat. 3207-84; Pub. L. 103-182, title II, § 205(b), title VI, § 615, Dec. 8, 1993, 107 Stat. 2094, 2175;

Pub. L. 104-295, §3(a)(1), (10), Oct. 11, 1996, 110 Stat. 3515, 3516; Pub. L. 107-210, div. A, title III, §382, Aug. 6, 2002, 116 Stat. 992.)

REFERENCES IN TEXT

Title I, referred to in subsec. (g)(2)(C), means title I of act June 17, 1930, ch. 497, as amended, which contains the Harmonized Tariff Schedule of the United States and which is not set out in the Code. See notes preceding section 1202 of this title and Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

Provisions substantially the same, in most respects, as those in this section, were contained in act Oct. 3, 1913, ch. 16, §III, O. 38 Stat. 188, which substantially reenacted the provisions of Customs Administrative Act of June 10, 1890, ch. 407, §16, 26 Stat. 138, as renumbered and reenacted without other change by the Payne-Alt-drich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 100. Section III of the 1913 act was superseded and more closely assimilated to this section by act Sept. 21, 1922, ch. 356, title IV, §508, 42 Stat. 968, and repealed by section 643 thereof. Section 508 of the 1922 act was superseded by section 509 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions similar to those in this section and section 1510 of this title were made by R.S. §§2922-2924, repealed by section 29 of the Customs Administrative Act of 1890, 26 Stat. 141.

AMENDMENTS

2002—Subsec. (b)(6). Pub. L. 107-210 added par. (6).

1996—Subsec. (a)(2). Pub. L. 104-295, §3(a)(1), substituted “(d)(1)(A)” for “(c)(1)(A)” in concluding provisions.

Subsec. (b)(3), (4). Pub. L. 104-295, §3(a)(10), substituted “officer designated pursuant to regulations” for “appropriate regional commissioner”.

1993—Subsec. (a). Pub. L. 103-182, §615(1)(A), substituted “, fees and taxes” for “and taxes” in two places in introductory provisions.

Subsec. (a)(1). Pub. L. 103-182, §615(1)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “examine, or cause to be examined, upon reasonable notice, any record, statement, declaration or other document, described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry.”

Subsec. (a)(2)(A). Pub. L. 103-182, §615(1)(C), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the person who imported, or knowingly caused to be imported, merchandise into the customs territory of the United States.”. See Construction of 1993 Amendment note below.

Subsec. (a)(2)(A)(ii). Pub. L. 103-182, §205(b), amended generally cl. (ii), as amended by Pub. L. 103-182, §615(1)(C). Prior to amendment, cl. (ii) read as follows: “exported merchandise, or knowingly caused merchandise to be exported, to Canada.”. See Construction of 1993 Amendment note below.

Subsec. (a)(2)(B), (C). Pub. L. 103-182, §615(1)(C), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

“(B) any officer, employee, or agent of such person,

“(C) any person having possession, custody, or care of records relating to such importation, or”.

Subsec. (a)(2)(D). Pub. L. 103-182, §615(1)(D), substituted a semicolon for comma at end.

Subsecs. (b), (c). Pub. L. 103-182, §615(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 103-182, §615(2), redesignated subsec. (c) as (d).

Subsec. (d)(1)(A). Pub. L. 103-182, §615(4)(A), substituted “those” for “statements, declarations, or documents” in introductory provisions.

Subsec. (d)(1)(C)(i). Pub. L. 103-182, §615(4)(B), inserted “, unless such customhouse broker is the importer of record on an entry” after “broker”.

Subsec. (d)(2)(B). Pub. L. 103-182, §615(4)(C), (D), substituted “the transactions described in section 1508 of this title” for “the import transactions”.

Subsec. (d)(4)(A). Pub. L. 103-182, §615(4)(E), inserted “, fees,” after “duties”.

Subsec. (d)(4)(B). Pub. L. 103-182, §615(4)(C), (D), substituted “the transactions described in section 1508 of this title” for “the import transactions”.

Subsecs. (e) to (g). Pub. L. 103-182, §615(5), added subsecs. (e) to (g).

1986—Subsec. (a)(2). Pub. L. 99-570, §3117(1), substituted “as defined in subsection (c)(1)(A)” for “required to be kept under section 1508 of this title” in concluding provisions.

Subsec. (c)(1)(A). Pub. L. 99-570, §3117(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The term ‘records’ includes statements, declarations, or documents required to be kept under section 1508 of this title.”

1978—Pub. L. 95-410 substituted subsec. (a) to (c) provisions for examination of books and witnesses for prior provisions for examination of importer and others, which authorized appropriate customs officers to issue citations for examination under oath of any owner, importer, consignee, agent, or other person upon any material matter or thing respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty and to require production of any letters, accounts, contracts, invoices, or other documents relating to the merchandise, and the reduction of the testimony to writing, required the testimony to be filed and preserved under Customs Court rules, and authorized consideration of the evidence in subsequent proceedings relating to the merchandise.

1970—Pub. L. 91-271 substituted “Appropriate customs officer” for “Collectors and appraisers”.

1948—Act June 25, 1948, struck out “and judges and divisions of the United States Customs Court” after “Collectors and appraisers” in first sentence.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 205(b) of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Act June 25, 1948, ch. 646, §38, 62 Stat. 992, provided that the amendment made by that act is effective Sept. 1, 1948.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 205(b) of Pub. L. 103-182 to be made after amendment by section 615 of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1510. Judicial enforcement**(a) Order of court**

If any person summoned under section 1509 of this title does not comply with the summons, the district court of the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to comply with the summons. Failure to obey such order of the court may be punished by such court as a contempt thereof and such court may assess a monetary penalty.

(b) Sanctions

(1) For so long as any person, after being adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 1509 of this title and for refusing to obey the order of the court, remains in contempt, the Secretary may—

(A) prohibit that person from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and

(B) instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by that person or for his account.

(2) If any person remains in contempt for more than one year after the date on which the Secretary issues instructions under paragraph (1)(B) with respect to that person, the appropriate customs officers shall cause all merchandise held in customs custody pursuant to such instructions to be sold at public auction or otherwise disposed of under the customs laws.

(3) The sanctions which may be imposed under paragraphs (1) and (2) are in addition to any punishment which may be imposed by the court for contempt.

(June 17, 1930, ch. 497, title IV, § 510, 46 Stat. 733; Pub. L. 91-271, title III, § 301(o), June 2, 1970, 84 Stat. 290; Pub. L. 95-410, title I, § 106, Oct. 3, 1978, 92 Stat. 891; Pub. L. 103-182, title VI, § 616, Dec. 8, 1993, 107 Stat. 2179.)

PRIOR PROVISIONS

Provisions substantially the same as those in this section were contained in act Oct. 3, 1913, ch. 16, § III, P, 38 Stat. 188, which substantially reenacted the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, § 17, 26 Stat. 139, as renumbered and reenacted without other change by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 23, 36 Stat. 100. Section III,

P, of the 1913 act was superseded by act Sept. 21, 1922, ch. 356, title IV, § 509, 42 Stat. 968, and repealed by section 643 thereof. Section 509 of the 1922 act was superseded by section 510 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions similar to those in this section were contained in R.S. §§ 2923, 2924, prior to repeal by section 29 of the Customs Administrative Act of June 10, 1890, 26 Stat. 141.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-182 inserted before period at end “and such court may assess a monetary penalty”.

1978—Pub. L. 95-410 substituted judicial enforcement provisions covering court order for compliance with administrative summonses and imposition of specified sanctions for prior provisions covering imposition of penalties for refusal to give testimony, including provision for a penalty of not less than \$20 nor more than \$500 for refusing to appear or to produce documents or to subscribe his name to a deposition or refusing to answer interrogatories; deeming the last made appraisal of the merchandise as final where an owner, importer, or consignee failed to comply with the examination provisions; deeming the person falsely swearing on an examination guilty of perjury; and forfeiture of the merchandise where the person was an owner, importer, or consignee, or the recovery of its value from him.

1970—Pub. L. 91-271 substituted references to appropriate customs officer for references to collector or appraiser wherever appearing, and struck out references to divisions of United States Customs Court.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1511. Repealed. Pub. L. 95-410, title I, § 107, Oct. 3, 1978, 92 Stat. 892

Section, acts June 17, 1930, ch. 497, title IV, § 511, 46 Stat. 733; June 2, 1970, Pub. L. 91-271, title III, § 301(p), 84 Stat. 290, provided for inspection of importer's books. See sections 1508-1510 of this title.

Provisions similar to those in this section were contained in act May 27, 1921, ch. 14, § 405, 42 Stat. 18, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 511, 42 Stat. 969. Section 511 of the 1922 act was superseded by section 511 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Earlier provisions for assessment of additional duty for failure or refusal of persons importing merchandise or dealing in imported merchandise to submit their books, records, etc., to inspection, were contained in act Oct. 3, 1913, ch. 16, § III, V, 38 Stat. 190, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

§ 1512. Deposit of duty receipts

All moneys paid to any customs officer for unascertained duties or for duties paid under protest against the rate or amount of duties charged shall be deposited to the credit of the Treasurer of the United States and shall not be held by the customs officers to await any ascertainment of duties or the result of any litigation in relation to the rate or amount of duties legally chargeable and collectible in any case where money is so paid.

(June 17, 1930, ch. 497, title IV, § 512, 46 Stat. 734; Pub. L. 91-271, title III, § 301(q), June 2, 1970, 84 Stat. 290.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. § 3010, which was superseded by act Sept.

21, 1922, ch. 356, title IV, §512, 42 Stat. 969, and was repealed by section 642 thereof. Section 512 of the 1922 act was superseded by section 512 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91-271 substituted references to customs officers for references to collectors wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1513. Customs officer's immunity

No customs officer shall be liable in any way to any person for or on account of—

- (1) any ruling or decision regarding the appraisalment or the classification of any imported merchandise or regarding the duties, fees, and taxes charged thereon,
- (2) the collection of any dues, charges, duties, fees, and taxes on or on account of any imported merchandise, or
- (3) any other matter or thing as to which any person might under this chapter be entitled to protest or appeal from the decision of such officer.

(June 17, 1930, ch. 497, title IV, §513, 46 Stat. 734; Pub. L. 91-271, title III, §301(r), June 2, 1970, 84 Stat. 290; Pub. L. 103-182, title VI, §644, Dec. 8, 1993, 107 Stat. 2206.)

PRIOR PROVISIONS

Provisions substantially the same as those in this section, except that they did not specifically refer to rulings or decisions as to appraisalment, were contained in act Oct. 3, 1913, ch. 16, §III, Z, 38 Stat. 191, which reenacted without change the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, §25, 26 Stat. 141, as reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 103. Section III, Z, of the 1913 act was superseded and more closely assimilated to this section by act Sept. 21, 1922, ch. 356, title IV, §513, 42 Stat. 969, and repealed by section 643 thereof. Section 513 of the 1922 act was superseded by section 513 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1993—Pub. L. 103-182 amended section generally. Prior to amendment, section read as follows: "No customs officer shall be in any way liable to any owner, importer, consignee, or agent or any other person for or on account of any rulings or decisions as to the appraisalment or the classification of any imported merchandise or the duties charged thereon, or the collection of any dues, charges, or duties on or on account of said merchandise, or any other matter or thing as to which said owner, importer, consignee, or agent might under this chapter be entitled to protest or appeal from the decision of such officer."

1970—Pub. L. 91-271 substituted "customs officer" for "collector or other customs officer" and "such officer" for "such collector or other officer".

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1514. Protest against decisions of Customs Service

(a) Finality of decisions; return of papers

Except as provided in subsection (b) of this section, section 1501 of this title (relating to vol-

untary reliquidations), section 1516 of this title (relating to petitions by domestic interested parties), section 1520 of this title (relating to refunds), and section 6501 of title 26 (but only with respect to taxes imposed under chapters 51 and 52 of such title), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and, decisions of the Customs Service, including the legality of all orders and findings entering into the same, as to—

- (1) the appraised value of merchandise;
- (2) the classification and rate and amount of duties chargeable;
- (3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;
- (4) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody under any provision of the customs laws, except a determination appealable under section 1337 of this title;
- (5) the liquidation or reliquidation of an entry, or reconciliation as to the issues contained therein, or any modification thereof, including the liquidation of an entry, pursuant to either section 1500 of this title or section 1504 of this title;
- (6) the refusal to pay a claim for drawback; or
- (7) the refusal to reliquidate an entry under subsection (d) of section 1520 of this title;

shall be final and conclusive upon all persons (including the United States and any officer thereof) unless a protest is filed in accordance with this section, or unless a civil action contesting the denial of a protest, in whole or in part, is commenced in the United States Court of International Trade in accordance with chapter 169 of title 28 within the time prescribed by section 2636 of that title. When a judgment or order of the United States Court of International Trade has become final, the papers transmitted shall be returned, together with a copy of the judgment or order to the Customs Service, which shall take action accordingly.

(b) Finality of determinations

With respect to determinations made under section 1303¹ of this title or subtitle IV of this chapter which are reviewable under section 1516a of this title, determinations of the Customs Service are final and conclusive upon all persons (including the United States and any officer thereof) unless a civil action contesting a determination listed in section 1516a of this title is commenced in the United States Court of International Trade, or review by a binational panel of a determination to which section 1516a(g)(2) of this title applies is commenced pursuant to section 1516a(g) of this title and article 1904 of the North American Free Trade Agreement or the United States-Canada Free-Trade Agreement.

(c) Form, number, and amendment of protest; filing of protest

- (1) A protest of a decision made under subsection (a) shall be filed in writing, or transmit-

¹ See References in Text note below.

ted electronically pursuant to an electronic data interchange system, in accordance with regulations prescribed by the Secretary. A protest must set forth distinctly and specifically—

- (A) each decision described in subsection (a) as to which protest is made;
- (B) each category of merchandise affected by each decision set forth under paragraph (1);
- (C) the nature of each objection and the reasons therefor; and
- (D) any other matter required by the Secretary by regulation.

Only one protest may be filed for each entry of merchandise, except that where the entry covers merchandise of different categories, a separate protest may be filed for each category. In addition, separate protests filed by different authorized persons with respect to any one category of merchandise, or with respect to a determination of origin under section 3332 of this title, that is the subject of a protest are deemed to be part of a single protest. Unless a request for accelerated disposition is filed under section 1515(b) of this title, a protest may be amended, under regulations prescribed by the Secretary, to set forth objections as to a decision or decisions described in subsection (a) which were not the subject of the original protest, in the form and manner prescribed for a protest, any time prior to the expiration of the time in which such protest could have been filed under this section. New grounds in support of objections raised by a valid protest or amendment thereto may be presented for consideration in connection with the review of such protest pursuant to section 1515 of this title at any time prior to the disposition of the protest in accordance with that section.

(2) Except as provided in sections 1485(d) and 1557(b) of this title, protests may be filed with respect to merchandise which is the subject of a decision specified in subsection (a) by—

- (A) the importers or consignees shown on the entry papers, or their sureties;
- (B) any person paying any charge or exaction;
- (C) any person seeking entry or delivery;
- (D) any person filing a claim for drawback;
- (E) with respect to a determination of origin under section 3332 of this title, any exporter or producer of the merchandise subject to that determination, if the exporter or producer completed and signed a NAFTA Certificate of Origin covering the merchandise; or
- (F) any authorized agent of any of the persons described in clauses (A) through (E).

(3) A protest of a decision, order, or finding described in subsection (a) shall be filed with the Customs Service within 180 days after but not before—

- (A) date of liquidation or reliquidation, or
- (B) in circumstances where subparagraph (A) is inapplicable, the date of the decision as to which protest is made.

A protest by a surety which has an unsatisfied legal claim under its bond may be filed within 180 days from the date of mailing of notice of demand for payment against its bond. If another party has not filed a timely protest, the surety's protest shall certify that it is not being filed collusively to extend another authorized per-

son's time to protest as specified in this subsection.

(d) Limitation on protest of reliquidation

The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the Customs Service upon any question not involved in such reliquidation.

(e) Advance notice of certain determinations

Except as provided in subsection (f), an exporter or producer referred to in subsection (c)(2)(E) shall be provided notice in advance of an adverse determination of origin under section 3332 of this title. The Secretary may, by regulations, prescribe the time period in which such advance notice shall be issued and authorize the Customs Service to provide in the notice the entry number and any other entry information considered necessary to allow the exporter or producer to exercise the rights provided by this section.

(f) Denial of preferential treatment

If the Customs Service finds indications of a pattern of conduct by an exporter or producer of false or unsupported representations that goods qualify under the rules of origin set out in section 3332 of this title—

- (1) the Customs Service, in accordance with regulations issued by the Secretary, may deny preferential tariff treatment to entries of identical goods exported or produced by that person; and
- (2) the advance notice requirement in subsection (e) shall not apply to that person;

until the person establishes to the satisfaction of the Customs Service that its representations are in conformity with section 3332 of this title.

(g) Denial of preferential tariff treatment under United States-Chile Free Trade Agreement

If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds indications of a pattern of conduct by an importer of false or unsupported representations that goods qualify under the rules of origin set out in section 202 of the United States-Chile Free Trade Agreement Implementation Act, the Bureau of Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may deny preferential tariff treatment under the United States-Chile Free Trade Agreement to entries of identical goods imported by that person until the person establishes to the satisfaction of the Bureau of Customs and Border Protection that representations of that person are in conformity with such section 202.

(h) Denial of preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement

If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin set out in section 4033 of this title, the Bureau of Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury,

may suspend preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until the Bureau of Customs and Border Protection determines that representations of that person are in conformity with such section 4033 of this title.

(i) Denial of preferential tariff treatment under the United States-Peru Trade Promotion Agreement

If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the United States-Peru Trade Promotion Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 203.

(j) Denial of preferential tariff treatment under the United States-Korea Free Trade Agreement

If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 202 of the United States-Korea Free Trade Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the United States-Korea Free Trade Agreement Implementation Act to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 202.

(k) Denial of preferential tariff treatment under the United States-Colombia Trade Promotion Agreement

If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the United States-Colombia Trade Promotion

Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 203.

(l) Denial of preferential tariff treatment under the United States-Panama Trade Promotion Agreement

If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 203 of the United States-Panama Trade Promotion Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the United States-Panama Trade Promotion Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 203.

(June 17, 1930, ch. 497, title IV, §514, 46 Stat. 734; Pub. L. 91-271, title II, §207, June 2, 1970, 84 Stat. 284; Pub. L. 96-39, title X, §1001(b)(3), July 26, 1979, 93 Stat. 305; Pub. L. 96-417, title VI, §§601(5), 605, Oct. 10, 1980, 94 Stat. 1744; Pub. L. 98-573, title VI, §612(b)(1), Oct. 30, 1984, 98 Stat. 3034; Pub. L. 99-514, title XVIII, §1888(4), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-449, title IV, §403(b), Sept. 28, 1988, 102 Stat. 1884; Pub. L. 103-182, title II, §208, title IV, §412(a), title VI, §645, Dec. 8, 1993, 107 Stat. 2097, 2146, 2206; Pub. L. 104-295, §21(e)(7), Oct. 11, 1996, 110 Stat. 3531; Pub. L. 106-36, title II, §2408(b), June 25, 1999, 113 Stat. 171; Pub. L. 108-77, title II, §205(b), Sept. 3, 2003, 117 Stat. 931; Pub. L. 108-429, title II, §2103, Dec. 3, 2004, 118 Stat. 2597; Pub. L. 109-53, title II, §206(b), Aug. 2, 2005, 119 Stat. 484; Pub. L. 109-280, title XIV, §1635(f)(7), Aug. 17, 2006, 120 Stat. 1171; Pub. L. 110-138, title II, §205(b), Dec. 14, 2007, 121 Stat. 1476; Pub. L. 111-3, title VII, §702(c)(1), Feb. 4, 2009, 123 Stat. 110; Pub. L. 112-41, title II, §204(b), Oct. 21, 2011, 125 Stat. 448; Pub. L. 112-42, title II, §205(b), Oct. 21, 2011, 125 Stat. 484; Pub. L. 112-43, title II, §205(b), Oct. 21, 2011, 125 Stat. 519.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 112-43, see Effective and Termination Dates of 2011 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 112-42, see Effective and Termination Dates of 2011 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 112-41, see Effective and Termination Dates of 2011 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 110-138, see Effective and Termination Dates of 2007 Amendment note below.

For termination of amendment by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates of 2005 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 108-77, see Effective and Termination Dates of 2003 Amendment note below.

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

REFERENCES IN TEXT

Section 1303 of this title, referred to in subsec. (b), is defined in section 1677(26) of this title to mean section 1303 as in effect on the day before Jan. 1, 1995.

Section 202 of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsec. (g), is section 202 of Pub. L. 108-77, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, referred to in subsec. (i), is section 203 of Pub. L. 110-138, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Korea Free Trade Agreement Implementation Act, referred to in subsec. (j), is section 202 of Pub. L. 112-41, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act, referred to in subsec. (k), is section 203 of Pub. L. 112-42, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Panama Trade Promotion Agreement Implementation Act, referred to in subsec. (l), is section 203 of Pub. L. 112-43, which is set out in a note under section 3805 of this title.

CODIFICATION

Section was formerly classified to former section 579 of this title subsequent to its classification to section 784 of title 28 prior to the general revision and enactment of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 464, § 1, 62 Stat. 869.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 514, 42 Stat. 969. That section was superseded by section 514 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions that the decision of the collector as to duties, including dutiable costs and charges, and as to all fees and exactions, should be final and conclusive unless a protest was filed within 30 days after ascertainment and liquidation of duties, or within 15 days after payment of fees, charges and exactions, with further provisions as to fees, transmission of the papers to the Board of General Appraisers, etc., were contained in act Oct. 3, 1913, ch. 16, § III, N, 38 Stat. 187, the provisions of which were substituted for provisions of a similar nature in the Customs Administrative Act of June 10, 1890, ch. 407, § 14, 26 Stat. 137, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 100. Section III, N, of the 1913 act was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

Provisions relating to decisions of the collector, and appeals therefrom to the Secretary of the Treasury were contained in R.S. §§ 2931, 2932, prior to repeal by section 29 of the Customs Administrative Act, 26 Stat. 141.

AMENDMENTS

2011—Subsec. (j). Pub. L. 112-41, §§ 107(c), 204(b), temporarily added subsec. (j). See Effective and Termination Dates of 2011 Amendment note below.

Subsec. (k). Pub. L. 112-42, §§ 107(c), 205(b), temporarily added subsec. (k). See Effective and Termination Dates of 2011 Amendment note below.

Subsec. (l). Pub. L. 112-43, §§ 107(c), 205(b), temporarily added subsec. (l). See Effective and Termination Dates of 2011 Amendment note below.

2009—Subsec. (a). Pub. L. 111-3, in introductory provisions, substituted “section 1520 of this title (relating to

refunds), and section 6501 of title 26 (but only with respect to taxes imposed under chapters 51 and 52 of such title)” for “and section 1520 of this title (relating to refunds)”.

2007—Subsec. (i). Pub. L. 110-138, §§ 107(c), 205(b), temporarily added subsec. (i). See Effective and Termination Dates of 2007 Amendment note below.

2006—Subsec. (c)(3). Pub. L. 109-280 realigned margins of concluding provisions.

2005—Subsec. (h). Pub. L. 109-53, §§ 107(d), 206(b), temporarily added subsec. (h). See Effective and Termination Dates of 2005 Amendment note below.

2004—Subsec. (a). Pub. L. 108-429, § 2103(1)(A), substituted “(relating to refunds), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and” for “(relating to refunds and errors)” in introductory provisions.

Subsec. (a)(5). Pub. L. 108-429, § 2103(1)(B), inserted “, including the liquidation of an entry, pursuant to either section 1500 of this title or section 1504 of this title” after “thereof”.

Subsec. (a)(7). Pub. L. 108-429, § 2103(1)(C), struck out “(c) or” after “subsection”.

Subsec. (c)(1). Pub. L. 108-429, § 2103(2)(A), which directed substitution of “Unless a request for accelerated disposition is filed under section 1515(b) of this title, a protest may be amended,” for “A protest may be amended,” in the sixth sentence, was executed by making the substitution in the fifth sentence, to reflect the probable intent of Congress.

Subsec. (c)(3). Pub. L. 108-429, § 2103(2)(B)(i), (iii), substituted “180 days” for “ninety days” in introductory provisions and “180 days” for “90 days” in concluding provisions.

Subsec. (c)(3)(A). Pub. L. 108-429, § 2103(2)(B)(ii), substituted “date of” for “notice of”.

2003—Subsec. (g). Pub. L. 108-77, §§ 107(c), 205(b), temporarily added subsec. (g). See Effective and Termination Dates of 2003 Amendment note below.

1999—Subsec. (a)(7). Pub. L. 106-36 substituted “subsection (c) or (d) of section 1520” for “section 1520(c)”.

1996—Subsec. (a). Pub. L. 104-295 substituted “and section 1520 of this title (relating to refunds and errors)” for “section 1520 of this title (relating to refunds and errors), and section 1521 of this title (relating to reliquidations on account of fraud)”.

1993—Pub. L. 103-182, § 645(7), amended section catchline generally.

Subsec. (a). Pub. L. 103-182, § 645(1), in introductory provisions, substituted “Customs Service” for “appropriate customs officer”, in par. (5), inserted “or reconciliation as to the issues contained therein,” after “entry,” in par. (6), substituted “or” for “and” at end, in par. (7), substituted a semicolon for the comma at end, and in concluding provisions, substituted “Customs Service, which” for “appropriate customs officer, who”.

Subsec. (b). Pub. L. 103-182, § 645(2), substituted “Customs Service” for “appropriate customs officer”.

Pub. L. 103-182, § 412(a), inserted “the North American Free Trade Agreement or” before “the United States-Canada Free-Trade Agreement”.

Subsec. (c)(1). Pub. L. 103-182, § 208(1), inserted in fourth sentence “, or with respect to a determination of origin under section 3332 of this title,” after “with respect to any one category of merchandise”. See Construction of 1993 Amendment note below.

Pub. L. 103-182, § 645(3), substituted first two sentences, including subpars. (A) to (D), for former first sentence which read as follows: “A protest of a decision under subsection (a) of this section shall be filed in writing with the appropriate customs officer designated in regulations prescribed by the Secretary, setting forth distinctly and specifically each decision described in subsection (a) of this section as to which protest is made; each category of merchandise affected by each such decision as to which protest is made; and the nature of each objection and reasons therefor.” See Construction of 1993 Amendment note below.

Subsec. (c)(2). Pub. L. 103-182, §208(2), added subpar. (E) and redesignated former subpar. (E) as (F) and substituted “clauses (A) through (E)” for “clauses (A) through (D)”. See Construction of 1993 Amendment note below.

Pub. L. 103-182, §645(5), designated last sentence of par. (1) as par. (2). Former par. (2) redesignated (3). See Construction of 1993 Amendment note below.

Subsec. (c)(3). Pub. L. 103-182, §645(4), redesignated par. (2) as (3) and substituted “the Customs Service” for “such customs officer” in introductory provisions.

Subsec. (d). Pub. L. 103-182, §645(6), substituted “Customs Service” for “customs officer”.

Subsecs. (e), (f). Pub. L. 103-182, §208(3), added subsecs. (e) and (f).

1988—Subsec. (b). Pub. L. 100-449 temporarily inserted “, or review by a binational panel of a determination to which section 1516a(g)(2) of this title applies is commenced pursuant to section 1516a(g) of this title and article 1904 of the United States-Canada Free-Trade Agreement” before period at end. See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (a). Pub. L. 99-514 struck out “as defined in section 1677(9)(C), (D), (E), and (F) of this title” after “domestic interested parties”.

1984—Subsec. (a). Pub. L. 98-573 substituted “section 1677(9)(C), (D), (E), and (F) of this title” for “section 1677(9)(C), (D), and (E) of this title” in provisions preceding par. (1).

1980—Subsec. (a). Pub. L. 96-417, §§601(5), 605, redesignated the United States Customs Court as the United States Court of International Trade, inserted in item (4) provision for decisions as to a demand for redelivery to customs custody and the phrase “, except a determination appealable under section 1337 of this title” and substituted provision for contesting denial of a protest in accordance with chapter 169 of title 28 within the time prescribed by section 2636 of that title for provision for such contest in accordance with section 2632 of title 28 within the time prescribed by section 2631 of that title.

Subsec. (b). Pub. L. 96-417, §601(5), redesignated the United States Customs Court as the United States Court of International Trade.

1979—Subsec. (a). Pub. L. 96-39, §1001(b)(3)(A), (B), inserted reference to subsection (b) of this section and substituted “section 1516 of this title (relating to petitions by domestic interested parties as defined in section 1677(9)(C), (D), and (E) of this title)” for “section 1516 of this title (relating to petitions by American manufacturers, producers, and wholesalers)” in provisions preceding par. (1).

Subsec. (b). Pub. L. 96-39, §1001(b)(3)(D), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c)(1). Pub. L. 96-39, §1001(b)(3)(C), (E), redesignated former subsec. (b)(1) as (c)(1) and substituted provisions that, except as provided in sections 1485(d) and 1557(b) of this title, protests may be filed by importers or consignees or their sureties, persons paying a charge or exaction, persons seeking entry or delivery, persons filing a claim for drawback, and authorized agents of such persons for provisions that, except as otherwise provided in section 1557(b) of this title, protests could be filed only by importers, consignees, or the authorized agents of persons paying any charges, or exactions, persons filing claims for drawback, or persons seeking entry or delivery.

Subsec. (c)(2). Pub. L. 96-39, §1001(b)(3)(C), (F), redesignated former subsec. (b)(2) as (c)(2) and inserted provision that a protest by a surety which has an unsatisfied legal claim under its bond may be filed within 90 days from the date of mailing of notice of demand for payment against its bond and that, if another party has not filed a timely protest, the surety’s protest shall certify that it is not being filed collusively to extend another authorized person’s time to protest as specified in this subsection.

Subsec. (d). Pub. L. 96-39, §1001(b)(3)(C), redesignated former subsec. (c) as (d).

1970—Pub. L. 91-271 designated existing provisions as subsec. (a), expanded references to sections excepted

from application of this section, substituted decisions of the appropriate customs officer for all decisions of the collector as deemed to be final and conclusive, reorganized the categories of decisions and findings subject to such finality and conclusiveness, and revised the procedures for filing of protests, and added subsecs. (b) and (c).

EFFECTIVE AND TERMINATION DATES OF 2011 AMENDMENT

Amendment by Pub. L. 112-43 effective Oct. 21, 2011, applicable with respect to Panama on the date the United States-Panama Trade Promotion Agreement enters into force (Oct. 31, 2012), and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-43, set out in a note under section 3805 of this title.

Amendment by Pub. L. 112-42 effective Oct. 21, 2011, applicable with respect to Colombia on the date the United States-Colombia Trade Promotion Agreement enters into force (May 15, 2012), and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-42, set out in a note under section 3805 of this title.

Amendment by Pub. L. 112-41 effective Oct. 21, 2011, applicable with respect to Korea on the date the United States-Korea Free Trade Agreement enters into force (Mar. 15, 2012), and to cease to be effective on the date the Agreement terminates, see section 107(b), (c) of Pub. L. 112-41, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 3 of Pub. L. 111-3, set out as an Effective Date note under section 1396 of Title 42, The Public Health and Welfare.

Pub. L. 111-3, title VII, §702(c)(2), Feb. 4, 2009, 123 Stat. 110, provided that: “The amendment made by this subsection [amending this section] shall apply to articles imported after the date of the enactment of this Act [Feb. 4, 2009].”

EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110-138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

EFFECTIVE AND TERMINATION DATES OF 2003
AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-36, title II, §2408(c), June 25, 1999, 113 Stat. 171, provided that: “The amendments made by this section [amending this section and section 1520 of this title] apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [June 25, 1999].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 208 of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

Amendment by section 412(a) of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of this title, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada or Mexico before such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or to any extraordinary challenge arising out of any such review, that was commenced before such date, see section 416 of Pub. L. 103-182, set out as an Effective Date note under section 3431 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988
AMENDMENT

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to investigations initiated by petition or by the administering authority under parts I and II of subtitle IV of this chapter, and to reviews begun under section 1675 of this title, on or after Oct. 30, 1984, see section 626(b)(1) of Pub. L. 98-573, as amended, set out as a note under section 1671 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96-39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 208 of Pub. L. 103-182 to be made after amendment by section 645 of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(D), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103-182, see section 3451 of this title.

INCONSISTENT DECISIONS OF CUSTOMS OFFICERS

Pub. L. 100-690, title VII, §7361(c), Nov. 18, 1988, 102 Stat. 4474, provided that:

“(1) The Secretary of the Treasury shall prescribe regulations that—

“(A) effect uniformity in—

“(i) decisions described in section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) that are made by customs officers with respect to the same, or substantially similar, merchandise, and

“(ii) decisions to conduct intensified inspections or examinations of merchandise at ports of entry, and

“(B) establish procedures that allow individuals described in section 514(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1514(c)(1)), any port authority, and any other interested party (within the meaning of section 516(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516(a)(2))) to petition the Secretary to obtain such uniformity in an expedited and timely fashion.

“(2) The Secretary of the Treasury shall publish in the Federal Register and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the proposed and final form of the regulations prescribed under paragraph (1) and shall receive and consider comments from the public regarding the proposed form of such regulations during the 60-day period beginning on the date the proposed form of such regulations are published in the Federal Register.

“(3) The regulations prescribed under paragraph (1) shall take effect by no later than April 1, 1989.

“(4) By no later than September 1, 1989, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the effectiveness of the regulations prescribed under paragraph (1) and recommendations for permanent legislation addressing uniformity.”

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1515. Review of protests

(a) Administrative review and modification of decisions

Unless a request for an accelerated disposition of a protest is filed in accordance with subsection (b) of this section the appropriate customs officer, within two years from the date a protest was filed in accordance with section 1514 of this title, shall review the protest and shall allow or deny such protest in whole or in part. Thereafter, any duties, charge, or exaction found to have been assessed or collected in excess shall be remitted or refunded and any drawback found due shall be paid. Upon the request of the protesting party, filed within the time allowed for the filing of a protest under section 1514 of this title, a protest may be subject to further review by another appropriate customs officer, under the circumstances and in the form and manner that may be prescribed by the Secretary in regulations, but subject to the two-year limitation prescribed in the first sentence of this subsection. Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary. Such notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of his right to file a civil action contesting the denial of a protest under section 1514 of this title.

(b) Request for accelerated disposition of protest

A request for accelerated disposition of a protest filed in accordance with section 1514 of this title may be mailed by certified or registered mail to the appropriate customs officer any time concurrent with or following the filing of such protest. For purposes of section 1581 of title 28, a protest which has not been allowed or denied in whole or in part within thirty days following the date of mailing by certified or registered mail of a request for accelerated disposition shall be deemed denied on the thirtieth day following mailing of such request.

(c) Request for set aside of denial of further review

If a protesting party believes that an application for further review was erroneously or improperly denied or was denied without authority for such action, it may file with the Commissioner of U.S. Customs and Border Protection a written request that the denial of the application for further review be set aside. Such request must be filed within 60 days after the date of the notice of the denial. The Commissioner of

U.S. Customs and Border Protection may review such request and, based solely on the information before the Customs Service at the time the application for further review was denied, may set aside the denial of the application for further review and void the denial of protest, if appropriate. If the Commissioner of U.S. Customs and Border Protection fails to act within 60 days after the date of the request, the request shall be considered denied. All denials of protests are effective from the date of original denial for purposes of section 2636 of title 28. If an action is commenced in the Court of International Trade that arises out of a protest or an application for further review, all administrative action pertaining to such protest or application shall terminate and any administrative action taken subsequent to the commencement of the action is null and void.

(d) Voiding denial of protest

If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate port director within 90 days after the date of the protest denial, void the denial of the protest.

(June 17, 1930, ch. 497, title IV, §515, 46 Stat. 734; Pub. L. 91-271, title II, §208, June 2, 1970, 84 Stat. 285; Pub. L. 96-39, title X, §1001(b)(2), July 26, 1979, 93 Stat. 304; Pub. L. 96-417, title VI, §606, Oct. 10, 1980, 94 Stat. 1745; Pub. L. 103-182, title VI, §617, Dec. 8, 1993, 107 Stat. 2179; Pub. L. 104-295, §3(a)(11), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 106-36, title II, §2407, June 25, 1999, 113 Stat. 171; Pub. L. 108-429, title II, §2104, Dec. 3, 2004, 118 Stat. 2598; Pub. L. 114-125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §515, 42 Stat. 970. That section was superseded by section 515 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for transmission of the invoice, papers, and exhibits to the board of general appraisers in case of protest, and provisions concerning the conclusiveness of its determination, were contained in act Oct. 3, 1913, ch. 16, §III, N, 38 Stat. 187, the provisions of which were substituted for provisions of a similar nature in Customs Administrative Act of June 10, 1890, ch. 407, §14, 26 Stat. 137, as amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 100.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-429 substituted “concurrent with or” for “after ninety days” in first sentence.

1999—Subsec. (a). Pub. L. 106-36 inserted after third sentence “Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review.”

1996—Subsec. (d). Pub. L. 104-295 substituted “port director” for “district director”.

1993—Subsecs. (c) and (d). Pub. L. 103-182 added subsecs. (c) and (d).

1980—Subsec. (b). Pub. L. 96-417 substituted reference to section “1581” for “1582” of title 28.

1979—Subsec. (a). Pub. L. 96-39 required that notice of denial include a statement of reasons for denial, as well as a statement informing protesting party of his right

to file a civil action contesting denial of a protest under section 1514 of this title.

1970—Pub. L. 91-271 designating existing provisions as subsec. (a), substituted provisions authorizing review by appropriate customs officer for provisions authorizing review by collector and revised such review procedures, and added subsec. (b).

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” wherever appearing in subsec. (c) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96-39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(D), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

REVIEW OF PROTESTS IN IMPORT SURCHARGE CASES

Pub. L. 93-618, title VI, §611, Jan. 3, 1975, 88 Stat. 2075, provided that: “Notwithstanding the provisions of section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515(a)), in the case of any protest under section 514 of such Act [section 1514 of this title] involving the imposition of

an import surcharge in the form of a supplemental duty pursuant to Presidential Proclamation 4074, dated August 17, 1971 [set out as a note preceding section 1202 of this title], the time for review and allowing or denying the protest shall not expire until five years from the date the protest was filed in accordance with such section 514 [section 1514 of this title].”

§ 1516. Petitions by domestic interested parties

(a) Request for classification and rate of duty; petition

(1) The Secretary shall, upon written request by an interested party furnish the classification and the rate of duty imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by such interested party. If the interested party believes that the appraised value, the classification, or rate of duty is not correct, it may file a petition with the Secretary setting forth—

- (A) a description of the merchandise,
- (B) the appraised value, the classification, or the rate of duty that it believes proper, and
- (C) the reasons for its belief.

(2) As used in this section, the term “interested party” means a person who is—

- (A) a manufacturer, producer, or wholesaler in the United States;
- (B) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States; or
- (C) a trade or business association a majority of whose members are manufacturers, producers, or wholesalers in the United States,

of goods of the same class or kind as the designated imported merchandise. Such term includes an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C).

(3) Any producer of a raw agricultural product who is considered under section 1677(4)(E) of this title to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.

(b) **Determination on petition**

If, after receipt and consideration of a petition filed by such an interested party, the Secretary determines that the appraised value, the classification, or rate of duty is not correct, he shall determine the proper appraised value, classification, or rate of duty and shall notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised, classified, or assessed as to the rate of duty in accordance with the Secretary’s determination.

(c) Contest by petitioner of appraised value, classification, or rate of duty

If, after receipt and consideration of a petition filed by such an interested party, the Secretary determines that the appraised value, the classification, or rate of duty is not correct, he shall determine the proper appraised value, classification, or rate of duty and shall notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised, classified, or assessed as to the rate of duty in accordance with the Secretary’s determination.

(c) Contest by petitioner of appraised value, classification, or rate of duty

If the Secretary determines that the appraised value, classification, or rate of duty with respect to which a petition was filed pursuant to subsection (a) of this section is correct, he shall

notify the petitioner. If dissatisfied with the determination of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the notification, notice that it desires to contest the appraised value, classification, or rate of duty. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his determination as to the proper appraised value, classification, or rate of duty and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the determination of the Secretary, at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value, classification, or rate of duty imposed upon such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to immediately notify the petitioner by mail when the first of such entries is liquidated.

(d) Appraisal, classification, and liquidation of entries of merchandise covered by published decisions of Secretary

Notwithstanding the filing of an action pursuant to chapter 169 of title 28, merchandise of the character covered by the published decision of the Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.

(e) Consignee or his agent as party in interest before the Court of International Trade

The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Court of International Trade.

(f) Appraisal, classification, and assessment of duty of merchandise covered by published decision of Secretary in accordance with final judicial decision of Court of International Trade or Court of Appeals for the Federal Circuit sustaining cause of action in whole or in part; suspension of liquidation of entries; publication

If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, shall be subject to appraisal, classification, and assessment of duty in accordance with the final judicial decision in the ac-

tion, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

(g) Regulations implementing required procedures

Regulations shall be prescribed by the Secretary to implement the procedures required under this section.

(June 17, 1930, ch. 497, title IV, §516, 46 Stat. 735; June 25, 1938, ch. 679, §17(a), 52 Stat. 1084; June 25, 1948, ch. 646, §39, 62 Stat. 992; Pub. L. 91-271, title II, §209, June 2, 1970, 84 Stat. 286; Pub. L. 93-618, title III, §§321(f)(1), 331(b), Jan. 3, 1975, 88 Stat. 2048, 2052; Pub. L. 96-39, title X, §1001(b)(1), July 26, 1979, 93 Stat. 303; Pub. L. 96-417, title VI, §§601(6), 607, Oct. 10, 1980, 94 Stat. 1744, 1745; Pub. L. 97-164, title I, §163(a)(1), Apr. 2, 1982, 96 Stat. 49; Pub. L. 99-514, title XVIII, §1888(5), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 100-418, title I, §1326(d)(3), Aug. 23, 1988, 102 Stat. 1204.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §516, 42 Stat. 970. That section was superseded by section 516 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1988—Subsec. (a)(3). Pub. L. 100-418 added par. (3).
1986—Subsec. (a)(2). Pub. L. 99-514 inserted "Such term includes an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C)."

1982—Subsecs. (d), (f). Pub. L. 97-164 substituted "Court of Appeals for the Federal Circuit" for "Court of Customs and Patent Appeals".

1980—Subsec. (a). Pub. L. 96-417, §607(a), designated existing provisions as par. (1), redesignated as subpars. (A), (B), and (C), former pars. (1), (2), and (3), struck out "(as defined in section 1677(9)(C), (D), and (E) of this title)" after "interested party", covered in par. (2), and added par. (2).

Subsec. (d). Pub. L. 96-417, §§601(6), 607(b), redesignated the United States Customs Court as the United States Court of International Trade and substituted reference to chapter 169 for section 2632 of title 28.

Subsecs. (e), (f). Pub. L. 96-417, §601(6), redesignated the United States Customs Court as the United States Court of International Trade.

1979—Pub. L. 96-39 completely revised the section to provide an expedited process for judicial review of an appealable determination, expanded the size of the group of parties having standing to obtain review of an appealable determination, and, in the process, revised subsecs. (a), (b), and (c), redesignated former subsecs. (e), (f), (g), and (h) as (d), (e), (f), and (g), and struck out former subsec. (d) relating to the contest of the Secretary's determination that foreign merchandise was not being sold in the United States at less than fair value or that bounty or grant was not being paid.

1975—Subsec. (a). Pub. L. 93-618, §331(b), inserted provisions relating to additional duty described in section 1303 of this title (to be known as "countervailing duties") and to special duty described in section 161 of this title (to be known as "antidumping duties").

Subsecs. (b), (c). Pub. L. 93-618, §331(b), inserted provisions relating to countervailing duties and antidumping duties.

Subsecs. (d) to (h). Pub. L. 93-618, §321(f)(1), added subsec. (d) and redesignated subsecs. (d) to (g) as (e) to (h), respectively.

1970—Subsec. (a). Pub. L. 91-271 substituted provisions requiring the Secretary to furnish to the American manufacturer, producer, or wholesaler the classification, and the rate of duty, if any, imposed upon designated imported merchandise, and provisions authorizing the American manufacturer, etc., to file a protest with the Secretary if the appraised value is too low, the classification is not correct, or the proper rate of duty is not being assessed, for provisions setting forth the procedure for the determination of a protest by an American manufacturer, producer, or wholesaler that the appraised value of any imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him is too low.

Subsec. (b). Pub. L. 91-271 substituted provisions authorizing the Secretary to determine the proper appraised value, classification, or rate of duty of the imported merchandise, and to notify the American manufacturer, producer, or wholesaler of his determination, for provision setting forth the procedure for the determination of a protest by an American manufacturer, producer, or wholesaler that the classification of, and the rate of duty, if any, is not proper.

Subsec. (c). Pub. L. 91-271 substituted provisions setting forth the procedure for the petitioner to contest the decisions of the Secretary with respect to a petition filed pursuant to subsec. (a) of this section, for provisions requiring the collector to mail to the consignee or his agent a copy of every appeal and every protest filed by an American manufacturer, producer, or wholesaler, and authorizing such consignee or his agent to appear and be heard as a party in interest before the Customs Court.

Subsecs. (d) to (g). Pub. L. 91-271 added subsecs. (d) to (g).

1948—Subsec. (b). Act June 25, 1948, repealed last sentence relating to procedure of proceeding over all other cases on Customs Court docket. See sections 2602 and 2638 of Title 28, Judiciary and Judicial Procedure.

Subsec. (c). Act June 25, 1948, repealed last sentence relating to finality of Customs Court's decision. See section 2637 of Title 28.

Subsec. (d). Act June 25, 1948, repealed subsec. (d) relating to inspection of documents. See section 2634 of Title 28.

1938—Subsec. (b). Act June 25, 1938, amended subsec. (b) generally.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable with respect to investigations initiated after Aug. 23, 1988, and to reviews initiated under section 1673e(c) or 1675 of this title after Aug. 23, 1988, see section 1337(b) of Pub. L. 100-418, set out as a note under section 1671 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96-39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93-618, title III, §321(g)(3), Jan. 3, 1975, 88 Stat. 2049, provided that: "The amendment made by sub-

section (f) [amending this section and sections 2631 and 2632 of Title 28, Judiciary and Judicial Procedure] shall apply with respect to determinations under section 201 of the Antidumping Act, 1921 [section 160 of this title], resulting from questions of dumping raised or presented on or after the date of the enactment of this Act [Jan. 3, 1975]."

Amendment by section 331(b) of Pub. L. 93-618 effective Jan. 3, 1975, see section 331(d)(1) of Pub. L. 93-618, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Act June 25, 1948, ch. 646, §38, 62 Stat. 992, provided that the amendment made by that act is effective Sept. 1, 1948.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(D), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 11288, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

APPLICATION OF SUBSECTION (b) TO COMPLAINTS

Act June 25, 1938, ch. 679, §17(b), (c), 52 Stat. 1086, as amended by act June 16, 1951, ch. 141, §9(b), 65 Stat. 75, provided that:

"(b) The provisions of subsection (b) of section 516 of the Tariff Act of 1930 [this section], as amended by this act, shall apply only in the case of complaints filed after the effective date of this act [see Effective Date of 1938 Amendment note set out under section 1401 of this title]. The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as in force prior to the effective date of this act, shall continue in force with respect to any proceedings commenced by the filing of a complaint thereunder, except that upon the expiration of thirty days after the effective date of this act, or upon the expiration of thirty days after the date of a decision of the Secretary adverse to the complainant, whichever is the later, any such proceedings in which a protest has not been duly filed shall be deemed to have been terminated unless the complainant shall have filed with the Secretary after the effective date of this act a notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise.

"(c) [Repealed. June 16, 1951, ch. 141, §9(b), 65 Stat. 75.]"

§ 1516a. Judicial review in countervailing duty and antidumping duty proceedings

(a) Review of determination

(1) Review of certain determinations

Within 30 days after the date of publication in the Federal Register of—

(A) a determination by the administering authority, under 1671a(c)¹ or 1673a(c) of this title, not to initiate an investigation,

(B) a determination by the Commission, under section 1675(b) of this title, not to review a determination based upon changed circumstances,

(C) a negative determination by the Commission, under section 1671b(a) or 1673b(a) of this title, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, or

(D) a final determination by the administering authority or the Commission under section 1675(c)(3) of this title,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(2) Review of determinations on record

(A) In general

Within thirty days after—

(i) the date of publication in the Federal Register of—

(I) notice of any determination described in clause (ii), (iii), (iv), (v), or (viii) of subparagraph (B),

(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

(III) notice of the implementation of any determination described in clause (vii) of subparagraph (B), or

(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(B) Reviewable determinations

The determinations which may be contested under subparagraph (A) are as follows:

(i) Final affirmative determinations by the administering authority and by the

Commission under section 1671d or 1673d of this title, including any negative part of such a determination (other than a part referred to in clause (ii)).

(ii) A final negative determination by the administering authority or the Commission under section 1671d or 1673d of this title, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 1675 of this title.

(iv) A determination by the administering authority, under section 1671c or 1673c of this title, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net countervailable subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

(v) An injurious effect determination by the Commission under section 1671c(h) or 1673c(h) of this title.

(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.

(vii) A determination by the administering authority or the Commission under section 3538 of this title concerning a determination under subtitle IV of this chapter.

(viii) A determination by the Commission under section 1675b(a)(1) of this title.

(3) Exception

Notwithstanding the limitation imposed by paragraph (2)(A)(i)(II) of this subsection, a final affirmative determination by the administering authority under section 1671d or 1673d of this title may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 1671d or 1673d of this title.

(4) Procedures and fees

The procedures and fees set forth in chapter 169 of title 28 apply to an action under this section.

(5) Time limits in cases involving merchandise from free trade area countries

Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the day specified in whichever of the following subparagraphs applies:

(A) For a determination described in paragraph (1)(B) or clause (i), (ii) or (iii) of para-

¹ So in original. Probably should be preceded by "section".

graph (2)(B), the 31st day after the date on which notice of the determination is published in the Federal Register.

(B) For a determination described in clause (vi) of paragraph (2)(B), the 31st day after the date on which the government of the relevant FTA country receives notice of the determination.

(C) For a determination with respect to which binational panel review has commenced in accordance with subsection (g)(8), the day after the date as of which—

(i) the binational panel has dismissed binational panel review of the determination for lack of jurisdiction, and

(ii) any interested party seeking review of the determination under paragraph (1), (2), or (3) of this subsection has provided timely notice under subsection (g)(3)(B).

If such an interested party files a summons and complaint under this subsection after dismissal by the binational panel, and if a request for an extraordinary challenge committee is made with respect to the decision by the binational panel to dismiss—

(I) judicial review under this subsection shall be stayed during consideration by the committee of the request, and

(II) the United States Court of International Trade shall dismiss the action if the committee vacates or remands the binational panel decision to dismiss.

(D) For a determination for which review by the United States Court of International Trade is provided for—

(i) under subsection (g)(12)(B), the day after the date of publication in the Federal Register of notice that article 1904 of the NAFTA has been suspended, or

(ii) under subsection (g)(12)(D), the day after the date that notice of settlement is published in the Federal Register.

(E) For a determination described in clause (vii) of paragraph (2)(B), the 31st day after the date on which notice of the implementation of the determination is published in the Federal Register.

(b) Standards of review

(1) Remedy

The court shall hold unlawful any determination, finding, or conclusion found—

(A) in an action brought under subparagraph (A), (B), or (C) of subsection (a)(1), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

(B)(i) in an action brought under paragraph (2) of subsection (a), to be unsupported by substantial evidence on the record, or otherwise not in accordance with law, or

(ii) in an action brought under paragraph (1)(D) of subsection (a), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Record for review

(A) In general

For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 1677f(a)(3) of this title; and

(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

(B) Confidential or privileged material

The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

(3) Effect of decisions by NAFTA or United States-Canada binational panels

In making a decision in any action brought under subsection (a), a court of the United States is not bound by, but may take into consideration, a final decision of a binational panel or extraordinary challenge committee convened pursuant to article 1904 of the NAFTA or of the Agreement.

(c) Liquidation of entries

(1) Liquidation in accordance with determination

Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a notice of a decision of the United States Court of International Trade, or of the United States Court of Appeals for the Federal Circuit, not in harmony with that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

(2) Injunctive relief

In the case of a determination described in paragraph (2) of subsection (a) by the Secretary, the administering authority, or the Commission, the United States Court of International Trade may enjoin the liquidation of some or all entries of merchandise covered by a determination of the Secretary, the administering authority, or the Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances.

(3) Remand for final disposition

If the final disposition of an action brought under this section is not in harmony with the

published determination of the Secretary, the administering authority, or the Commission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

(d) Standing

Any interested party who was a party to the proceeding under section 1303² of this title or subtitle IV of this chapter shall have the right to appear and be heard as a party in interest before the United States Court of International Trade. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court.

(e) Liquidation in accordance with final decision

If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit—

(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, or withdrawn from warehouse, for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, and

(2) entries, the liquidation of which was enjoined under subsection (c)(2),

shall be liquidated in accordance with the final court decision in the action. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

(f) Definitions

For purposes of this section—

(1) Administering authority

The term “administering authority” means the administering authority described in section 1677(1) of this title.

(2) Commission

The term “Commission” means the United States International Trade Commission.

(3) Interested party

The term “interested party” means any person described in section 1677(9) of this title.

(4) Secretary

The term “Secretary” means the Secretary of the Treasury.

(5) Agreement

The term “Agreement” means the United States-Canada Free-Trade Agreement.

(6) United States Secretary

The term “United States Secretary” means—

(A) the secretary for the United States Section referred to in article 1908 of the NAFTA, and

(B) the secretary of the United States Section provided for in article 1909 of the Agreement.

(7) Relevant FTA Secretary

The term “relevant FTA Secretary” means the Secretary—

(A) referred to in article 1908 of the NAFTA, or

(B) provided for in paragraph 5 of article 1909 of the Agreement,

of the relevant FTA country.

(8) NAFTA

The term “NAFTA” means the North American Free Trade Agreement.

(9) Relevant FTA country

The term “relevant FTA country” means the free trade area country to which an anti-dumping or countervailing duty proceeding pertains.

(10) Free trade area country

The term “free trade area country” means the following:

(A) Canada for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Canada.

(B) Mexico for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Mexico.

(C) Canada for such time as—

(i) it is not a free trade area country under subparagraph (A); and

(ii) the Agreement is in force with respect to, and the United States applies the Agreement to, Canada.

(g) Review of countervailing duty and antidumping duty determinations involving free trade area country merchandise

(1) “Determination” defined

For purposes of this subsection, the term “determination” means a determination described in—

(A) paragraph (1)(B) of subsection (a), or

(B) clause (i), (ii), (iii), (vi), or (vii) of paragraph (2)(B) of subsection (a),

if made in connection with a proceeding regarding a class or kind of free trade area country merchandise, as determined by the administering authority.

(2) Exclusive review of determination by binational panels

If binational panel review of a determination is requested pursuant to article 1904 of the NAFTA or of the Agreement, then, except as provided in paragraphs (3) and (4)—

(A) the determination is not reviewable under subsection (a), and

(B) no court of the United States has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise.

(3) Exception to exclusive binational panel review

(A) In general

A determination is reviewable under subsection (a) if the determination sought to be reviewed is—

² See References in Text note below.

(i) a determination as to which neither the United States nor the relevant FTA country requested review by a binational panel pursuant to article 1904 of the NAFTA or of the Agreement,

(ii) a revised determination issued as a direct result of judicial review, commenced pursuant to subsection (a), if neither the United States nor the relevant FTA country requested review of the original determination,

(iii) a determination issued as a direct result of judicial review that was commenced pursuant to subsection (a) prior to the entry into force of the NAFTA or of the Agreement,

(iv) a determination which a binational panel has determined is not reviewable by the binational panel,

(v) a determination as to which binational panel review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA, or

(vi) a determination as to which extraordinary challenge committee review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA.

(B) Special rule

A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) only if the party seeking to commence review has provided timely notice of its intent to commence such review to—

(i) the United States Secretary and the relevant FTA Secretary;

(ii) all interested parties who were parties to the proceeding in connection with which the matter arises; and

(iii) the administering authority or the Commission, as appropriate.

Such notice is timely provided if the notice is delivered no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination, except that, if the time for requesting binational panel review is suspended under paragraph (8)(A)(ii) of this subsection, any unexpired time for providing notice of intent to commence judicial review shall, during the pendency of any such suspension, also be suspended. Such notice shall contain such information, and be in such form, manner, and style, as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(4) Exception to exclusive binational panel review for constitutional issues

(A) Constitutionality of binational panel review system

An action for declaratory judgment or injunctive relief, or both, regarding a determination on the grounds that any provision of, or amendment made by, the North American Free Trade Agreement Implementation Act implementing the binational dispute settlement system under chapter 19 of the NAFTA, or the United States-Canada Free-Trade Agreement Implementation Act of

1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement, violates the Constitution may be brought only in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of such action.

(B) Other constitutional review

Review is available under subsection (a) with respect to a determination solely concerning a constitutional issue (other than an issue to which subparagraph (A) applies) arising under any law of the United States as enacted or applied. An action for review under this subparagraph shall be assigned to a 3-judge panel of the United States Court of International Trade.

(C) Commencement of review

Notwithstanding the time limits in subsection (a), within 30 days after the date of publication in the Federal Register of notice that binational panel review has been completed, an interested party who is a party to the proceeding in connection with which the matter arises may commence an action under subparagraph (A) or (B) by filing an action in accordance with the rules of the court.

(D) Transfer of actions to appropriate court

Whenever an action is filed in a court under subparagraph (A) or (B) and that court finds that the action should have been filed in the other court, the court in which the action was filed shall transfer the action to the other court and the action shall proceed as if it had been filed in the court to which it is transferred on the date upon which it was actually filed in the court from which it is transferred.

(E) Frivolous claims

Frivolous claims brought under subparagraph (A) or (B) are subject to dismissal and sanctions as provided under section 1927 of title 28 and the Federal Rules of Civil Procedure.

(F) Security

(i) Subparagraph (A) actions

The security requirements of rule 65(c) of the Federal Rules of Civil Procedure apply with respect to actions commenced under subparagraph (A).

(ii) Subparagraph (B) actions

No claim shall be heard, and no temporary restraining order or temporary or permanent injunction shall be issued, under an action commenced under subparagraph (B), unless the party seeking review first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense parties affected for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction. If a court upholds the constitutionality of the determination in question in such action, the court shall award to a prevailing party fees and expenses, in addition to any costs

incurred by that party, unless the court finds that the position of the other party was substantially justified or that special circumstances make an award unjust.

(G) Panel record

The record of proceedings before the binational panel shall not be considered part of the record for review pursuant to subparagraph (A) or (B).

(H) Appeal to Supreme Court of court orders issued in subparagraph (A) actions

Notwithstanding any other provision of law, any final judgment of the United States Court of Appeals for the District of Columbia Circuit which is issued pursuant to an action brought under subparagraph (A) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under subparagraph (A) may be issued by a single Justice of the Supreme Court.

(5) Liquidation of entries

(A) Application

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the rules provided in this paragraph shall apply, notwithstanding the provisions of subsection (c).

(B) General rule

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, entries of merchandise covered by such determination shall be liquidated in accordance with the determination of the administering authority or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the administering authority of notice of a final decision of a binational panel, or of an extraordinary challenge committee, not in harmony with that determination. Such notice of a decision shall be published within 10 days of the date of the issuance of the panel or committee decision.

(C) Suspension of liquidation

(i) In general

Notwithstanding the provisions of subparagraph (B), in the case of a determination described in clause (iii) or (vi) of subsection (a)(2)(B) for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the administering authority, upon request of an interested party who was a party to the proceeding in connection with which the matter arises and who is a participant in the binational panel review, shall order the continued suspension of liquidation of those entries of merchandise covered by

the determination that are involved in the review pending the final disposition of the review.

(ii) Notice

At the same time as the interested party makes its request to the administering authority under clause (i), that party shall serve a copy of its request on the United States Secretary, the relevant FTA Secretary, and all interested parties who were parties to the proceeding in connection with which the matter arises.

(iii) Application of suspension

If the interested party requesting continued suspension of liquidation under clause (i) is a foreign manufacturer, producer, or exporter, or a United States importer, the continued suspension of liquidation shall apply only to entries of merchandise manufactured, produced, exported, or imported by that particular manufacturer, producer, exporter, or importer. If the interested party requesting the continued suspension of liquidation under clause (i) is an interested party described in subparagraph (C), (D), (E), or (F) of section 1677(9) of this title, the continued suspension of liquidation shall apply only to entries which could be affected by a decision of the binational panel convened under chapter 19 of the NAFTA or of the Agreement.

(iv) Judicial review

Any action taken by the administering authority or the United States Customs Service under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(6) Injunctive relief

Except for cases under paragraph (4)(B), in the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the provisions of subsection (c)(2) shall not apply.

(7) Implementation of international obligations under article 1904 of the NAFTA or the Agreement

(A) Action upon remand

If a determination is referred to a binational panel or extraordinary challenge committee under the NAFTA or the Agreement and the panel or committee makes a decision remanding the determination to the administering authority or the Commission, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with the decision of the panel or committee. Any action taken by the administering authority or the Commission under this paragraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to re-

view such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(B) Application if subparagraph (A) held unconstitutional

In the event that the provisions of subparagraph (A) are held unconstitutional under the provisions of subparagraphs (A) and (H) of paragraph (4), the provisions of this subparagraph shall take effect. In such event, the President is authorized on behalf of the United States to accept, as a whole, the decision of a binational panel or extraordinary challenge committee remanding the determination to the administering authority or the Commission within the period specified by the panel or committee. Upon acceptance by the President of such a decision, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with such decision. Any action taken by the President, the administering authority, or the Commission under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(8) Requests for binational panel review

(A) Interested party requests for binational panel review

(i) General rule

An interested party who was a party to the proceeding in which a determination is made may request binational panel review of such determination by filing a request with the United States Secretary by no later than the date that is 30 days after the date described in subparagraph (A), (B), or (E) of subsection (a)(5) that is applicable to such determination. Receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the NAFTA or of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(ii) Suspension of time to request binational panel review under the NAFTA

Notwithstanding clause (i), the time for requesting binational panel review shall be suspended during the pendency of any stay of binational panel review that is issued pursuant to paragraph 11(a) of article 1905 of the NAFTA.

(B) Service of request for binational panel review

(i) Service by interested party

If a request for binational panel review of a determination is filed under subparagraph (A), the party making the request shall serve a copy, by mail or personal

service, on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(ii) Service by United States Secretary

If an interested party to the proceeding requests binational panel review of a determination by filing a request with the relevant FTA Secretary, the United States Secretary shall serve a copy of the request by mail on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(C) Limitation on request for binational panel review

Absent a request by an interested party under subparagraph (A), the United States may not request binational panel review of a determination under article 1904 of the NAFTA or the Agreement.

(9) Representation in panel proceedings

In the case of binational panel proceedings convened under chapter 19 of the NAFTA or of the Agreement, the administering authority and the Commission shall be represented by attorneys who are employees of the administering authority or the Commission, respectively. Interested parties who were parties to the proceeding in connection with which the matter arises shall have the right to appear and be represented by counsel before the binational panel.

(10) Notification of class or kind rulings

In the case of a determination which is described in paragraph (2)(B)(vi) of subsection (a) and which is subject to the provisions of paragraph (2), the administering authority, upon request, shall inform any interested person of the date on which the Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the NAFTA or the Agreement.

(11) Suspension and termination of suspension of article 1904 of the NAFTA

(A) Suspension of article 1904

If a special committee established under article 1905 of the NAFTA issues an affirmative finding, the Trade Representative may, in accordance with paragraph 8(a) or 9, as appropriate, of article 1905 of the NAFTA, suspend the operation of article 1904 of the NAFTA.

(B) Termination of suspension of article 1904

If a special committee is reconvened and makes an affirmative determination described in paragraph 10(b) of article 1905 of the NAFTA, any suspension of the operation of article 1904 of the NAFTA shall terminate.

(12) Judicial review upon termination of binational panel or committee review under the NAFTA

(A) Notice of suspension or termination of suspension of article 1904

(i) Upon notification by the Trade Representative or the Government of a country

described in subsection (f)(10)(A) or (B) that the operation of article 1904 of the NAFTA has been suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a notice of suspension of article 1904 of the NAFTA.

(ii) Upon notification by the Trade Representative or the Government of a country described in subsection (f)(10)(A) or (B) that the suspension of the operation of article 1904 of the NAFTA is terminated in accordance with paragraph 10 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a notice of termination of suspension of article 1904 of the NAFTA.

(B) Transfer of final determinations for judicial review upon suspension of article 1904

If the operation of article 1904 of the NAFTA is suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA—

(i) upon the request of an authorized person described in subparagraph (C), any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a); or

(ii) in a case in which—

(I) a binational panel review was completed fewer than 30 days before the suspension, and

(II) extraordinary challenge committee review has not been requested,

upon the request of an authorized person described in subparagraph (C) which is made within 60 days after the completion of the binational panel review, the final determination that was the subject of the binational panel review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a).

(C) Persons authorized to request transfer of final determinations for judicial review

A request that a final determination be transferred to the Court of International Trade under subparagraph (B) may be made by—

(i) if the United States made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 8(a) of article 1905 of the NAFTA—

(I) the government of the relevant country described in subsection (f)(10)(A) or (B),

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection

with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired, or

(ii) if a country described in subsection (f)(10)(A) or (B) made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 9 of article 1905 of the NAFTA—

(I) the government of that country,

(II) an interested party that is a person of that country and that was a party to the panel or committee review, or

(III) an interested party that is a person of that country and that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired.

(D) Transfer for judicial review upon settlement

(i) If the Trade Representative achieves a settlement with the government of a country described in subsection (f)(10)(A) or (B) pursuant to paragraph 7 of article 1905 of the NAFTA, and referral for judicial review is among the terms of such settlement, any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall, upon a request described in clause (ii), be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a).

(ii) A request referred to in clause (i) is a request made by—

(I) the country referred to in clause (i),

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time for filing notices of appearance in the panel review has not expired.

(June 17, 1930, ch. 497, title IV, §516A, as added Pub. L. 96-39, title X, §1001(a), July 26, 1979, 93 Stat. 300; amended Pub. L. 96-417, title VI, §§601(7), 608, Oct. 10, 1980, 94 Stat. 1744, 1745; Pub. L. 96-542, §2, Dec. 17, 1980, 94 Stat. 3210; Pub. L. 97-164, title I, §163(a)(2), Apr. 2, 1982, 96 Stat. 49; Pub. L. 98-573, title VI, §623(a), Oct. 30, 1984, 98 Stat. 3040; Pub. L. 99-514, title XVIII, §1888(6), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 100-449, title IV, §401, Sept. 28, 1988, 102 Stat. 1878; Pub. L. 101-382, title I, §134(a)(3), Aug. 20, 1990, 104 Stat. 649; Pub. L. 103-182, title IV, §411, Dec. 8, 1993, 107 Stat. 2140; Pub. L. 103-465, title I, §129(e), title II, §§220(b), 270(a)(1)(N), 271(b), Dec. 8, 1994, 108 Stat. 4838, 4864, 4917, 4921; Pub. L. 104-295, §§20(a)(1), 21(c)(3), 22, Oct. 11, 1996, 110 Stat. 3526, 3530, 3531; Pub. L. 109-432, div. D, title III, §3002, Dec. 20, 2006, 120 Stat. 3173.)

AMENDMENT OF SECTION

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

REFERENCES IN TEXT

Section 1303 of this title, referred to in subsec. (d), is defined in section 1677(26) of this title to mean section 1330 as in effect on the day before Jan. 1, 1995.

The North American Free Trade Agreement Implementation Act, referred to in subsec. (g)(4)(A), is Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2057, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

The United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsec. (g)(4)(A), is Pub. L. 100-449, Sept. 28, 1988, 102 Stat. 1851, which is set out as a note under section 2112 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (g)(4)(E), (F), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

In the original, section 1001(a) of Pub. L. 96-39 directed that this section, designated as section 516A, be added to title V of the Tariff Act of 1930, however, since a title V of the Tariff Act of 1930 has not been enacted, this section was added to title IV of the Tariff Act of 1930 to reflect the probable intent of Congress.

AMENDMENTS

2006—Subsec. (g)(1)(B). Pub. L. 109-432 substituted “(vi), or (vii)” for “or (vi)”.

1996—Subsec. (a)(2)(A)(i)(I). Pub. L. 104-295, § 20(a)(1), inserted comma after “subparagraph (B)”.

Subsec. (g)(4)(A). Pub. L. 104-295, § 22, substituted “Agreement Implementation Act of 1988” for “Implementation Agreement Act of 1988”.

Subsec. (g)(12)(D). Pub. L. 104-295, § 21(c)(3), transferred designation “(i)” from heading to before sentence beginning “If the Trade Representative”.

1994—Subsec. (a)(1)(D). Pub. L. 103-465, § 220(b)(1), added subpar. (D).

Subsec. (a)(2)(A)(i)(I). Pub. L. 103-465, § 271(b)(1), substituted “(v), or (viii)” for “or (v)”.

Pub. L. 103-465, § 129(e)(1)(A)(i), struck out “, or” after “(B)”.

Subsec. (a)(2)(A)(i)(III). Pub. L. 103-465, § 129(e)(1)(A)(ii), added subcl. (III).

Subsec. (a)(2)(B)(iv). Pub. L. 103-465, § 270(a)(1)(N), inserted “countervailable” before “subsidy”.

Subsec. (a)(2)(B)(vii). Pub. L. 103-465, § 129(e)(1)(B), added cl. (vii).

Subsec. (a)(2)(B)(viii). Pub. L. 103-465, § 271(b)(2), added cl. (viii).

Subsec. (a)(5)(E). Pub. L. 103-465, § 129(e)(2), added subpar. (E).

Subsec. (b)(1)(A). Pub. L. 103-465, § 220(b)(2)(A), substituted “under subparagraph (A), (B), or (C) of subsection (a)(1)” for “under paragraph (1) of subsection (a)”.

Subsec. (b)(1)(B). Pub. L. 103-465, § 220(b)(2)(B), designated existing provisions as cl. (i), substituted “, or” for period at end, and added cl. (ii).

Subsec. (g)(8)(A)(i). Pub. L. 103-465, § 129(e)(3), substituted “(A), (B), or (E)” for “(A) or (B)”.

1993—Subsec. (a)(5). Pub. L. 103-182, § 411(1), amended par. (5) generally, substituting present provisions for provisions relating to time limits for commencing review in cases involving Canadian merchandise.

Subsec. (b)(3). Pub. L. 103-182, § 411(2), inserted “NAFTA or” after “decisions by” in heading and “of the NAFTA or” after “article 1904” in text.

Subsec. (f)(6), (7). Pub. L. 103-182, § 411(3)(A), amended pars. (6) and (7) generally, substituting present provisions for provisions which, in par. (6) defined “United States Secretary” as the secretary provided for in paragraph 4 of article 1909 of the United States-Canada Free-Trade Agreement, and in par. (7), defined “Canadian Secretary” as the secretary provided for in paragraph 5 of article 1909 of the Agreement.

Subsec. (f)(8) to (10). Pub. L. 103-182, § 411(3)(B), added pars. (8) to (10).

Subsec. (g). Pub. L. 103-182, § 411(4)(A), substituted “free trade area country merchandise” for “Canadian merchandise” in heading.

Subsec. (g)(1). Pub. L. 103-182, § 411(4)(B), substituted “free trade area country merchandise” for “Canadian merchandise” in concluding provisions.

Subsec. (g)(2). Pub. L. 103-182, § 411(4)(C), inserted “of the NAFTA or” after “article 1904” in introductory provisions.

Subsec. (g)(3)(A). Pub. L. 103-182, § 411(4)(D), in cl. (i), substituted “nor the relevant FTA country” for “nor Canada” and inserted “of the NAFTA or” before “of the Agreement”, in cl. (ii), substituted “nor the relevant FTA country” for “nor Canada”, in cl. (iii), inserted “of the NAFTA or” before “of the Agreement” and struck out “or” at end, in cl. (iv), struck out “under paragraph (2)(A)” before “is not reviewable” and substituted a comma for period at end, and added cls. (v) and (vi).

Subsec. (g)(3)(B). Pub. L. 103-182, § 411(4)(E), substituted first two sentences for former sentences which read as follows: “A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) of this section only if the party seeking to commence review has provided timely notice of its intent to commence such review to the United States Secretary, the Canadian Secretary, all interested parties who were parties to the proceeding in connection with which the matter arises, and the administering authority or the Commission, as appropriate. Such notice is provided timely if the notice is delivered by no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) of this section that is applicable to such determination.”

Subsec. (g)(4)(A). Pub. L. 103-182, § 411(4)(F), inserted “the North American Free Trade Agreement Implementation Act implementing the binational dispute settlement system under chapter 19 of the NAFTA, or” after “or amendment made by,” a comma before “violates”, “only” after “may be brought”, and “, which shall have jurisdiction of such action” after “Circuit” and struck out at end “Any action brought under this subparagraph shall be heard and determined by a 3-judge court in accordance with section 2284 of title 28.”

Subsec. (g)(5). Pub. L. 103-182, § 411(4)(G), inserted “of the NAFTA or” after “article 1904” in subpars. (A), (B), and (C)(i), substituted “, the relevant FTA Secretary,” for “, the Canadian Secretary,” in subpar. (C)(ii), and inserted “of the NAFTA or” after “chapter 19” in subpar. (C)(iii).

Subsec. (g)(6). Pub. L. 103-182, § 411(4)(H), inserted “of the NAFTA or” after “article 1904”.

Subsec. (g)(7). Pub. L. 103-182, § 411(4)(I)(i), inserted “of the NAFTA or the Agreement” in heading.

Subsec. (g)(7)(A). Pub. L. 103-182, § 411(4)(I)(ii), (iii), substituted heading for one which read “In general” and inserted “the NAFTA or” before “the Agreement”.

Subsec. (g)(8)(A). Pub. L. 103-182, § 411(4)(J), designated existing provisions as cl. (i), inserted cl. heading, realigned margin, inserted “of the NAFTA or” after “article 1904(4)”, and added cl. (ii).

Subsec. (g)(8)(B)(ii). Pub. L. 103-182, § 411(4)(K), substituted “relevant FTA Secretary” for “Canadian Secretary”.

Subsec. (g)(8)(C). Pub. L. 103-182, § 411(4)(L), substituted “of a determination under article 1904 of the NAFTA or the Agreement” for “under article 1904 of the Agreement of a determination”.

Subsec. (g)(9). Pub. L. 103-182, § 411(4)(M), inserted “of the NAFTA or” after “chapter 19”.

Subsec. (g)(10). Pub. L. 103-182, § 411(4)(N), substituted “Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the NAFTA or the Agreement” for “Government of Canada received notice of the determination under article 1904(4) of the Agreement”.

Subsec. (g)(11), (12). Pub. L. 103-182, § 411(4)(O), added pars. (11) and (12).

1990—Subsec. (a)(5)(A). Pub. L. 101-382, § 134(a)(3)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “the date of publication in the Federal Register of—

“(i) notice of any determination described in paragraph (1)(B) or a determination described in clause (ii) or (iii) of paragraph (2)(B), or

“(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of paragraph (2)(B), or”.

Subsec. (a)(5)(C). Pub. L. 101-382, § 134(a)(3)(A)(ii), added subpar. (C).

Subsec. (g)(3)(A)(iv). Pub. L. 101-382, § 134(a)(3)(B)(i), added cl. (iv).

Subsec. (g)(3)(B). Pub. L. 101-382, § 134(a)(3)(B)(ii), inserted “or (iv)” after “subparagraph (A)(i)”.

1988—Subsec. (a)(5). Pub. L. 100-449, § 401(a), temporarily added par. (5). See Effective and Termination Dates of 1988 Amendment note below.

Subsec. (b)(3). Pub. L. 100-449, § 401(d), temporarily added par. (3). See Effective and Termination Dates of 1988 Amendment note below.

Subsec. (f)(5) to (7). Pub. L. 100-449, § 401(b), temporarily added pars. (5) to (7). See Effective and Termination Dates of 1988 Amendment note below.

Subsec. (g). Pub. L. 100-449, § 401(c), temporarily added subsec. (g). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (a)(3). Pub. L. 99-514 substituted “(2)(A)(i)(II)” for “(2)(A)(ii)”.

1984—Subsec. (a)(1). Pub. L. 98-573, § 623(a)(1), amended par. (1) generally, and thereby struck out the designation “(A)” before “Within 30 days”, redesignated former cls. (i) to (iii) as subpars. (A) to (C), respectively, in subpar. (A) as so redesignated struck out references to the Secretary and to section 1303(a)(3) of this title, in subpar. (B) as so redesignated struck out reference to the administering authority and to review of agreements based on changed circumstances, and struck out former subpar. (B), relating to a right of judicial review of certain determinations of the administering authority within 10 days after publication of notice of the determination in the Federal Register.

Subsec. (a)(2)(A). Pub. L. 98-573, § 623(a)(2), inserted the designation “(i)” before “the date of publication in the Federal Register of”, redesignated cls. (i) and (ii) as subcls. (I) and (II), respectively, and added cl. (ii).

Subsec. (a)(2)(B)(i). Pub. L. 98-573, § 623(a)(3), amended cl. (i) generally and thereby struck out provisions referring to final affirmative determinations by the Secretary and by the Commission under section 1303 of this title, and inserted reference to any negative part of decisions under section 1671d or 1673d of this title.

Subsec. (a)(2)(B)(ii). Pub. L. 98-573, § 623(a)(3), amended cl. (ii) generally and thereby struck out references to the Secretary and to section 1303 of this title and inserted provision relating to any part of a final affirmative determination which specifically excludes any company or product.

Subsec. (a)(2)(B)(iii). Pub. L. 98-573, § 623(a)(3), amended cl. (iii) generally and thereby substituted provisions relating to final determinations by the administering authority or the Commission for provisions relating to determinations by the Secretary, the administering authority, or the Commission.

Subsec. (a)(2)(B)(iv). Pub. L. 98-573, § 623(a)(3), amended cl. (iv) generally and thereby inserted provision relating to any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

Subsec. (a)(2)(B)(vi). Pub. L. 98-573, § 623(a)(3), added cl. (vi).

Subsec. (a)(3), (4). Pub. L. 98-573, § 623(a)(4), added par. (3) and redesignated former par. (3) as (4).

1982—Subsecs. (c)(1), (e). Pub. L. 97-164 substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

1980—Subsec. (a)(1). Pub. L. 96-417, § 608(a), inserted subpar. “(A) Thirty-day review” heading; redesignated

as cls. (i), (ii), and (iii) of subpar. (A) provisions formerly designated as subpars. (A), (C), and (D) of par. (1); inserted subpar. “(B) Ten-day review” heading and its introductory text; redesignated as cls. (i) and (ii) of subpar. (B) provisions formerly designated as subpars. (B) and (E) of par. (1), thus substituting ten-day for thirty-day review for such clauses; enacted provision respecting commencement of action by an interested party following subpars. (A) and (B), formerly enacted following only par. (1); and redesignated the United States Customs Court as the United States Court of International Trade in the latter provisions.

Subsec. (a)(2)(A). Pub. L. 96-417, § 601(7), redesignated the United States Customs Court as the United States Court of International Trade.

Subsec. (a)(3). Pub. L. 96-542 substituted “chapter 169 of title 28” for “subsections (b), (c), and (e) of chapter 169 of title 28”.

Pub. L. 96-417, § 608(b), substituted “chapter 169 of title 28” for “section 2632 of title 28”.

Subsec. (c)(1), (2). Pub. L. 96-417, §§ 601(7), 608(c), redesignated in pars. (1) and (2) the United States Customs Court as the United States Court of International Trade and deleted from par. (2) the criteria to be considered in ruling on an injunction, namely, the party likely to prevail, irreparable harm, public interest, and greater harm.

Subsec. (d). Pub. L. 96-417, §§ 601(7), 608(d), redesignated the United States Customs Court as the United States Court of International Trade and substituted requirement for notification of “all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court” for prior notice requirement to “all interested parties of the filing of an action pursuant to this section”.

Subsec. (e). Pub. L. 96-417, § 601(7), redesignated the United States Customs Court as the United States Court of International Trade.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 129(e) of Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), see section 130 of Pub. L. 103-465, set out as an Effective Date note under section 3531 of this title.

Amendment by sections 220(b), 270(a)(1)(N), and 271(b) of Pub. L. 103-465 effective, except as otherwise provided, on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), and applicable with respect to investigations, reviews, and inquiries initiated and petitions filed under specified provisions of this chapter after such date, see section 291 of Pub. L. 103-465, set out as a note under section 1671 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of this title, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada or Mexico before such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or to any extraordinary challenge arising out of any such review, that was commenced before such date, see section 416 of Pub. L. 103-182, set out as an Effective Date note under section 3431 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a),

(c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to civil actions pending on, or filed on or after, Oct. 30, 1984, see section 626(b)(2) of Pub. L. 98-573, set out as a note under section 1671 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-542, § 3, Dec. 17, 1980, 94 Stat. 3210, provided that: "The amendments made by this Act [amending this section and provisions set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure] shall be effective as of November 1, 1980."

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of title 28.

EFFECTIVE DATE; TRANSITIONAL RULES

Section 1002 of title X of Pub. L. 96-39 provided that: "(a) EFFECTIVE DATE.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall take effect on that date (hereinafter in this section referred to as the 'effective date') on which title VII of the Tariff Act of 1930 [subtitle IV of this chapter] (as added by title I of this Act) takes effect [Jan. 1, 1980]; and section 515(a) of such Act of 1930 [section 1515(a) of this title] (as amended by section 1001(b)(2)) shall apply with respect to any denial, in whole or in part, of a protest filed under section 514 of such Act of 1930 [section 1514 of this title] on or after the effective date.

"(b) TRANSITIONAL RULES.—

"(1) CERTAIN PROTESTS, PETITIONS, ACTIONS, ETC.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall not apply with respect to—

"(A) any protest, petition, or notice of desire to contest filed before the effective date [Jan. 1, 1980] under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930 [section 1514, 1516(a), or 1516(d) of this title];

"(B) any civil action commenced before the effective date [Jan. 1, 1980] under section 2632 of title 28 of the United States Code; or

"(C) any civil action commenced after the effective date [Jan. 1, 1980] under such section 2632 if the protest, petition, or notice of desire to contest (under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930) on which such action is based was filed before such effective date.

"(2) LAW TO BE APPLIED FOR PURPOSES OF SUCH ACTIONS.—Notwithstanding the repeal of the Antidumping Act, 1921 [sections 160 to 171 of this title], by section 106(a) of this Act, and the amendment of section 303 of the Tariff Act of 1930 [section 1303 of this title] by section 103 of this Act, the law in effect on the date of any finding or determination contested in a civil action described in subparagraph (A), (B), or (C) of paragraph (1) shall be applied for purposes of that action.

"(3) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY ASSESSMENTS.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial

Procedure] shall apply with respect to the review of the assessment of, or failure to assess, any countervailing duty or antidumping duty on entries subject to a countervailing duty order or antidumping finding if the assessment is made after the effective date. If no assessment of such duty had been made before the effective date that could serve the party seeking review as the basis of a review of the underlying determination, made by the Secretary of the Treasury or the International Trade Commission before the effective date, on which such order, finding, or lack thereof is based, then the underlying determination shall be subject to review in accordance with the law in effect on the day before the effective date.

"(4) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY DETERMINATIONS.—With respect to any preliminary determination or final determination of the Secretary of the Treasury under section 303 of the Tariff Act of 1930 [section 1303 of this title] or the Antidumping Act, 1921 [sections 160 to 171 of this title], which is treated under section 102 of this Act [set out as a note under section 1671 of this title] as if made under section 703(b), 705(a), 733(b), or 735(a) of the Tariff Act of 1930 [section 1671b(b), 1671d(a), 1673b(b), or 1673d(a) of this title] (as added by title I of this Act) such determinations shall be subject to judicial review in the same manner and to the same extent as if made on the day before the effective date."

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103-182, see section 3451 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

ACCEPTANCE BY PRESIDENT OF PANEL AND COMMITTEE DECISIONS

For acceptance by President of decisions of binational panels and extraordinary challenge committees in event that subsec. (b)(7)(B) of this section takes effect, see section 2 of Ex. Ord. No. 12889, Dec. 27, 1993, 58 F.R. 69681, set out as a note under section 3311 of this title.

For provision that in the event that subsec. (g)(7)(B) of this section takes effect, the President accepts, as a whole, all decisions of binational panels and extraordinary challenge committees, see section 3 of Ex. Ord. No. 12662, Dec. 31, 1988, 54 F.R. 785, set out as a note under section 2112 of this title.

§ 1517. Procedures for investigating claims of evasion of antidumping and countervailing duty orders

(a) Definitions

In this section:

(1) Administering authority

The term “administering authority” has the meaning given that term in section 1677(1) of this title.

(2) Commissioner

The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection.

(3) Covered merchandise

The term “covered merchandise” means merchandise that is subject to—

- (A) an antidumping duty order issued under section 1673e of this title; or
- (B) a countervailing duty order issued under section 1671e of this title.

(4) Enter; entry

The terms “enter” and “entry” refer to the entry, or withdrawal from warehouse for consumption, of merchandise into the customs territory of the United States.

(5) Evasion

(A) In general

Except as provided in subparagraph (B), the term “evasion” refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.

(B) Exception for clerical error

(i) In general

Except as provided in clause (ii), the term “evasion” does not include entering covered merchandise into the customs territory of the United States by means of—

- (I) a document or electronically transmitted data or information, written or oral statement, or act that is false as a result of a clerical error; or
- (II) an omission that results from a clerical error.

(ii) Patterns of negligent conduct

If the Commissioner determines that a person has entered covered merchandise into the customs territory of the United States by means of a clerical error referred to in subclause (I) or (II) of clause (i) and that the clerical error is part of a pattern of negligent conduct on the part of that person, the Commissioner may determine, notwithstanding clause (i), that the person has entered such covered merchandise into the customs territory of the United States through evasion.

(iii) Electronic repetition of errors

For purposes of clause (ii), the mere non-intentional repetition by an electronic

system of an initial clerical error does not constitute a pattern of negligent conduct.

(iv) Rule of construction

A determination by the Commissioner that a person has entered covered merchandise into the customs territory of the United States by means of a clerical error referred to in subclause (I) or (II) of clause (i) rather than through evasion shall not be construed to excuse that person from the payment of any duties applicable to the merchandise.

(6) Interested party

(A) In general

The term “interested party” means—

- (i) a foreign manufacturer, producer, or exporter, or the United States importer, of covered merchandise or a trade or business association a majority of the members of which are producers, exporters, or importers of such merchandise;
- (ii) a manufacturer, producer, or wholesaler in the United States of a domestic like product;
- (iii) a certified union or recognized union or group of workers that is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product;
- (iv) a trade or business association a majority of the members of which manufacture, produce, or wholesale a domestic like product in the United States;
- (v) an association a majority of the members of which is composed of interested parties described in clause (ii), (iii), or (iv) with respect to a domestic like product; and
- (vi) if the covered merchandise is a processed agricultural product, as defined in section 1677(4)(E), a coalition or trade association that is representative of either—
 - (I) processors;
 - (II) processors and producers; or
 - (III) processors and growers.

(B) Domestic like product

For purposes of subparagraph (A), the term “domestic like product” means a product that is like, or in the absence of like, most similar in characteristics and uses with, covered merchandise.

(b) Investigations

(1) In general

Not later than 15 business days after receiving an allegation described in paragraph (2) or a referral described in paragraph (3), the Commissioner shall initiate an investigation if the Commissioner determines that the information provided in the allegation or the referral, as the case may be, reasonably suggests that covered merchandise has been entered into the customs territory of the United States through evasion.

(2) Allegation described

An allegation described in this paragraph is an allegation that a person has entered covered merchandise into the customs territory of the United States through evasion that is—

(A) filed with the Commissioner by an interested party; and

(B) accompanied by information reasonably available to the party that filed the allegation.

(3) Referral described

A referral described in this paragraph is information submitted to the Commissioner by any other Federal agency, including the Department of Commerce or the United States International Trade Commission, that reasonably suggests that a person has entered covered merchandise into the customs territory of the United States through evasion.

(4) Consideration by administering authority

(A) In general

If the Commissioner receives an allegation under paragraph (2) and is unable to determine whether the merchandise at issue is covered merchandise, the Commissioner shall—

(i) refer the matter to the administering authority to determine whether the merchandise is covered merchandise pursuant to the authority of the administering authority under subtitle IV; and

(ii) notify the party that filed the allegation, and any other interested party participating in the investigation, of the referral.

(B) Determination; transmission to Commissioner

After receiving a referral under subparagraph (A)(i) with respect to merchandise, the administering authority shall determine whether the merchandise is covered merchandise and promptly transmit that determination to the Commissioner.

(C) Stay of deadlines

The period required for any referral and determination under this paragraph shall not be counted in calculating any deadline under this section.

(D) Rule of construction

Nothing in this paragraph shall be construed to affect the authority of an interested party to commence an action in the United States Court of International Trade under section 1516a(a)(2) of this title with respect to a determination of the administering authority under this paragraph.

(5) Consolidation of allegations and referrals

(A) In general

The Commissioner may consolidate multiple allegations described in paragraph (2) and referrals described in paragraph (3) into a single investigation if the Commissioner determines it is appropriate to do so.

(B) Effect on timing requirements

If the Commissioner consolidates multiple allegations or referrals into a single investigation under subparagraph (A), the date on which the Commissioner receives the first such allegation or referral shall be used for purposes of the requirement under paragraph (1) with respect to the timing of the initiation of the investigation.

(6) Information-sharing to protect health and safety

If, during the course of conducting an investigation under paragraph (1) with respect to covered merchandise, the Commissioner has reason to suspect that such covered merchandise may pose a health or safety risk to consumers, the Commissioner shall provide, as appropriate, information to the appropriate Federal agencies for purposes of mitigating the risk.

(7) Technical assistance and advice

(A) In general

Upon request, the Commissioner shall provide technical assistance and advice to eligible small businesses to enable such businesses to prepare and submit allegations described in paragraph (2), except that the Commissioner may deny technical assistance if the Commissioner concludes that the allegation, if submitted, would not lead to the initiation of an investigation under this subsection or any other action to address the allegation.

(B) Eligible small business defined

(i) In general

In this paragraph, the term “eligible small business” means any business concern that the Commissioner determines, due to its small size, has neither adequate internal resources nor the financial ability to obtain qualified outside assistance in preparing and filing allegations described in paragraph (2).

(ii) Non-reviewability

The determination of the Commissioner regarding whether a business concern is an eligible small business for purposes of this paragraph is not reviewable by any other agency or by any court.

(c) Determinations

(1) Determination of evasion

(A) In general

Except as provided in subparagraph (B), not later than 300 calendar days after the date on which the Commissioner initiates an investigation under subsection (b) with respect to covered merchandise, the Commissioner shall make a determination, based on substantial evidence, with respect to whether such covered merchandise was entered into the customs territory of the United States through evasion.

(B) Additional time

The Commissioner may extend the time to make a determination under subparagraph (A) by not more than 60 calendar days if the Commissioner determines that—

(i) the investigation is extraordinarily complicated because of—

(I) the number and complexity of the transactions to be investigated;

(II) the novelty of the issues presented;

or

(III) the number of entities to be investigated; and

(ii) additional time is necessary to make the determination under subparagraph (A).

(2) Authority to collect and verify additional information

In making a determination under paragraph (1) with respect to covered merchandise, the Commissioner may collect such additional information as is necessary to make the determination through such methods as the Commissioner considers appropriate, including by—

(A) issuing a questionnaire with respect to such covered merchandise to—

(i) an interested party that filed an allegation under paragraph (2) of subsection (b) that resulted in the initiation of an investigation under paragraph (1) of that subsection with respect to such covered merchandise;

(ii) a person alleged to have entered such covered merchandise into the customs territory of the United States through evasion;

(iii) a person that is a foreign producer or exporter of such covered merchandise; or

(iv) the government of a country from which such covered merchandise was exported; and

(B) conducting verifications, including on-site verifications, of any relevant information.

(3) Adverse inference

(A) In general

If the Commissioner finds that a party or person described in clause (i), (ii), or (iii) of paragraph (2)(A) has failed to cooperate by not acting to the best of the party or person's ability to comply with a request for information, the Commissioner may, in making a determination under paragraph (1), use an inference that is adverse to the interests of that party or person in selecting from among the facts otherwise available to make the determination.

(B) Application

An inference described in subparagraph (A) may be used under that subparagraph with respect to a person described in clause (ii) or (iii) of paragraph (2)(A) without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought by the Commissioner, such as import or export documentation.

(C) Adverse inference described

An adverse inference used under subparagraph (A) may include reliance on information derived from—

(i) the allegation of evasion of the trade remedy laws, if any, submitted to U.S. Customs and Border Protection;

(ii) a determination by the Commissioner in another investigation, proceeding, or other action regarding evasion of the unfair trade laws; or

(iii) any other available information.

(4) Notification

Not later than 5 business days after making a determination under paragraph (1) with respect to covered merchandise, the Commissioner—

(A) shall provide to each interested party that filed an allegation under paragraph (2) of subsection (b) that resulted in the initiation of an investigation under paragraph (1) of that subsection with respect to such covered merchandise a notification of the determination and may, in addition, include an explanation of the basis for the determination; and

(B) may provide to importers, in such manner as the Commissioner determines appropriate, information discovered in the investigation that the Commissioner determines will help educate importers with respect to importing merchandise into the customs territory of the United States in accordance with all applicable laws and regulations.

(d) Effect of determinations

(1) In general

If the Commissioner makes a determination under subsection (c) that covered merchandise was entered into the customs territory of the United States through evasion, the Commissioner shall—

(A)(i) suspend the liquidation of unliquidated entries of such covered merchandise that are subject to the determination and that enter on or after the date of the initiation of the investigation under subsection (b) with respect to such covered merchandise and on or before the date of the determination; or

(ii) if the Commissioner has already suspended the liquidation of such entries pursuant to subsection (e)(1), continue to suspend the liquidation of such entries;

(B) pursuant to the Commissioner's authority under section 1504(b) of this title—

(i) extend the period for liquidating unliquidated entries of such covered merchandise that are subject to the determination and that entered before the date of the initiation of the investigation; or

(ii) if the Commissioner has already extended the period for liquidating such entries pursuant to subsection (e)(1), continue to extend the period for liquidating such entries;

(C) notify the administering authority of the determination and request that the administering authority—

(i) identify the applicable antidumping or countervailing duty assessment rates for entries described in subparagraphs (A) and (B); or

(ii) if no such assessment rate for such an entry is available at the time, identify the applicable cash deposit rate to be applied to the entry, with the applicable antidumping or countervailing duty assessment rate to be provided as soon as that rate becomes available;

(D) require the posting of cash deposits and assess duties on entries described in sub-

paragraphs (A) and (B) in accordance with the instructions received from the administering authority under paragraph (2); and

(E) take such additional enforcement measures as the Commissioner determines appropriate, such as—

(i) initiating proceedings under section 1592 or 1595a of this title;

(ii) implementing, in consultation with the relevant Federal agencies, rule sets or modifications to rule sets for identifying, particularly through the Automated Targeting System and the Automated Commercial Environment authorized under section 58c(f)(4) of this title, importers, other parties, and merchandise that may be associated with evasion;

(iii) requiring, with respect to merchandise for which the importer has repeatedly provided incomplete or erroneous entry summary information in connection with determinations of evasion, the importer to deposit estimated duties at the time of entry; and

(iv) referring the record in whole or in part to U.S. Immigration and Customs Enforcement for civil or criminal investigation.

(2) Cooperation of administering authority

(A) In general

Upon receiving a notification from the Commissioner under paragraph (1)(C), the administering authority shall promptly provide to the Commissioner the applicable cash deposit rates and antidumping or countervailing duty assessment rates and any necessary liquidation instructions.

(B) Special rule for cases in which the producer or exporter is unknown

If the Commissioner and the administering authority are unable to determine the producer or exporter of the merchandise with respect to which a notification is made under paragraph (1)(C), the administering authority shall identify, as the applicable cash deposit rate or antidumping or countervailing duty assessment rate, the cash deposit or duty (as the case may be) in the highest amount applicable to any producer or exporter, including the “all-others” rate of the merchandise subject to an antidumping order or countervailing duty order under section 1673e of this title or 1671e of this title, respectively, or a finding issued under the Antidumping Act, 1921, or any administrative review conducted under section 1675 of this title.

(e) Interim measures

Not later than 90 calendar days after initiating an investigation under subsection (b) with respect to covered merchandise, the Commissioner shall decide based on the investigation if there is a reasonable suspicion that such covered merchandise was entered into the customs territory of the United States through evasion and, if the Commissioner decides there is such a reasonable suspicion, the Commissioner shall—

(1) suspend the liquidation of each unliquidated entry of such covered merchandise that

entered on or after the date of the initiation of the investigation;

(2) pursuant to the Commissioner’s authority under section 1504(b) of this title, extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation; and

(3) pursuant to the Commissioner’s authority under section 1623 of this title, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.

(f) Administrative review

(1) In general

Not later than 30 business days after the Commissioner makes a determination under subsection (c) with respect to whether covered merchandise was entered into the customs territory of the United States through evasion, a person determined to have entered such covered merchandise through evasion or an interested party that filed an allegation under paragraph (2) of subsection (b) that resulted in the initiation of an investigation under paragraph (1) of that subsection with respect to such covered merchandise may file an appeal with the Commissioner for de novo review of the determination.

(2) Timeline for review

Not later than 60 business days after an appeal of a determination is filed under paragraph (1), the Commissioner shall complete the review of the determination.

(g) Judicial review

(1) In general

Not later than 30 business days after the Commissioner completes a review under subsection (f) of a determination under subsection (c) with respect to whether covered merchandise was entered into the customs territory of the United States through evasion, a person determined to have entered such covered merchandise through evasion or an interested party that filed an allegation under paragraph (2) of subsection (b) that resulted in the initiation of an investigation under paragraph (1) of that subsection with respect to such covered merchandise may seek judicial review of the determination under subsection (c) and the review under subsection (f) in the United States Court of International Trade to determine whether the determination and review is conducted in accordance with subsections (c) and (f).

(2) Standard of review

In determining whether a determination under subsection (c) or review under subsection (f) is conducted in accordance with those subsections, the United States Court of International Trade shall examine—

(A) whether the Commissioner fully complied with all procedures under subsections (c) and (f); and

(B) whether any determination, finding, or conclusion is arbitrary, capricious, an abuse

of discretion, or otherwise not in accordance with law.

(3) Rule of construction

Nothing in this subsection shall affect the availability of judicial review to an interested party under any other provision of law.

(h) Rule of construction with respect to other civil and criminal proceedings and investigations

No determination under subsection (c), review under subsection (f), or action taken by the Commissioner pursuant to this section shall preclude any individual or entity from proceeding, or otherwise affect or limit the authority of any individual or entity to proceed, with any civil, criminal, or administrative investigation or proceeding pursuant to any other provision of Federal or State law, including sections 1592 of this title and 1595a of this title.

(June 17, 1930, ch. 497, title IV, § 517, as added Pub. L. 114–125, title IV, § 421(a), Feb. 24, 2016, 130 Stat. 161.)

REFERENCES IN TEXT

The Antidumping Act, 1921, referred to in subsec. (d)(2)(B), is act May 27, 1921, ch. 14, title II, 42 Stat. 11, which was classified generally to sections 160 to 171 of this title, and was repealed by Pub. L. 96–39, title I, § 106(a), July 26, 1979, 93 Stat. 193.

PRIOR PROVISIONS

A prior section 1517, act June 17, 1930, ch. 497, title IV, § 517, 46 Stat. 737, related to frivolous protest or appeal, prior to repeal by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948. See section 2641 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Pub. L. 114–125, title IV, § 421(c), Feb. 24, 2016, 130 Stat. 168, provided that: “The amendments made by this section [enacting this section and amending section 1581 of Title 28, Judiciary and Judicial Procedure] shall take effect on the date that is 180 days after the date of the enactment of this Act [Feb. 24, 2016].”

REGULATIONS

Pub. L. 114–125, title IV, § 421(d), Feb. 24, 2016, 130 Stat. 169, provided that: “Not later than the date that is 180 days after the date of the enactment of this Act [Feb. 24, 2016], the Secretary [of the Treasury] shall prescribe such regulations as may be necessary to implement the amendments made by this section [enacting this section and amending section 1581 of Title 28, Judiciary and Judicial Procedure].”

§§ 1518, 1519. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 1518, acts June 10, 1890, ch. 407, § 12, 26 Stat. 136; May 27, 1908, ch. 205, § 3, 35 Stat. 406; Aug. 5, 1909, ch. 6, § 28, 36 Stat. 98; May 28, 1926, ch. 411, § 1, 44 Stat. 669; June 17, 1930, ch. 497, title IV, § 518, 46 Stat. 737, related to the judges of the United States Customs Court: their appointment, salary, retirement, vacancies, and powers; the control of the fiscal affairs and of the clerical force of the court; and the division of the court. See sections 251 to 254, 456, 1581, 2071, 2639, and 2640 of Title 28, Judiciary and Judicial Procedure. Last sentence of section, relating to the transfer of unexpended appropriations for salaries to be available for expenditures for the same purposes, was omitted as executed.

Section 1519, act June 17, 1930, ch. 497, title IV, § 519, 46 Stat. 739, related to publication of Customs Court’s decisions. See section 255 of Title 28, Judiciary and Judicial Procedure.

§ 1520. Refunds and errors

(a) Cases in which refunds authorized

The Secretary of the Treasury is authorized to refund duties or other receipts in the following cases:

(1) *Excess deposits*.—Whenever it is ascertained on liquidation or reliquidation of an entry or reconciliation that more money has been deposited or paid as duties than was required by law to be so deposited or paid.

(2) *Fees, charges, and exactions*.—Whenever it is determined in the manner required by law that any fees, charges, or exactions, other than duties and taxes, have been erroneously or excessively collected.

(3) *Fines, penalties, and forfeitures*.—Whenever money has been deposited in the Treasury on account of a fine, penalty, or forfeiture which did not accrue, or which is finally determined to have accrued in an amount less than that so deposited, or which is mitigated to an amount less than that so deposited or is remitted.

(4) *Prior to liquidation*.—Prior to the liquidation of an entry or reconciliation, whenever an importer of record declares or it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid.

(b) Authorization of appropriations

The necessary moneys to make such refunds are authorized to be appropriated annually from the general fund of the Treasury.

(c) Repealed. Pub. L. 108–429, title II, § 2105, Dec. 3, 2004, 118 Stat. 2598

(d) Goods qualifying under free trade agreement rules of origin

Notwithstanding the fact that a valid protest was not filed, the Customs Service may, in accordance with regulations prescribed by the Secretary, reliquidate an entry to refund any excess duties (including any merchandise processing fees) paid on a good qualifying under the rules of origin set out in section 3332 of this title, section 202 of the United States-Chile Free Trade Agreement Implementation Act, section 4033 of this title, section 202 of the United States-Oman Free Trade Agreement Implementation Act, section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, section 202 of the United States-Korea Free Trade Agreement Implementation Act, section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act, or section 203 of the United States-Panama Trade Promotion Agreement Implementation Act for which no claim for preferential tariff treatment was made at the time of importation if the importer, within 1 year after the date of importation, files, in accordance with those regulations, a claim that includes—

(1) a written declaration that the good qualified under the applicable rules at the time of importation;

(2) copies of all applicable NAFTA Certificates of Origin (as defined in section 1508(b)(1) of this title), or other certificates or certifications of origin, as the case may be; and

(3) such other documentation and information relating to the importation of the goods as the Customs Service may require.

(June 17, 1930, ch. 497, title IV, § 520, 46 Stat. 739; June 26, 1934, ch. 756, § 2, 48 Stat. 1225; June 25, 1938, ch. 679, § 18, 52 Stat. 1086; Aug. 8, 1953, ch. 397, § 20, 67 Stat. 519; Pub. L. 91–271, title II, § 210, June 2, 1970, 84 Stat. 287; Pub. L. 95–410, title II, § 210, Oct. 3, 1978, 92 Stat. 903; Pub. L. 98–573, title II, §§ 210(b), 212(c)(B), formerly § 212(b)(7)(B), Oct. 30, 1984, 98 Stat. 2977, 2984, renumbered Pub. L. 99–514, title XVIII, § 1889(3), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 103–182, title II, § 206, title VI, §§ 642(b), 646, Dec. 8, 1993, 107 Stat. 2095, 2205, 2207; Pub. L. 106–36, title II, § 2408(a), June 25, 1999, 113 Stat. 171; Pub. L. 108–77, title II, § 206, Sept. 3, 2003, 117 Stat. 931; Pub. L. 108–429, title II, § 2105, Dec. 3, 2004, 118 Stat. 2598; Pub. L. 109–53, title II, § 207, Aug. 2, 2005, 119 Stat. 485; Pub. L. 109–280, title XIV, § 1635(b), Aug. 17, 2006, 120 Stat. 1170; Pub. L. 109–283, title II, § 205, Sept. 26, 2006, 120 Stat. 1203; Pub. L. 110–138, title II, § 206, Dec. 14, 2007, 121 Stat. 1476; Pub. L. 112–41, title II, § 205, Oct. 21, 2011, 125 Stat. 449; Pub. L. 112–42, title II, § 206, Oct. 21, 2011, 125 Stat. 484; Pub. L. 112–43, title II, § 206, Oct. 21, 2011, 125 Stat. 520.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 112–43, see Effective and Termination Dates of 2011 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 112–42, see Effective and Termination Dates of 2011 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 112–41, see Effective and Termination Dates of 2011 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 110–138, see Effective and Termination Dates of 2007 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 109–283, see Effective and Termination Dates of 2006 Amendment note below.

For termination of amendment by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates of 2005 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 108–77, see Effective and Termination Dates of 2003 Amendment note below.

REFERENCES IN TEXT

Section 202 of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsec. (d), is section 202 of Pub. L. 108–77, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Oman Free Trade Agreement Implementation Act, referred to in subsec. (d), is section 202 of Pub. L. 109–283, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, referred to in subsec. (d), is section 203 of Pub. L. 110–138, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Korea Free Trade Agreement Implementation Act, referred to in subsec. (d), is section 202 of Pub. L. 112–41, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act, referred to in subsec. (d), is section 203 of Pub. L. 112–42, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Panama Trade Promotion Agreement Implementation Act, referred to in subsec. (d), is section 203 of Pub. L. 112–43, which is set out in a note under section 3805 of this title.

CODIFICATION

Act June 26, 1934, effective July 1, 1935, provided for repeal of certain permanent appropriations authoriz-

ing, in lieu thereof, an annual appropriation from the general fund of the Treasury.

PRIOR PROVISIONS

This section, as originally enacted, contained a paragraph (b) making a permanent appropriation of the moneys necessary to make refunds. Effective July 1, 1935, paragraph (b) was repealed by act June 26, 1934, ch. 756, § 2, 48 Stat. 1225, such act authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury.

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 520, 42 Stat. 973. That section was superseded by section 520 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions somewhat similar to those in subdivisions (1) and (3) of paragraph (a) for refund of moneys paid on account of unascertained or estimated duties or payments on appeal, and for correction of clerical errors within one year, with further provisions making an appropriation and requiring reports to Congress of moneys refunded, were contained in act Oct. 3, 1913, ch. 16, § III, Y, 38 Stat. 191, which reenacted the provisions of Customs Administrative Act June 10, 1890, ch. 407, § 24, 26 Stat. 140, as renumbered and reenacted by Payne-Aldrich Tariff Act of August 5, 1909, ch. 6, § 28, 36 Stat. 103. Said section III, Y, of the 1913 act was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

Provisions concerning the refund of moneys collected as duties in accordance with any decision, etc., of the Secretary of the Treasury, with provisos concerning re-liquidations, correction of errors, household effects and other articles exempt from duty, were contained in act March 3, 1875, ch. 136, 18 Stat. 469, which was also repealed by section 643 of the act of Sept. 21, 1922.

R.S. § 3011 (as amended by act Feb. 27, 1877, ch. 69, § 1, 19 Stat. 247, and act Feb. 1, 1888, ch. 4, 25 Stat. 6) and section 3012, relative to actions to recover duties paid under protest, and sections 3012½ and 3013, relative to refunds, were repealed by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

Act June 7, 1924, ch. 357, 43 Stat. 660, authorizing the remission of unpaid customs duties on material belonging to the United States and theretofore imported by the War Department, was omitted from the Code as temporary.

AMENDMENTS

2011—Subsec. (d). Pub. L. 112–43, §§ 107(c), 206, in introductory provisions, temporarily struck out “or” before “section 203 of the United States-Colombia” and substituted “, or section 203 of the United States-Panama Trade Promotion Agreement Implementation Act for which” for “for which”. See Effective and Termination Dates of 2011 Amendment note below.

Pub. L. 112–42, §§ 107(c), 206, in introductory provisions, temporarily struck out “or” before “section 202 of the United States-Korea Free Trade Agreement Implementation Act” and substituted “, or section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act for which” for “for which”. See Effective and Termination Dates of 2011 Amendment note below.

Pub. L. 112–41, §§ 107(c), 205, in introductory provisions, temporarily struck out “or” before “section 203 of the United States-Peru Trade Promotion Agreement Implementation Act” and substituted “, or section 202 of the United States-Korea Free Trade Agreement Implementation Act for which” for “for which”. See Effective and Termination Dates of 2011 Amendment note below.

2007—Subsec. (d). Pub. L. 110–138, §§ 107(c), 206, in introductory provisions, temporarily struck out “or” before “section 202 of the United States-Oman” and substituted “, or section 203 of the United States-Peru Trade Promotion Agreement Implementation Act for which” for “for which”. See Effective and Termination Dates of 2007 Amendment note below.

2006—Subsec. (a). Pub. L. 109-280, in par. (1), substituted period for semicolon at end, in par. (2), substituted period for “; and” at end, and, in par. (4), inserted “an importer of record declares or” after “when-ever” and struck out “by reason of clerical error” before period at end.

Subsec. (d). Pub. L. 109-283, §§107(c), 205(1), in introductory provisions, temporarily struck out “or” before “section 4033” and substituted “, or section 202 of the United States-Oman Free Trade Agreement Implementation Act for which” for “for which”. See Effective and Termination Dates of 2006 Amendment note below.

Subsec. (d)(3). Pub. L. 109-283, §§107(c), 205(2), temporarily inserted “and information” after “documentation”. See Effective and Termination Dates of 2006 Amendment note below.

2005—Subsec. (d). Pub. L. 109-53, §§107(d), 207, temporarily substituted “, section 202 of the United States-Chile Free Trade Agreement Implementation Act, or section 4033 of this title” for “or section 202 of the United States-Chile Free Trade Agreement Implementation Act” in introductory provisions and inserted “or certifications” after “other certificates” in par. (2). See Effective and Termination Dates of 2005 Amendment note below.

2004—Subsec. (c). Pub. L. 108-429 struck out subsec. (c) which related to reliquidation of entry or reconciliation.

2003—Subsec. (d). Pub. L. 108-77, §§107(c), 206(1), (2), temporarily inserted heading and inserted “or section 202 of the United States-Chile Free Trade Agreement Implementation Act” after “title” in introductory provisions. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (d)(1). Pub. L. 108-77, §§107(c), 206(3), temporarily substituted “the applicable” for “those”. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (d)(2). Pub. L. 108-77, §§107(c), 206(4), temporarily inserted “, or other certificates of origin, as the case may be” before semicolon. See Effective and Termination Dates of 2003 Amendment note below.

1999—Subsec. (d). Pub. L. 106-36 inserted “(including any merchandise processing fees)” after “excess duties” in introductory provisions.

1993—Subsec. (a)(1), (4). Pub. L. 103-182, §646(1), inserted “or reconciliation” after “entry”.

Subsec. (c). Pub. L. 103-182, §646(2)(A), (B), substituted “Customs Service” for “appropriate customs officer” and inserted “or reconciliation” after “entry” in introductory provisions.

Subsec. (c)(1). Pub. L. 103-182, §646(2)(A), (C), inserted “, whether or not resulting from or contained in electronic transmission,” before “not amounting to”, and substituted “Customs Service” for “appropriate customs officer”.

Subsec. (d). Pub. L. 103-182, §206, added subsec. (d). See Construction of 1993 Amendment note below.

Pub. L. 103-182, §642(b), struck out subsec. (d) which read as follows: “If a determination is made to reliquidate an entry as a result of a protest filed under section 1514 of this title or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 1505(c) of this title at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, whichever occurs first.” See Construction of 1993 Amendment note below.

1984—Subsec. (a)(4). Pub. L. 98-573, §212(b)(7)(B), added par. (4).

Subsec. (d). Pub. L. 98-573, §210(b), added subsec. (d).
1978—Subsec. (c)(1). Pub. L. 95-410 substituted “appropriate customs officer within one year after the date of liquidation or exaction” for “customs service within one year after the date of entry, or transaction, or

within ninety days after liquidation or exaction when the liquidation or exaction is made more than nine months after the date of the entry, or transaction”.

1970—Subsec. (c). Pub. L. 91-271 in introductory material substituted “the appropriate customs officer may, in accordance with regulations prescribed by the Secretary,” for “the Secretary of the Treasury may authorize a collector to”, and in par. (1) struck out “appraisalment” wherever appearing and substituted “ninety” and “nine” for “sixty” and “ten”, respectively.

1953—Subsec. (c)(1). Act Aug. 8, 1953, extended the relief provision to situations involving clerical errors, mistakes of fact, or any other inadvertence not amounting to an error in the construction of a law, in any entry, liquidation, appraisalment or other customs transaction, when such error, mistake or other inadvertence is adverse to the record or established by written evidence.

Subsec. (c)(2). Act Aug. 8, 1953, permitted correction of assessments of duty on household or personal effects which are subject to duty.

1938—Subsecs. (b), (c). Act June 25, 1938, added subsecs. (b) and (c).

EFFECTIVE AND TERMINATION DATES OF 2011 AMENDMENT

Amendment by Pub. L. 112-43 effective on the date the United States-Panama Trade Promotion Agreement enters into force (Oct. 31, 2012) and to cease to be effective on the date the Agreement terminates, see section 107(a), (c) of Pub. L. 112-43, set out in a note under section 3805 of this title.

Amendment by Pub. L. 112-42 effective on the date the United States-Colombia Trade Promotion Agreement enters into force (May 15, 2012) and to cease to be effective on the date the Agreement terminates, see section 107(a), (c) of Pub. L. 112-42, set out in a note under section 3805 of this title.

Amendment by Pub. L. 112-41 effective on the date the United States-Korea Free Trade Agreement enters into force (Mar. 15, 2012) and to cease to be effective on the date the Agreement terminates, see section 107(a), (c) of Pub. L. 112-41, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110-138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2006 AMENDMENT

Amendment by Pub. L. 109-283 effective on the date on which the United States-Oman Free Trade Agreement enters into force (Jan. 1, 2009) and to cease to be effective on the date on which the Agreement terminates, see section 107(a), (c) of Pub. L. 109-283, set out in a note under section 3805 of this title.

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-36 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after June 25, 1999, see section 2408(c) of Pub. L. 106-36, set out as a note under section 1514 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 206 of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 210(b) of Pub. L. 98-573 applicable with respect to determinations made or ordered on or after Oct. 30, 1984, see section 214(c)(5)(B) of Pub. L. 98-573, set out as a note under section 1304 of this title.

Amendment by section 212 of Pub. L. 98-573 effective on close of 180th day after Oct. 30, 1984, see section 214(d) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 206 of Pub. L. 103-182 to be made after amendment by section 642(b) of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Se-

curity, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

AVAILABILITY OF TRANSPORTATION AND STORAGE FACILITIES FOR MILITARY PURPOSES

Act Sept. 29, 1942, ch. 567, 56 Stat. 761, authorized removal of merchandise in bond or customs custody from transportation and storage facilities needed for military purposes, and to repeal by act July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 1521. Repealed. Pub. L. 103-182, title VI, § 618, Dec. 8, 1993, 107 Stat. 2180

Section, acts June 17, 1930, ch. 497, title IV, § 521, 46 Stat. 739; June 2, 1970, Pub. L. 91-271, title III, § 301(b), 84 Stat. 287, provided for reliquidation of entry on account of fraud.

§ 1522. Omitted

CODIFICATION

Section, act June 17, 1930, ch. 497, title IV, § 522, 46 Stat. 739, amended section 372 of former Title 31. See section 5151 of Title 31, Money and Finance.

§ 1523. Examination of accounts

The Secretary of the Treasury or such officer or employee as he shall designate, shall, under regulations and instructions prescribed by the Secretary—

(1) examine the customs officers' accounts of receipts and disbursements of money and receipts and disposition of merchandise; and

(2) verify, to such extent as the Secretary of the Treasury shall direct, assessments of duties and taxes and allowances of drawback.

(June 17, 1930, ch. 497, title IV, § 523, 46 Stat. 740; Aug. 8, 1953, ch. 397, § 2(d), 67 Stat. 508; Pub. L. 91-271, title III, § 301(s), June 2, 1970, 84 Stat. 290.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 523, 42 Stat. 974. That section was superseded by section 523 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to customs officers for reference to collectors.

1953—Act Aug. 8, 1953, amended section generally by eliminating the provision continuing "naval officers of customs" as "Comptrollers of Customs"; by substituting the reference to "The Secretary of the Treasury or such officer or employee as he shall designate" for references to the comptrollers of customs; and, among other changes, substituting the provision that the verification of assessments of duties and allowances of drawbacks should be to such extent as the Secretary of the Treasury directs, for the former provision requiring such verification in all cases.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

§ 1524. Deposit of reimbursable charges

Receipts for any reimbursable charges or expenses which have been paid for out of any appropriation for collecting the revenue from customs shall be deposited as a refund to such appropriation instead of being covered into the Treasury as miscellaneous receipts, as provided by section 527 of this title.

(June 17, 1930, ch. 497, title IV, § 524, 46 Stat. 741; June 25, 1938, ch. 679, § 19(b), 52 Stat. 1087.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 524, 42 Stat. 975. That section was superseded by section 524 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1938—Act June 25, 1938, amended section generally.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

§ 1525. Repealed. Pub. L. 89-762, § 2, Nov. 5, 1966, 80 Stat. 1312

Section, act June 17, 1930, ch. 497, title IV, § 525, 46 Stat. 741, authorized the Secretary of the Treasury to employ not more than ten persons in the District of Columbia who have been detailed from the field force of the Customs Service.

§ 1526. Merchandise bearing American trademark**(a) Importation prohibited**

Except as provided in subsection (d) of this section, it shall be unlawful to import into the United States any merchandise of foreign manufacture if such merchandise, or the label, sign, print, package, wrapper, or receptacle, bears a trademark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent and Trademark Office by a person domiciled in the United States, under the provisions of sections 81 to 109 of title 15, and if a copy of the certificate of registration of such trademark is filed with the Secretary of the Treasury, in the manner provided in section 106 of said title 15, unless written consent of the owner of such trademark is produced at the time of making entry.

(b) Seizure and forfeiture

Any such merchandise imported into the United States in violation of the provisions of this section shall be subject to seizure and forfeiture for violation of the customs laws.

(c) Injunction and damages

Any person dealing in any such merchandise may be enjoined from dealing therein within the United States or may be required to export or destroy such merchandise or to remove or obliterate such trademark and shall be liable for the same damages and profits provided for wrongful use of a trade-mark, under the provisions of sections 81 to 109 of title 15.

(d) Exemptions; publication in Federal Register; forfeitures; rules and regulations

(1) The trademark provisions of this section and section 1124 of title 15, do not apply to the importation of articles accompanying any person arriving in the United States when such articles are for his personal use and not for sale if (A) such articles are within the limits of types and quantities determined by the Secretary pursuant to paragraph (2) of this subsection, and (B) such person has not been granted an exemption under this subsection within thirty days immediately preceding his arrival.

(2) The Secretary shall determine and publish in the Federal Register lists of the types of articles and the quantities of each which shall be entitled to the exemption provided by this subsection. In determining such quantities of particular types of trade-marked articles, the Secretary shall give such consideration as he deems necessary to the numbers of such articles usually purchased at retail for personal use.

(3) If any article which has been exempted from the restrictions on importation of the trade-mark laws under this subsection is sold within one year after the date of importation, such article, or its value (to be recovered from the importer), is subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not subject to the provisions of this paragraph.

(4) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this subsection.

(e) Merchandise bearing counterfeit mark; seizure and forfeiture; disposition of seized goods

Any such merchandise bearing a counterfeit mark (within the meaning of section 1127 of title 15) imported into the United States in violation of the provisions of section 1124 of title 15, shall be seized and, in the absence of the written consent of the trademark owner, forfeited for violations of the customs laws. Upon seizure of such merchandise, the Secretary shall notify the owner of the trademark, and shall, after forfeiture, destroy the merchandise. Alternatively, if the merchandise is not unsafe or a hazard to health, and the Secretary has the consent of the trademark owner, the Secretary may obliterate the trademark where feasible and dispose of the goods seized—

(1) by delivery to such Federal, State, and local government agencies as in the opinion of the Secretary have a need for such merchandise,

(2) by gift to such eleemosynary institutions as in the opinion of the Secretary have a need for such merchandise, or

(3) more than 90 days after the date of forfeiture, by sale by the Customs Service at pub-

lic auction under such regulations as the Secretary prescribes, except that before making any such sale the Secretary shall determine that no Federal, State, or local government agency or eleemosynary institution has established a need for such merchandise under paragraph (1) or (2).

(f) Civil penalties

(1) Any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized under subsection (e) shall be subject to a civil fine.

(2) For the first such seizure, the fine shall be not more than the value that the merchandise would have had if it were genuine, according to the manufacturer's suggested retail price, determined under regulations promulgated by the Secretary.

(3) For the second seizure and thereafter, the fine shall be not more than twice the value that the merchandise would have had if it were genuine, as determined under regulations promulgated by the Secretary.

(4) The imposition of a fine under this subsection shall be within the discretion of the Customs Service, and shall be in addition to any other civil or criminal penalty or other remedy authorized by law.

(June 17, 1930, ch. 497, title IV, §526, 46 Stat. 741; Pub. L. 93-596, §3, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 95-410, title II, §211(a), (c), Oct. 3, 1978, 92 Stat. 903; Pub. L. 103-182, title VI, §663, Dec. 8, 1993, 107 Stat. 2214; Pub. L. 104-153, §§9, 10, July 2, 1996, 110 Stat. 1388.)

REFERENCES IN TEXT

Sections 81 to 109 of title 15, referred to in subsecs. (a) and (c), were repealed by act July 5, 1946, ch. 540, §46(a), 61 Stat. 444. See sections 1051 to 1127, respectively, of Title 15, Commerce and Trade.

Section 106 of title 15, referred to in subsec. (a), was repealed by act July 15, 1946, ch. 540, §46(a), 60 Stat. 444. See section 1124 of Title 15.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §526, 42 Stat. 975. That section was superseded by section 526 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-153, §9, inserted “destroy the merchandise. Alternatively, if the merchandise is not unsafe or a hazard to health, and the Secretary has the consent of the trademark owner, the Secretary may” after “shall, after forfeiture,” in second sentence, inserted “or” at end of par. (2), substituted period for “, or” at end of par. (3), and struck out par. (4) which read as follows: “if the merchandise is unsafe or a hazard to health, by destruction.”

Subsec. (f). Pub. L. 104-153, §10, added subsec. (f).

1993—Subsec. (e)(3). Pub. L. 103-182 substituted “90 days” for “1 year” and “the Customs Service” for “appropriate customs officers”.

1978—Subsec. (a). Pub. L. 95-410, §211(a)(1), substituted “Except as provided in subsection (d) of this section, it” for “It”.

Subsec. (d). Pub. L. 95-410, §211(a)(2), added subsec. (d).

Subsec. (e). Pub. L. 95-410, §211(c), added subsec. (e).

CHANGE OF NAME

“Patent and Trademark Office” substituted for “Patent Office” in subsec. (a) pursuant to Pub. L. 93-596, §3,

Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1527. Importation of wild mammals and birds in violation of foreign law

(a) Importation prohibited

If the laws or regulations of any country, dependency, province, or other subdivision of government restrict the taking, killing, possession, or exportation to the United States, of any wild mammal or bird, alive or dead, or restrict the exportation to the United States of any part or product of any wild mammal or bird, whether raw or manufactured, no such mammal or bird, or part or product thereof, shall, after the expiration of ninety days after June 17, 1930, be imported into the United States from such country, dependency, province, or other subdivision of government, directly or indirectly, unless accompanied by a certification of the United States consul, for the consular district in which is located the port or place from which such mammal or bird, or part or product thereof, was exported from such country, dependency, province, or other subdivision of government, that such mammal or bird, or part or product thereof, has not been acquired or exported in violation of the laws or regulations of such country, dependency, province, or other subdivision of government.

(b) Forfeiture

Any mammal or bird, alive or dead, or any part or product thereof, whether raw or manufactured, imported into the United States in violation of the provisions of the preceding subdivision shall be subject to seizure and forfeiture under the customs laws. Any such article so forfeited may, in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe, be placed with the departments or bureaus of the Federal or State Governments, or with societies or museums, for exhibition or scientific or educational purposes, or destroyed, or (except in the case of heads or horns of wild mammals) sold in the manner provided by law.

(c) Section not to apply in certain cases

The provisions of this section shall not apply in the case of—

(1) Prohibited importations

Articles the importation of which is prohibited under the provisions of this chapter, or of section 42(a) of title 18, or of any other law;

(2) Scientific or educational purposes

Wild mammals or birds, alive or dead, or parts or products thereof, whether raw or

manufactured, imported for scientific or educational purposes;

(3) Certain migratory game birds

Migratory game birds (for which an open season is provided by the laws of the United States and any foreign country which is a party to a treaty with the United States, in effect on the date of importation, relating to the protection of such migratory game birds) brought into the United States by bona fide sportsmen returning from hunting trips in such country, if at the time of importation the possession of such birds is not prohibited by the laws of such country or of the United States.

(June 17, 1930, ch. 497, title IV, § 527, 46 Stat. 741.)

CODIFICATION

In subsec. (c)(1), “section 42(a) of title 18” substituted for “section 241 of the Criminal Code [18 U.S.C. 391]” on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

§ 1528. Taxes not to be construed as duties

No tax or other charge imposed by or pursuant to any law of the United States shall be construed to be a customs duty for the purpose of any statute relating to the customs revenue, unless the law imposing such tax or charge designates it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws. Nothing in this section shall be construed to limit or restrict the jurisdiction of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit.

(June 17, 1930, ch. 497, title IV, § 528, as added June 25, 1938, ch. 679, § 20, 52 Stat. 1087; amended Pub. L. 96-417, title VI, § 601(8), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 97-164, title I, § 163(a)(3), Apr. 2, 1982, 96 Stat. 49.)

AMENDMENTS

1982—Pub. L. 97-164 substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

1980—Pub. L. 96-417 redesignated the United States Customs Court as the United States Court of International Trade.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as an Effective Date of 1938 Amendment note under section 1401 of this title.

§ 1529. Collection of fees on behalf of other agencies

The Customs Service shall be reimbursed from the fees collected for the cost and expense, ad-

ministrative and otherwise, incurred in collecting any fees on behalf of any government¹ agency for any reason.

(June 17, 1930, ch. 497, title IV, § 529, as added Pub. L. 103-182, title VI, § 669, Dec. 8, 1993, 107 Stat. 2216.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

PART IV—TRANSPORTATION IN BOND AND WAREHOUSING OF MERCHANDISE

§ 1551. Designation as carrier of bonded merchandise

Under such regulations and subject to such terms and conditions as the Secretary of the Treasury shall prescribe—

(1) any common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route for the transportation of merchandise in the United States,

(2) any contract carrier authorized to operate as such by any agency of the United States, and

(3) any freight forwarder authorized to operate as such by any agency of the United States,

upon application, may, in the discretion of the Secretary, be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. A private carrier, upon application, may, in the discretion of the Secretary, be designated under the preceding sentence as a carrier of bonded merchandise, subject to such regulations and, in the case of each applicant, to such special terms and conditions as the Secretary may prescribe to safeguard the revenues of the United States with respect to the transportation of bonded merchandise by such applicant.

(June 17, 1930, ch. 497, title IV, § 551, 46 Stat. 742; Dec. 28, 1945, ch. 605, 59 Stat. 667; Pub. L. 87-598, Aug. 24, 1962, 76 Stat. 400; Pub. L. 87-854, Oct. 23, 1962, 76 Stat. 1130; Pub. L. 90-240, § 3, Jan. 2, 1968, 81 Stat. 776.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 551, 42 Stat. 975. That section was superseded by section 551 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions concerning transportation of merchandise in bond without appraisal to another port

¹ So in original. Probably should be capitalized.