

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.

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

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Sections 1362 to 1365 of this title, included in the reference to sections 1360 to 1367 of this title, were repealed by Pub.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.

Statutory Notes and Related Subsidiaries

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.

Statutory Notes and Related Subsidiaries

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 enforcement 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 appraisal 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.)

Editorial Notes

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, 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 reappraisalment, 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).

Statutory Notes and Related Subsidiaries

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.

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(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.

Executive Documents

CHANGE OF NAME

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.

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.

§ 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 similar 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 merchandise 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 appraisement; 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.)

Editorial Notes

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).

Statutory Notes and Related Subsidiaries**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 CONGRESSIONAL 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 sell-

ing 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 appraisal 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.

Statutory Notes and Related Subsidiaries

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 Commer-

cial 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 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.)

Editorial Notes

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).

Statutory Notes and Related Subsidiaries

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.

Executive Documents

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 docu-

ments 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.)

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes**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.

Statutory Notes and Related Subsidiaries**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 electronically 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.

toms 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.)

Statutory Notes and Related Subsidiaries**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 par-

ties 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 Decem-

¹ So in original.

ber 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;

(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) or (III).

(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.

(III) Notwithstanding subclause (I), during the period beginning on January 1, 2021, through March 15, 2021, the Postmaster General may accept a shipment without transmission of the information described in paragraphs (1) and (2) if the Commissioner determines, or concurs with the determination of the Postmaster General, that the shipment presents a low risk of violating any relevant United States statutes or regulations, including statutes or regulations relating to the importation of controlled substances such as fentanyl and other synthetic opioids.

(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; Pub. L. 116–260, div. N, title VIII, §802, Dec. 27, 2020, 134 Stat. 2119.)

Editorial Notes

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

2020—Subsec. (a)(3)(K)(vii)(I). Pub. L. 116–260, §802(1), substituted “subclause (II) or (III)” for “subclause (II)”.

Subsec. (a)(3)(K)(vii)(III). Pub. L. 116–260, §802(2), added subcl. (III).

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 sen-

tence, 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).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

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 Accountability, 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-