1935—Subsecs. (*l*) to (n). Act Aug. 5, 1935, added subsecs. (*l*) to (n).

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.

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this section and sections 1484, 1501, 1504, 1514, 1515, and 1520 of this title] shall apply to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Dec. 3, 2004].''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

Section 2(d) of act June 30, 1955, 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

Section 37 of act June 25, 1938, provided that: ''Sections 31 and 34 of this Act [amending section 1001 of this title] shall take effect on the date of enactment of this Act [June 25, 1938]. Except as otherwise specially provided in this Act, the remainder of this Act [amending this section and sections 1001, 1201, 1304, 1308, 1309, 1315, 1317, 1402, 1451, 1459, 1460, 1484, 1485, 1491, 1499, 1501, 1516, 1520, 1524, 1553, 1557, 1558, 1559, 1562, 1563, 1603, 1607, 1609, 1613, 1623, and 1709 of this title, enacting sections 1321, 1467, and 1528 of this title, and amending section 331 of former Title 46, Shipping] shall take effect on the thirtieth day following the date of its enactment.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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

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

§ 1401a. Value

(a) Generally

(1) Except as otherwise specifically provided for in this chapter, imported merchandise shall be appraised, for the purposes of this chapter, on the basis of the following:

(A) The transaction value provided for under subsection (b) of this section.

(B) The transaction value of identical merchandise provided for under subsection (c) of this section, 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) of this section.

(C) The transaction value of similar merchandise provided for under subsection (c) of this section, if the value referred to in subparagraph (B) cannot be determined.

(D) The deductive value provided for under subsection (d) of this section, 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) of this section, if the value referred to in subparagraph (D) cannot be determined.

(F) The value provided for under subsection (f) of this section, 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) of this section 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) of this section, 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 appraisement 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) of this section 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 appraisement 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) of this section, 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) of this section, 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) of this section to the price actually paid or payable,

(ii) deducted under subsection (d)(3) of this section as profit or general expense or value from further processing, or

(iii) added under subsection (e)(2) of this section as profit or general expense;

(B) any difference taken into account for purposes of subsection (b)(2)(C) of this section; or

(C) any adjustment made under subsection (c)(2) of this section;

means information that establishes the accuracy of such amount, difference, or adjustment.

(June 17, 1930, ch. 497, title IV, §402, as added Aug. 2, 1956, ch. 887, §2(a), 70 Stat. 943; amended Pub. L. 96–39, title II, §201(a), July 26, 1979, 93 Stat. 194; Pub. L. 96–490, §2, Dec. 2, 1980, 94 Stat. 2556.)

AMENDMENTS

1980—Subsec. (b)(2)(B). Pub. L. 96–490 amended par. (B) generally, omitting cl. (iii) which provided that ''the transaction value determined under this subsection in sales to unrelated buyers of merchandise, for exportation to the United States, that is identical in all respects to the imported merchandise but was not produced in the country in which the imported merchandise was produced'', and omitting the provision relating to cl. (iii) which provided that ''No two sales to unrelated buyers may be used for comparison for purposes of clause (iii) unless the sellers are unrelated.''

1979—Pub. L. 96–39 completely revised statutory standards for appraising the value of imported merchandise to conform to Customs Valuation Agreement, incorporating, as part of that revision, a new format of five methods of determining customs value in subsecs. (b) through (f), a group of special rules in subsec. (g), and definition of terms in subsec. (h).

EFFECTIVE DATE OF 1980 AMENDMENT

Section 2 of Pub. L. 96–490 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

Section 204 of title II of Pub. L. 96–39 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

Section 8 of act Aug. 2, 1956, 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

Section 203 of Pub. L. 96–39 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 re-

ferred 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

Section 6 of act Aug. 2, 1956, provided that:

''(a) The Secretary of the Treasury shall determine and make public a list of the articles which shall be valued in accordance with section 402a, Tariff Act of 1930, as amended by this Act [former section 1402 of this title], as follows:

''As soon as practicable after the enactment of this Act [Aug. 2, 1956] the Secretary shall make public a preliminary list of the imported articles which he shall have determined, after such investigation as he deems necessary, would have been appraised in accordance with section 402 of the Tariff Act of 1930, as amended by this Act [this section], at average values for each article which are 95 (or less) per centum of the average values at which such article was actually appraised during the fiscal year 1954. If within sixty days after the publication of such preliminary list any manufacturer, producer, or wholesaler in the United States presents to the Secretary his reason for belief that any imported articles not specified in such list and like or similar to articles manufactured, produced, or sold at wholesale by him would have been appraised in accordance with such section 402 [section 1401a of this title] at average values which are 95 (or less) per centum of the average values at which they were or would have been appraised under section 402a, Tariff Act of 1930, as amended by this Act, the Secretary shall cause such investigation of the matter to be made as he deems necessary. If in the opinion of the Secretary the reason for belief is substantiated by the investigation, the articles involved shall be added to the preliminary list and such list, including any additions so made thereto, shall be published as a final list. Every article so specified in the final list which is entered, or withdrawn from warehouse, for consumption on or after the thirtieth day following the date of publication of the final list shall be appraised in accordance with the provisions of section 402a, Tariff Act of 1930, as amended by this Act.

''(b) The final list published in accordance with the provisions of subsection (a), together with explanatory data, shall be transmitted promptly to the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''

§ 1402. Repealed. Pub. L. 96–39, title II, § 201(b), July 26, 1979, 93 Stat. 201

Section, acts June 17, 1930, ch. 497, title IV, § 402a, formerly § 402, 46 Stat. 708; June 25, 1938, ch. 679, § 8, 52 Stat. 1081, renumbered and amended Aug. 2, 1956, ch. 887, § 2(a), (f), 70 Stat. 943, 946; June 2, 1970, Pub. L. 91–271, title III, § 301(d), 84 Stat. 288, provided an alternative basis for valuation of articles designated by the Secretary of Treasury as provided for by act Aug. 2, 1956, ch. 887, § 6(a), 70 Stat. 948, as either the foreign value or the export value, whichever is higher, or if the appropriate customs officer determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value, or if the appropriate customs officer determines that neither the foreign value, the export value, nor the United States value can be satisfactorily ascertained, then the cost of production, or in the case of an article with respect to which there is in effect under section 1336 of this title a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article, defined foreign value, export value, United States value, cost of production, and American selling price, and provided for review of the decision of the appropriate customs officer.

Provisions similar to those of this section were contained in act Oct. 3, 1913, ch. 16, § III, L and R, 38 Stat. 185, 189, and in act May 27, 1921, ch. 14, title III, §§ 301–304, 42 Stat. 15, 16, all of which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 402, 42 Stat. 949, and were repealed by section 643 thereof. Section 402 of the 1922 act was superseded by section 402 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Earlier provisions on the subject were contained in R.S. §§ 2905–2907, and 2952, prior to repeal by act June 10, 1890, ch. 407, § 29, 26 Stat. 141; and in act June 10, 1890, ch. 407, §§ 11 and 19, 26 Stat. 136, 139, as amended by act July 24, 1897, ch. 11, § 32, 30 Stat. 211, and act Aug. 5, 1909, ch. 6, § 28, 36 Stat. 97, 101, prior to repeal by act Oct. 3, 1913, ch. 16, § IV, S, 38 Stat. 201.

R.S. § 2906, requiring the collector to cause the actual market value, or wholesale price at the period of exportation, to be appraised, and providing that such appraised value should be considered the value upon which duty should be assessed, and R.S. § 2913, relative to the appraisement of gloves protected by trademark, were repealed by section 642 of the act of Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1980, see section 204(a)(2) of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 1401a of this title.

SUBPART B—NATIONAL CUSTOMS AUTOMATION PROGRAM

§ 1411. National Customs Automation Program

(a) Establishment

The Secretary shall establish the National Customs Automation Program (hereinafter in this subpart referred to as the ''Program'') which shall be an automated and electronic system for processing commercial importations and shall include the following existing and planned components:

(1) Existing components:

(A) The electronic entry of merchandise.

(B) The electronic entry summary of required information.

(C) The electronic transmission of invoice information.

(D) The electronic transmission of manifest information.

(E) Electronic payments of duties, fees, and taxes.

(F) The electronic status of liquidation and reliquidation.

(G) The electronic selection of high risk entries for examination (cargo selectivity and entry summary selectivity).

(2) Planned components:

(A) The electronic filing and status of protests.

(B) The electronic filing (including remote filing under section 1414 of this title) of entry information with the Customs Service at any location.

(C) The electronic filing of import activity summary statements and reconciliation.

(D) The electronic filing of bonds.

(E) The electronic penalty process.

(F) The electronic filing of drawback claims, records, or entries.

(G) Any other component initiated by the Customs Service to carry out the goals of this subpart.

(b) Participation in Program

The Secretary shall by regulation prescribe the eligibility criteria for participation in the