fying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of Representatives, or both, are not in session at the time of such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(b) Transmittal by Commission of copy of report to the President to Congressional committees

Promptly after the President has transmitted such foreign trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of the portions of its report to the President dealing with the articles with respect to which such limits or minimum requirements are not complied with.

(June 16, 1951, ch. 141, § 4, 65 Stat. 73; Pub. L. 93–618, title I, § 171(b), Jan. 3, 1975, 88 Stat. 2009.)

CODIFICATION

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

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–618 substituted ''United States International Trade Commission'' for ''Tariff Commission''.

§§ 1362 to 1365. Repealed. Pub. L. 87–794, title II, § 257(e)(1), Oct. 11, 1962, 76 Stat. 882

Section 1362, act June 16, 1951, ch. 141, § 5, 65 Stat. 73, related to suspension or withdrawal of concessions from Communistic areas. See section 1801 et seq. of this title.

Section 1363, acts June 16, 1951, ch. 141, § 6, 65 Stat. 73; June 21, 1955, ch. 169, § 4, 69 Stat. 165, provided for an escape clause for future agreements, and insertion in past agreements.

Section 1364, acts June 16, 1951, ch. 141, § 7, 65 Stat. 74; Aug. 7, 1953, ch. 348, title I, § 102, 67 Stat. 472; June 21, 1955, ch. 169, §§ 5, 6, 69 Stat. 166; Aug. 20, 1958, Pub. L. 85–686, §§ 5(a), (b)(1), (c), 6, 72 Stat. 676, related to the operation of the escape clause.

Section 1365, act June 16, 1951, ch. 141, § 8(a), 65 Stat. 75, provided for emergency action for perishable agricultural products.

PRESIDENTIAL ACTION IN EFFECT ON OCTOBER 11, 1962

Section 257(e)(2) of Pub. L. 87–794 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

Section 257(e)(3) of Pub. L. 87–794 provided that: ''Any investigation by the Tariff Commission [now the United States International Trade Commission] under section 7 of such Act [former section 1364 of this title] which is in progress on the date of the enactment of this Act [Oct. 11, 1962] shall be continued under section 301 [section 1901 of this title] as if the application by the interested party were a petition under such section for tariff adjustment under section 351 [section 1981 of this title]. For purposes of section 301(f) [section 1901(f) of this title], such petition shall be treated as having been filed on the date of the enactment of this Act [Oct. 11, 1962].''

§ 1366. General Agreement on Tariff and Trade unaffected

The enactment of sections 1352(a), (c), 1354, and 1360 to 1367 of this title, and section 624(f) of title 7, shall not be construed to determine or indicate the approval or disapproval by the Congress of the Executive Agreement known as the General Agreement on Tariffs and Trade.

(June 16, 1951, ch. 141, § 10, 65 Stat. 75.)

REFERENCES IN TEXT

Sections 1362 to 1365 of this title, included in the reference to sections 1360 to 1367 of this title, were repealed by Pub. L. 87–749, title II, § 257(e)(1), Oct. 11, 1962, 76 Stat. 882; section 1367 of this title was repealed by Pub. L. 87–456, title III, § 303(c), May 24, 1962, 76 Stat. 78.

CODIFICATION

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

PRIOR PROVISIONS

Similar provisions were contained in act July 1, 1954, ch. 445, § 3, 68 Stat. 360, other sections of which amended section 1352(c) of this title and enacted section 1352a of this title; and in act Aug. 7, 1953, ch. 348, title I, § 103, 67 Stat. 472, which act amended section 624(b) of title 7, and sections 1330(d), 1352(c) and former section 1364(a) of this title, and enacted provisions set out as notes under sections 1351 and 1364 of this title.

CONGRESSIONAL APPROVAL OR DISAPPROVAL OF GENERAL AGREEMENT ON TARIFFS AND TRADE

Section 10 of Pub. L. 85–686 provided that: ''The enactment of this Act [enacting section 1335 of this title, amending sections 1333, 1336, 1337, 1351, 1352a, 1360, and former section 1364 of this title, and enacting notes set out under sections 1352 and 1366 of this title] shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade.''

§ 1367. Repealed. Pub. L. 87–456, title III, § 303(c), May 24, 1962, 76 Stat. 78

Section, act June 16, 1951, ch. 141, § 11, 65 Stat. 75, required the President to take such measures as may be necessary to prevent the importation of ermine, fox, kolinsky, marten, mink, muskrat, and weasel furs and skins which are the product of the Union of Soviet Socialist Republics or of Communist China.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87–456, set out as a note preceding section 1202 of this title.

SUBTITLE III—ADMINISTRATIVE PROVISIONS

PART I—DEFINITIONS AND NATIONAL CUSTOMS AUTOMATION PROGRAM

SUBPART A—DEFINITIONS

§ 1401. Miscellaneous

When used in this subtitle or in part I of subtitle II of this chapter—

(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 appraisement 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 Customs 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.)

REFERENCES IN TEXT

The Controlled Substances Import and Export Act, referred to in subsec. (m)(2), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

CODIFICATION

Section is based on the designated subsections of section 401 of act June 17, 1930, as amended. The last undesignated paragraph of section 401, as added by section 201 of act Aug. 5, 1935, was classified to section 1432a of this title, prior to being repealed by Pub. L. 103–182, §690(c)(5), Dec. 8, 1993, 107 Stat. 2223.

Words ''the Philippine Islands'' formerly set out in subsec. (h) were omitted on authority of Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §401, 42 Stat. 948, which superseded R.S. §§2766 and Section 401 of the 1922 act was superseded by section 401 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 Act.

Section III of the Underwood Tariff Act of Oct. 3, 1913, ch. 16, 38 Stat. 181, amending the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, was repealed by section 643 of the act of Sept. 21, 1922, ch. 356, title IV, 42 Stat. 989.

Section III, by subdivision A thereof, amended the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, as previously amended, to read as set forth in section III, subdivisions B–CC. By that amendment and reenactment, the Customs Administrative Act of June 10, 1890, and the amendments thereof by act July 24, 1897, ch. 11, §32, 30 Stat. 211, act May 17, 1898, ch. 341, 30 Stat. 417, Act Dec. 15, 1902, ch. 1, 32 Stat. 753, act May 27, 1908, ch. 205, 35 Stat. 403, and the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 91, were superseded, except the provisions thereof mentioned in a proviso of section IV, S, of that act.

The Customs Administrative Act of June 10, 1890, as originally enacted and as amended previous to the Payne-Aldrich Tariff Act, consisted of thirty sections, of which section 30 prescribed the time when the act should go into effect. Of the preceding twenty-nine sections of the original act, section 15 providing for review by the courts of decisions of the Board of General Appraisers, was omitted from the act as further amended by the Payne-Aldrich Tariff Act, and the remaining twenty-eight sections were amended thereby, constituting sections 1–28 thereof. A new section, designated as section 29, was added by the Payne-Aldrich Tariff Act, which created a Court of Customs Appeals and prescribed its jurisdiction and powers, proceedings, etc. Its provisions were incorporated in and superseded by chapter 8 of the Judicial Code of March 3, 1911. Another new section, designated as section 30, was also added by the Payne-Aldrich Tariff Act, which provided for the appointment of an Assistant Attorney-General, a Deputy Assistant Attorney-General, and attorneys, in charge of matters of reappraisement, etc., of imported goods and litigation incident thereto. Section 30 was incorporated into the Code as section 296 of former Title 5, Executive Departments and Government Officers and Employees, and subsequently repealed by Pub. L. 89–554, Sept. 6, 1966, §8(a), 80 Stat. 632.

AMENDMENTS

2004—Subsec. (i). Pub. L. 108–429, §1561(c), repealed Pub. L. 108–7, §127(b). See 2003 Amendment note below.

Pub. L. 108–429, §1561(a), inserted '', including foreign law enforcement officers,'' after ''or other person''.

Subsec. (t). Pub. L. 108–429, §2106, added subsec. (t).

2003—Subsec. (i). Pub. L. 108–7, §127(b), which directed amendment of section 1401(i) of title 19 by inserting '', including foreign law enforcement officers,'' after ''or other person'', was repealed by Pub. L. 108–429, §1561(c).

1996—Subsec. (s). Pub. L. 104–295, §18(a), amended first sentence generally. Prior to amendment, first sentence read as follows: ''The term 'reconciliation' means an electronic process, initiated at the request of an importer, under which the elements of an entry, other than those elements related to the admissibility of the merchandise, that are undetermined at the time of entry summary are provided to the Customs Service at a later time.''

Pub. L. 104–295, §3(a)(6)(A), inserted ''recordkeeping,'' after ''reliquidation,''.

1993—Subsec. (k). Pub. L. 103–182, §634(1), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows:

''(1) The term 'hovering vessel' means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue.

''(2) For the purposes of sections 1432, 1433, 1434, 1448, 1585, and 1586 of this title, any vessel which—

''(A) has visited any hovering vessel;

''(B) has received merchandise while in the customs waters beyond the territorial sea; or

''(C) has received merchandise while on the high seas;

shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place.''

Subsecs. (n) to (s). Pub. L. 103–182, §634(2), added subsecs. (n) to (s).

1986—Subsec. (c). Pub. L. 99–570, §3111(1), inserted '', and monetary instruments as defined in section 5312 of title 31''.

Subsec. (k). Pub. L. 99–570, §3111(2), (3), designated existing provisions as par. (1) and added par. (2).

Subsec. (m). Pub. L. 99–570, § 3111(4), added subsec. (m).

1970—Subsec. (h). Pub. L. 91–271, § 301(c)(1), (2), struck out subsec. (h) which defined ''collector'', and redesignated subsec. (k) as (h).

Subsec. (i). Pub. L. 91–271, § 301(c)(1), (2), struck out subsec. (i) which defined ''comptroller of customs'', redesignated subsec. (*l*) as (i), and, as so redesignated, defined ''customs officer''.

Subsec. (j). Pub. L. 91–271, § 301(c)(1), (2), struck out subsec. (j) which defined ''appraiser'', and redesignated subsec. (m) as (j).

Subsec. (k). Pub. L. 91–271, § 301(c)(1), (2), redesignated subsec. (n) as (k). Former subsec. (k) redesignated (h).

Subsec. (*l*). Pub. L. 91–271, § 301(c)(2), (3), added subsec. (*l*). Former subsec. (*l*) redesignated (i).

Subsecs. (m), (n). Pub. L. 91–271, § 301(c)(2), redesignated subsecs. (m) and (n) as (j) and (k), respectively.

1955—Subsec. (k). Act June 30, 1955, inserted ''Johnston Island''.

1938—Subsec. (k). Act June 25, 1938, inserted ''Wake Island, Midway Islands, Kingman Reef'' before ''and the island of Guam''.

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

CHANGE OF NAME

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