

(2) is presented to the Secretary more than 1 year after it occurs; or

(3) is presented by an officer or employee of the United States Government and arose within the scope of employment.

**(c) Final settlement**

A claim may be paid under this section only if the claimant accepts the amount of settlement in complete satisfaction of the claim.

(June 17, 1930, ch. 497, title IV, § 630, as added Pub. L. 103-182, title VI, § 670, Dec. 8, 1993, 107 Stat. 2216.)

TRANSFER OF FUNCTIONS

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

**§ 1631. Use of private collection agencies**

**(a) In general**

Notwithstanding any other provision of law, the Secretary, under such terms and conditions as the Secretary considers appropriate, shall enter into contracts and incur obligations with one or more persons for collection services to recover indebtedness arising under the customs laws and owed the United States Government, but only after the Customs Service has exhausted all administrative efforts, including all claims against applicable surety bonds, to collect the indebtedness.

**(b) Contract requirements**

Any contract entered into under subsection (a) of this section shall provide that—

(1) the Secretary retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

(2) the person is subject to—

(A) section 552a of title 5 to the extent provided in subsection (m) of such section; and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

**(c) Payment of costs**

The debtor shall be assessed and pay any and all costs associated with collection efforts pursuant to this section. Notwithstanding section 3302(b) of title 31, any sum so collected shall be used to pay the costs of debt collection services.

(June 17, 1930, ch. 497, title IV, § 631, as added Pub. L. 103-182, title VI, § 671, Dec. 8, 1993, 107 Stat. 2217; amended Pub. L. 104-295, § 3(a)(9), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 106-36, title I, § 1001(b)(5)(A), June 25, 1999, 113 Stat. 132.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (a), are classified generally to this title.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-36 amended directory language of Pub. L. 104-295. See 1996 Amendment note below.

1996—Subsec. (c). Pub. L. 104-295, as amended by Pub. L. 106-36, added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

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.

PART VI—MISCELLANEOUS PROVISIONS

**§ 1641. Customs brokers**

**(a) Definitions**

As used in this section:

(1) The term “customs broker” means any person granted a customs broker’s license by the Secretary under subsection (b) of this section.

(2) The term “customs business” means those activities involving transactions with the Customs Service concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof. It also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with the Customs Service in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs.

(3) The term “Secretary” means the Secretary of the Treasury.

**(b) Customs broker’s licenses**

**(1) In general**

No person may conduct customs business (other than solely on behalf of that person) unless that person holds a valid customs broker’s license issued by the Secretary under paragraph (2) or (3).

**(2) Licenses for individuals**

The Secretary may grant an individual a customs broker’s license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant’s knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

**(3) Licenses for corporations, etc.**

The Secretary may grant a customs broker's license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license granted under paragraph (2).

**(4) Duties**

A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

**(5) Lapse of license**

The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

**(6) Prohibited acts**

Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker's license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed \$10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A) of this section.

**(c) Customs broker's permits****(1) In general**

Each person granted a customs broker's license under subsection (b) of this section shall be issued, in accordance with such regulations as the Secretary shall prescribe, either or both of the following:

(A) A national permit for the conduct of such customs business as the Secretary prescribes by regulation.

(B) A permit for each customs district in which that person conducts customs business and, except as provided in paragraph (2), regularly employs at least 1 individual who is licensed under subsection (b)(2) of this section to exercise responsible supervision and control over the customs business conducted by that person in that district.

**(2) Exception**

If a person granted a customs broker's license under subsection (b) of this section can demonstrate to the satisfaction of the Secretary that—

(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2) of this section, and

(B) that sufficient procedures exist within the company for the person employed in that

region to exercise responsible supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

**(3) Lapse of permit**

The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) of this section within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d) of this section), result in the revocation by operation of law of the permit.

**(4) Appointment of subagents**

Notwithstanding subsection (c)(1) of this section, upon the implementation by the Secretary under section 1413(b)(2) of this title of the component of the National Customs Automation Program referred to in section 1411(a)(2)(B) of this title, a licensed broker may appoint another licensed broker holding a permit in a customs district to act on its behalf as its subagent in that district if such activity relates to the filing of information that is permitted by law or regulation to be filed electronically. A licensed broker appointing a subagent pursuant to this paragraph shall remain liable for any and all obligations arising under bond and any and all duties, taxes, and fees, as well as any other liabilities imposed by law, and shall be precluded from delegating to a subagent such liability.

**(d) Disciplinary proceedings****(1) General rule**

The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

(A) has made or caused to be made in any application for any license or permit under this section, or report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

(B) has been convicted at any time after the filing of an application for license under subsection (b) of this section of any felony or misdemeanor which the Secretary finds—

(i) involved the importation or exportation of merchandise;

(ii) arose out of the conduct of its customs business; or

(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

(C) has violated any provision of any law enforced by the Customs Service or the rules

or regulations issued under any such provision;

(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service, or the rules or regulations issued under any such provision;

(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

## **(2) Procedures**

### **(A) Monetary penalty**

Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed \$30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 1618 of this title to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 1618 of this title, the appropriate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

### **(B) Revocation or suspension**

The Customs Service may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or the Customs Service determines that the revocation or suspension is still warranted, it shall notify the customs broker in writing of a hearing to be held within 30 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5 who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and

place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to the Customs Service and the customs broker; which shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with the findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth the findings of fact and the reasons for the decision. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed \$30,000, than was contained in the notice to show cause.

### **(3) Settlement and compromise**

The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

### **(4) Limitation of actions**

Notwithstanding section 1621 of this title, no proceeding under this subsection or subsection (b)(6) of this section shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

## **(e) Judicial appeal**

### **(1) In general**

A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c) of this section, or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B) of this section, by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B) of this section, after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28.

**(2) Consideration of objections**

The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

**(3) Conclusiveness of findings**

The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

**(4) Additional evidence**

If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

**(5) Effect of proceedings**

The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

**(6) Failure to appeal**

If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

**(f) Regulations by the Secretary**

The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the Customs Service. The Secretary may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business. For purposes of this subsection or any other provision of this chapter pertaining to recordkeeping, all data required to be retained by a

customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium. Pursuant to such regulations as the Secretary shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker's business system.

**(g) Triennial reports by customs brokers****(1) In general**

On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) of this section shall file with the Secretary of the Treasury a report as to—

- (A) whether such person is actively engaged in business as a customs broker; and
- (B) the name under, and the address at, which such business is being transacted.

**(2) Suspension and revocation**

If a person licensed under subsection (b) of this section fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

- (A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.
- (B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.
- (C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

**(h) Fees and charges**

The Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) of this section and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.

(June 17, 1930, ch. 497, title IV, § 641, 46 Stat. 759; Aug. 26, 1935, ch. 689, §§ 3-5, 49 Stat. 864, 865; Pub. L. 85-791, § 8, Aug. 28, 1958, 72 Stat. 945; Pub. L. 91-271, title III, § 301(jj), June 2, 1970, 84 Stat. 291; Pub. L. 95-410, title I, § 113, Oct. 3, 1978, 92 Stat. 898; Pub. L. 96-417, title VI, § 611, Oct. 10, 1980, 94 Stat. 1746; Pub. L. 98-573, title II, § 212(a), Oct. 30, 1984, 98 Stat. 2978; Pub. L. 99-514, title XVIII, § 1888(8), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 103-182, title VI, § 648, Dec. 8, 1993, 107 Stat. 2207; Pub. L. 104-295, § 21(e)(11), Oct. 11, 1996, 110 Stat. 3531; Pub. L. 105-258, title III, § 302(b), Oct. 14, 1998, 112 Stat. 1916.)

**PRIOR PROVISIONS**

This section relates to the same subject matter as act June 10, 1910, ch. 283, §§ 1-5, 36 Stat. 464, 465 (incorporated into the Code as former sections 415 to 419 of this title); and those sections were expressly repealed by paragraph (e) of this section which read as follows: "(e) Licenses under Act of June 10, 1910.—The Act enti-

tled 'An Act to license customhouse brokers,' approved June 10, 1910, is hereby repealed, except that any license issued under such Act shall continue in force and effect, subject to suspension and revocation in the same manner and upon the same conditions as licenses issued pursuant to subdivision (a) of this section."

Act June 10, 1910, ch. 283, § 1, 36 Stat. 464, prior to its incorporation into the Code, referred to the collector or chief officer of the customs "at any port of entry or delivery." Ports of delivery, not specifically mentioned as ports of entry, were abolished in the reorganization of the customs service by the President (see notes to section 1 of this title).

Act June 10, 1910, ch. 283, § 3, 36 Stat. 465, prior to its incorporation into the Code, referred to the United States Circuit Court instead of the District Court. Section 291 of the act of Mar. 3, 1911, provided that any reference, in any law not embraced in that act, to the Circuit Courts, or any power or duty conferred upon them, should be deemed to refer to, and to confer such power and duty upon, the District Courts.

#### AMENDMENTS

1998—Subsec. (i). Pub. L. 105-258 struck out subsec. (i) which prohibited conference or group of two or more ocean common carriers from denying any member the right to take independent action on any level of compensation paid to an ocean freight forwarder who was also a customs broker, and from agreeing to limit payment to such a forwarder to less than 1.25 percent of aggregate of tariff rates and charges, and set out provisions relating to administration of provisions, remedies for violations, and definitions.

1996—Subsec. (d)(2)(B). Pub. L. 104-295 substituted "the findings of fact" for "his findings of fact" in penultimate sentence.

1993—Subsec. (a)(2). Pub. L. 103-182, § 648(1), inserted at end "It also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with the Customs Service in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs."

Subsec. (c)(1). Pub. L. 103-182, § 648(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Each person granted a customs broker's license under subsection (b) of this section shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) of this section to exercise responsible supervision and control over the customs business conducted by that person in that district."

Subsec. (c)(4). Pub. L. 103-182, § 648(3), added par. (4).

Subsec. (d)(2)(B). Pub. L. 103-182, § 648(4), in first sentence, substituted "Customs Service" for "appropriate customs officer", in third sentence, substituted "Customs Service" for "appropriate customs officer", "it shall notify" for "he shall notify", and "30" for "15", in sixth sentence, substituted "the Customs Service and the customs broker; which" for "the appropriate customs officer and the customs broker; they", in the seventh sentence, substituted "the findings of fact" for "his findings of fact", and in the eighth sentence, substituted "for the decision" for "for his decision".

Subsec. (f). Pub. L. 103-182, § 648(5), substituted "Customs Service. The Secretary may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business. For purposes of this subsection or any other provision of this Act pertaining to recordkeeping, all data required to be retained by a customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium. Pursuant to such regu-

lations as the Secretary shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker's business system." for "United States Customs Service."

1986—Subsec. (i). Pub. L. 99-514 added subsec. (i).

1984—Pub. L. 98-573 amended section generally, substituting provisions relating to customs broker's licenses and permits for provisions relating to licensing of customhouse brokers.

1980—Subsec. (b). Pub. L. 96-417, in second par., substituted in second sentence "filing, in the Court of International Trade" for "filing, in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia" and struck out penultimate sentence which read as follows: "The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Secretary of the Treasury shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in 1254 of title 28."

1978—Subsec. (e). Pub. L. 95-410 added subsec. (e).

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

1958—Subsec. (b). Pub. L. 85-791 in third sentence of second par., substituted "transmitted by the clerk of the court to" for "served upon", struck out "upon" before "any officer", "certify and" before "file in the court", "a transcript of" before "the record upon" and inserted "as provided in section 2112 of title 28", and in fourth sentence of second par., substituted "petition" for "transcript".

1935—Subsec. (a). Act Aug. 26, 1935, § 3, substituted "(c)" for "(e)" in last sentence.

Subsecs. (b) to (d). Act Aug. 26, 1935, § 4, amended subsecs. (b) to (d) generally.

Subsec. (e). Act Aug. 26, 1935, § 5, repealed subsec. (e) which related to licenses under the act of June 10, 1910.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-258, § 2, Oct. 14, 1998, 112 Stat. 1902, provided that: "Except as otherwise expressly provided in this Act [see Tables for classification], this Act and the amendments made by this Act take effect May 1, 1999."

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on close of 180th day following Oct. 30, 1984, with certain exceptions, except that subsec. (c)(1)(B), (2) of this section shall take effect three years after Oct. 30, 1984, see section 214(d) of Pub. L. 98-573, set out as a note under section 1304 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(2) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1970 AMENDMENT

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

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of Novem-

ber 25, 2002, as modified, set out as a note under section 542 of Title 6.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1989

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

**§ 1642. Omitted**

CODIFICATION

In compliance with a request from the President on July 2, 1932, the survey authorized by this section, act June 17, 1930, ch. 497, title IV, § 642, 46 Stat. 760, was made and submitted to the President on February 28, 1933. See Tariff Commission Reports, No. 70, Second Series.

**§ 1643. Application of customs reorganization act**

The rights, privileges, powers, and duties vested in or imposed upon the Secretary of the Treasury by this chapter shall be subject to the provisions of subdivision (a) of section 2073 of this title.

(June 17, 1930, ch. 497, title IV, § 643, 46 Stat. 761.)

REFERENCES IN TEXT

Subdivision (a) of section 2073 of this title, referred to in text, was repealed by act Sept. 3, 1954, ch. 1263, § 10, 68 Stat. 1229.

**§ 1644. Application of section 1644a(b)(1) of this title and section 1518(d) of title 33**

(a) The authority vested by section 1644a(b)(1) of this title in the Secretary of the Treasury, by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of customs, and of the laws and regulations relating to the entry and clearance of vessels, shall extend to the application in like manner of any of the provisions of this chapter, or of the Anti-Smuggling Act of 1935 [19 U.S.C. 1701 et seq.], or of any regulations promulgated hereunder.

(b) For purposes of section 1518(d) of title 33, the term “customs laws administered by the Secretary of the Treasury” shall mean this chapter and any other provisions of law classified to this title.

(June 17, 1930, ch. 497, title IV, § 644, 46 Stat. 761; Pub. L. 96–467, § 21(2), (3), Oct. 17, 1980, 94 Stat. 2228; Pub. L. 98–473, title II, § 322, Oct. 12, 1984, 98 Stat. 2056.)

REFERENCES IN TEXT

The Anti-Smuggling Act of 1935, referred to in subsec. (a), probably means the Anti-Smuggling Act which is act Aug. 5, 1935, ch. 438, 49 Stat. 517, as amended, which is classified principally to chapter 5 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see section 1711 of this title and Tables.

CODIFICATION

In subsec. (a), “section 1644a(b)(1) of this title” substituted for “section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. 1509)” on authority of Pub. L. 103–272,

§ 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–473 substituted reference to section 1509 of title 49, Appendix, for reference to section 177 of former title 49, struck out reference to the Commissioner of Customs, and inserted reference to the Anti-Smuggling Act of 1935.

Subsec. (b). Pub. L. 98–473 reenacted subsec. (b) without change.

1980—Pub. L. 96–467 designated existing provisions as subsec. (a) and added subsec. (b).

**§ 1644a. Ports of entry**

**(a) Definitions**

The definitions in section 40102(a) of title 49 apply to this section.

**(b) Secretary of the Treasury**

(1) The Secretary of the Treasury may—

(A) designate ports of entry in the United States for civil aircraft arriving in the United States from a place outside the United States and property transported on that aircraft;

(B) detail to ports of entry officers and employees of the United States Customs Service the Secretary considers necessary;

(C) give an officer or employee of the United States Government stationed at a port of entry (with the consent of the head of the department, agency, or instrumentality of the Government with jurisdiction over the officer or employee) duties and powers of officers or employees of the Customs Service;

(D) by regulation, apply to civil air navigation the laws and regulations on carrying out the customs laws, to the extent and under conditions the Secretary considers necessary; and

(E) by regulation, apply to civil aircraft the laws and regulations on entry and clearance of vessels, to the extent and under conditions the Secretary considers necessary.

(2) A person violating a customs regulation prescribed under paragraph (1)(A)–(D) of this subsection or a public health or customs law or regulation made applicable to aircraft by a regulation under paragraph (1)(A)–(D) is liable to the Government for a civil penalty of \$5,000 for each violation. An aircraft involved in the violation may be seized and forfeited under the customs laws. The Secretary of the Treasury may remit or mitigate a penalty and forfeiture under this paragraph.

(3) A person violating a regulation made applicable under paragraph (1)(E) of this subsection or an immigration regulation prescribed under paragraph (1)(E) is liable to the Government for a civil penalty of \$5,000 for each violation. The Secretary of the Treasury or the Attorney General may remit or mitigate a penalty under this paragraph.

(4) In addition to any other penalty, when a controlled substance described in section 1584 of this title is found on, or to have been unloaded from, an aircraft to which this subsection applies, the owner of, or individual commanding, the aircraft is liable to the Government for the penalties provided in section 1584 of this title for each violation unless the owner or individual, by a preponderance of the evidence, demonstrates

that the owner or individual did not know, and by exercising the highest degree of care and diligence, could not have known, that a controlled substance was on the aircraft.

(5) If a violation under this subsection is by the owner or operator of, or individual commanding, the aircraft, the aircraft is subject to a lien for the penalty.

**(c) Secretary of Agriculture**

(1) The Secretary of Agriculture by regulation may apply laws and regulations on animal and plant quarantine (including laws and regulations on importing, exporting, transporting, and quarantining animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums) to civil air navigation to the extent and under conditions the Secretary considers necessary.

(2) A person violating a law or regulation made applicable under paragraph (1) of this subsection is liable for the penalties provided under that law or regulation.

**(d) Remission and mitigation of penalties**

A decision to remit or mitigate a civil penalty under this section is final. When libel proceedings are pending during a proceeding to remit or mitigate a penalty, the appropriate Secretary shall notify the Attorney General of the remission or mitigation proceeding.

**(e) Summary seizure of aircraft**

(1) An aircraft subject to a lien under this section may be seized summarily by and placed in the custody of a person authorized by regulations of the appropriate Secretary or the Attorney General. A report of the case shall be sent to the Attorney General. The Attorney General shall bring promptly a civil action in rem to enforce the lien or notify the appropriate Secretary that the action will not be brought.

(2) An aircraft seized under this section shall be released from custody when—

(A) the civil penalty or amount not remitted or mitigated is paid;

(B) the aircraft is seized under process of a court in a civil action in rem to enforce the lien;

(C) the Attorney General gives notice that a civil action will not be brought under paragraph (1) of this subsection; or

(D) a bond is deposited with the appropriate Secretary or the Attorney General in an amount and with a surety the appropriate Secretary or the Attorney General prescribes, conditioned on payment of the penalty or amount not remitted or mitigated.

**(f) Collection of civil penalties**

A civil penalty under this section may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a trial by jury of an issue of fact if the value of the matter in controversy is more than \$20. An issue of fact tried by jury may be reexamined only under common law rules.

**(g) Authorization of appropriations**

Necessary amounts may be appropriated to allow the head of a department, agency, or instrumentality of the Government to acquire space at a public airport (as defined in section 47102 of title 49) when the head decides the space is necessary to carry out inspections, clearance, collection of taxes or duties, or a similar responsibility of the head, related to transporting passengers or property in air commerce. The head must consult with the Secretary of Transportation before making a decision on space.

(Pub. L. 103-272, §2, July 5, 1994, 108 Stat. 1358.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (b)(1)(D), (2), are classified generally to this title.

CODIFICATION

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

Section is based on sections 1474 and 1509(b)-(e) of former Title 49, Transportation, which were repealed and restated as this section by Pub. L. 103-272, §§2, 7(b), July 5, 1994, 108 Stat. 1358, 1379.

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.

**§ 1645. Transportation and interment of remains of deceased employees in foreign countries; travel or shipping expenses incurred on foreign ships**

**(a) Transfers in foreign countries**

The expense of transporting the remains of customs officers and employees who die while in or in transit to foreign countries in the discharge of their official duties, to their former homes in this country for interment, and the ordinary and necessary expenses for such interment, at their posts of duty or at home, are authorized to be paid upon the written order of the Secretary of the Treasury. The expenses authorized by this subdivision shall be paid from the appropriation for the collection of the revenue from customs.

**(b) Transportation on foreign ships**

Notwithstanding the provisions of section 601 of the Merchant Marine Act, 1928, or of any other law, any allowance, within the limitations prescribed by law, for travel or shipping expenses incurred on a foreign ship by any officer or employee of the Bureau of Customs or the Customs Service, shall be credited if the Secretary of the Treasury certifies to the Comptroller General that transportation on such foreign ship was necessary to protect the revenue.

(June 17, 1930, ch. 497, title IV, §645(a), (c), 46 Stat. 761; Aug. 2, 1946, ch. 744, §2, 60 Stat. 807.)

REFERENCES IN TEXT

Section 601 of the Merchant Marine Act, 1928, referred to in subsec. (b), was classified to section 891r of former

Title 46, Shipping, and was repealed by the Merchant Marine Act, 1936 (approved June 29, 1936, ch. 858, §903(c), 49 Stat. 2016), but was reenacted in substance by section 901 of that Act, which was classified to section 1241 of the former Appendix to Title 46, Shipping. Section 901 of the Merchant Marine Act, 1936 was subsequently repealed and restated in sections 55302, 55303, and 55305 of Title 46, Shipping, by Pub. L. 109-304, §§8(c), 19, Oct. 6, 2006, 120 Stat. 1586, 1710. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

#### CODIFICATION

Section is comprised of subsecs. (a) and (c) of section 645 of act June 17, 1930. Subsec. (b) of section 645 repealed in part section 48 of this title.

#### AMENDMENTS

1946—Subsec. (a). Act Aug. 2, 1946, eff. Nov. 1, 1946, repealed first sentence relating to traveling expenses of transferred employees. See section 5729 of Title 5, Government Organization and Employees.

#### CHANGE OF NAME

Bureau of Customs redesignated United States Customs Service by 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

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.

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. Bureau of Customs and Customs Service, referred to in text, were under Department of the Treasury.

#### **§ 1646. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948**

Section, act June 17, 1930, ch. 497, title IV, §646, 46 Stat. 762, related to tenure and retirement of judges of United States Court of Customs and Patent Appeals. See sections 213, 371, and 372 of Title 28, Judiciary and Judicial Procedure.

#### **§ 1646a. Supervision by customs officers**

Wherever in this chapter any action or thing is required to be done or maintained under the supervision of customs officers, such supervision may be directed and continuous or by occasional verification as may be required by regulations of the Secretary of the Treasury, or, in the absence of such regulations for a particular case, as the principal customs officer concerned shall direct.

(June 17, 1930, ch. 497, title IV, §646, as added Aug. 8, 1953, ch. 397, §22, 67 Stat. 520.)

#### EFFECTIVE DATE

Section effective on and after thirtieth day following Aug. 8, 1953, see Effective Date of 1953 Amendments note set out under section 1304 of this title.

#### **§ 1646b. Random customs inspections for stolen automobiles being exported**

The Commissioner of Customs shall direct customs officers to conduct at random inspections of automobiles, and of shipping containers that may contain automobiles that are being exported, for purposes of determining whether such automobiles were stolen.

(June 17, 1930, ch. 497, title IV, §646A, as added Pub. L. 102-519, title IV, §401, Oct. 25, 1992, 106 Stat. 3400.)

#### 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.

#### PILOT STUDY AUTHORIZING UTILITY OF NONDESTRUCTIVE EXAMINATION SYSTEM

Section 402 of Pub. L. 102-519 provided that: "The Secretary of the Treasury, acting through the Commissioner of Customs, shall conduct a pilot study of the utility of a nondestructive examination system to be used for inspection of containers that may contain automobiles leaving the country for the purpose of determining whether such automobiles have been stolen."

#### **§ 1646c. Export reporting requirement**

The Commissioner of Customs shall require all persons or entities exporting used automobiles, including automobiles exported for personal use, by air or ship to provide to the Customs Service, at least 72 hours before the export, the vehicle identification number of each such automobile and proof of ownership of such automobile. The Commissioner shall establish specific criteria for randomly selecting used automobiles scheduled to be exported, consistent with the risk of stolen automobiles being exported and shall check the vehicle identification number of each automobile selected pursuant to such criteria against the information in the National Crime Information Center to determine whether such automobile has been reported stolen. At the request of the Director of the Federal Bureau of Investigation, the Commissioner shall make available to the Director all vehicle identification numbers obtained under this section.

(June 17, 1930, ch. 497, title IV, §646B, as added Pub. L. 102-519, title IV, §401, Oct. 25, 1992, 106 Stat. 3400.)

#### 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.

**§ 1647. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948**

Section, act June 17, 1930, ch. 497, title IV, § 647, 46 Stat. 762, which repealed that part of section 195 of act Mar. 3, 1911, ch. 231, that read as follows: "in any case in which there is drawn in question the construction of the Constitution of the United States, or any part thereof, or of any treaty made pursuant thereto, or in any other case when the Attorney General of the United States shall, before the decision of the Court of Customs Appeals is rendered, file with the court a certificate to the effect that the case is of such importance as to render expedient its review by the Supreme Court," was repealed by act June 25, 1948, which repealed section 195 of act Mar. 3, 1911, ch. 231.

**§ 1648. Uncertified checks, United States notes, and national bank notes receivable for customs duties**

Customs officers may receive uncertified checks, United States notes, and circulating notes of national banking associations in payment of duties on imports, during such time and under such rules and regulations as the Secretary of the Treasury shall prescribe; but if a check so received is not paid the person by whom such check has been tendered shall remain liable for the payment of the duties and for all legal penalties and additions to the same extent as if such check had not been tendered.

(June 17, 1930, ch. 497, title IV, § 648, 46 Stat. 762; Pub. L. 91-271, title III, § 301(kk), June 2, 1970, 84 Stat. 291.)

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to customs officers for reference to collectors of customs.

EFFECTIVE DATE OF 1970 AMENDMENT

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

**§ 1649. Change in designation of customs attachés**

On and after June 17, 1930, customs attachés shall be known as "Treasury attachés."

(June 17, 1930, ch. 497, title IV, § 649, 46 Stat. 762.)

**§ 1650. Transferred**

CODIFICATION

Section, act June 17, 1930, ch. 497, title IV, § 650, 46 Stat. 762, is set out as a part of section 2072 of this title.

**§ 1651. Repeals**

**(a) Specific repeals**

The following Acts and parts of Acts are repealed, subject to the limitations provided in subdivision (c) of this section:

(1) The Tariff Act of 1922, except that the repeal of sections 304 and 482 (relating to marking of imported articles and to certified invoices, respectively) shall take effect sixty days after the enactment of this chapter;

(2) Section 16 of the Act entitled "An Act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes", approved June 26, 1884, as amended (relating to supplies for certain vessels);

(3) The Joint Resolution entitled "Joint Resolution Authorizing certain customs officials to administer oaths", approved April 2, 1928; and

(4) Section 2804 of the Revised Statutes, as amended (relating to limitations on importation packages of cigars).

**(b) General repeal**

All Acts and parts of Acts inconsistent with the provisions of this chapter are repealed.

**(c) Rights and liabilities under acts repealed or modified**

The repeal of existing laws or modifications or reenactments thereof embraced in this chapter shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal case prior to such repeal, modifications, or reenactments, but all liabilities under such laws shall continue and may be enforced in the same manner as if such repeal, modifications, or reenactments had not been made. All offenses committed and all penalties, under any statute embraced in, or changed, modified, or repealed by this chapter, may be prosecuted and punished in the same manner and with the same effect as if this chapter had not been passed. No Acts of limitation now in force, whether applicable to civil causes and proceedings, or to the prosecution of offenses or for the recovery of penalties or forfeitures embraced in, modified, changed, or repealed by this chapter shall be affected thereby so far as they affect any suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to June 18, 1930, which may be commenced and prosecuted within the same time and with the same effect as if this chapter had not been passed.

**(d) Certain acts not affected**

Nothing in this chapter shall be construed to amend or repeal any of the following provisions of law:

(1) Section 60501 or 60502 of title 46;

(2) Subsection 2 of paragraph N of Section IV of such Act of October 3, 1913, ch. 16 (relating to the manufacture of alcohol for denaturization only);

(3) Section 296 of title 5 (providing for an Assistant Attorney General in charge of customs matters);

(4) The Act entitled "An Act relating to the use or disposal of vessels or vehicles forfeited to the United States for violation of the customs laws or the National Prohibition Act, and for other purposes", approved March 3, 1925; nor

(5) The Antidumping Act, 1921 [19 U.S.C. 160 et seq.].

(June 17, 1930, ch. 497, title IV, § 651, 46 Stat. 762.)

REFERENCES IN TEXT

The Tariff Act of 1922, referred to in subsec. (a)(1), is act Sept. 21, 1922, ch. 356, 42 Stat. 858, as amended. For complete classification of this act to the Code, see Tables. Section 304 of that act was classified, prior to its repeal, to sections 132 and 133 of this title, and section 482 of that act was classified, prior to its repeal, to sections 334 to 337, 342, and 343 of this title.

Section 16 of the act approved June 26, 1884, referred to in subsec. (a)(2), is section 16 of act June 26, 1884, ch.

121, 23 Stat. 57, and was classified, prior to its repeal, to section 145 of this title. See section 1309 of this title.

Section 2804 of the Revised Statutes, referred to in subsec. (a)(4), was classified, prior to its repeal, to section 192 of this title.

Subsection 2 of paragraph N of Section IV of act of October 3, 1913, ch. 16, referred to in subsec. (d)(2), which appears at 38 Stat. 199 and which was classified to sections 487 and 488 of former Title 26, Internal Revenue, was repealed by act Feb. 10, 1939, ch. 2, § 4, 53 Stat. 1, which enacted the Internal Revenue Code of 1939.

Section 296 of title 5, referred to in subsec. (d)(3), was repealed in the general revision of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 636. The office of the Assistant Attorney General in charge of customs matters was abolished by Reorg. Plan No. 4 of 1953, § 2, eff. June 20, 1953.

Act of March 3, 1925, referred to in subsec. (d)(4), was repealed by act Aug. 27, 1935, ch. 740, § 308, 49 Stat. 880.

The Antidumping Act, 1921, referred to in subsec. (d)(5), is act May 27, 1921, ch. 14, title II, 42 Stat. 11, as amended, which was classified generally to sections 160 to 171 of this title, and was repealed by Pub. L. 96-39, title I, § 106(a), July 26, 1979, 93 Stat. 193.

#### CODIFICATION

In subsec. (d)(1), “Section 60501 or 60502 of title 46” substituted for “Subsections 1, 2, and 3 of paragraph J of Section IV of the Act entitled ‘An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes,’ approved October 3, 1913 (relating to restrictions on importations in foreign vessels or through contiguous countries), as modified by the Act of March 4, 1915, chapter 171” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted sections 60501 and 60502 of Title 46, Shipping.

#### PRIOR PROVISIONS

Provisions similar to those in subd. (c) of this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 641, 42 Stat. 989. That section was superseded by section 651 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

### § 1652. Separability

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(June 17, 1930, ch. 497, title IV, § 652, 46 Stat. 763.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 645, 42 Stat. 990. That section was superseded by section 652 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

#### CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978

Pub. L. 95-410, title IV, § 401, Oct. 3, 1978, 92 Stat. 905, provided that: “If any provision of this Act [see Short Title of 1978 Amendment note set out under section 1654 of this title], or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.”

### § 1653. Effective date of chapter

Except as otherwise provided, this chapter shall take effect on June 18, 1930.

(June 17, 1930, ch. 497, title IV, § 653, 46 Stat. 763.)

### § 1653a. Transferred

#### CODIFICATION

Section, act June 25, 1938, ch. 679, § 37, 52 Stat. 1094, related to the effective date of the Customs Administrative Act of 1938, and is set out as a note under section 1401 of this title.

Section was not part of Tariff Act of 1930 which constitutes this chapter.

### § 1654. Short title

This chapter may be cited as the “Tariff Act of 1930.”

(June 17, 1930, ch. 497, title IV, § 654, 46 Stat. 763.)

#### SHORT TITLE OF 2008 AMENDMENT

Act June 17, 1930, ch. 497, title VIII, § 801(a), as added Pub. L. 110-246, title III, § 3301(a), June 18, 2008, 122 Stat. 1844, provided that: “This title [enacting subtitle VI of this chapter] may be cited as the ‘Softwood Lumber Act of 2008.’”

[Another section 801 of act June 17, 1930, is classified to section 1681 of this title.]

#### SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-280, title XIV, § 1401(a), Aug. 17, 2006, 120 Stat. 1110, provided that: “This title [amending sections 58c, 1466, 1484, 1514, 1520, 1557, 1559, 1562, 1629, 2155, 2317, 2401, 3807, and 4034 of this title, enacting provisions set out as notes under sections 1466 and 1675 of this title, and amending provisions set out as a note under section 7101 of Title 7, Agriculture] may be cited as the ‘Miscellaneous Trade and Technical Corrections Act of 2006.’”

#### SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-429, § 1, Dec. 3, 2004, 118 Stat. 2434, provided that: “This Act [amending sections 58c, 1313, 1330, 1337, 1401, 1466, 1484, 1501, 1504, 1505, 1514, 1515, 1520, 1583, 1593a, 1629, 2155, 2171, 2271, 2272, 2298, 2318, 2346, 2395, 2401e, 2414, 2415, 2451, 2451a, 2463, 2703, 3203, 3721, 3802, 3803, 3805, and 3813 of this title, section 70b of Title 15, Commerce and Trade, and sections 5382 and 6103 of Title 26, Internal Revenue Code, repealing section 72 of Title 15, enacting provisions set out as notes under sections 1313, 1401, 1466, 1504, 1629, 2155, 2434, 2463, 2703, 3203, 3701, and 3721 of this title, section 7101 of Title 7, Agriculture, sections 70b and 72 of Title 15, and section 5382 of Title 26, amending provisions set out as notes under sections 2401, 2465, 3701, and 3805 of this title and section 7101 of Title 7, and repealing provisions set out as a note under section 1629 of this title] may be cited as the ‘Miscellaneous Trade and Technical Corrections Act of 2004.’”

#### SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-210, div. A, title III, § 301, Aug. 6, 2002, 116 Stat. 972, provided that: “This Act [probably means ‘This title’], enacting sections 1431a and 1583 of this title, amending sections 58c, 482, 1318, 1330, 1411, 1505, 1509, 2075, and 2171 of this title, and enacting provisions set out as notes under sections 58c, 482, 1583, 1625, 2071, 2075, and 2082 of this title] may be cited as the ‘Customs Border Security Act of 2002.’”

#### SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106-476, § 1, Nov. 9, 2000, 114 Stat. 2101, provided that: “This Act [enacting subtitle V of this chapter and section 1308 of this title, amending sections 58c, 1313, 1433, 1434, 1441, 1484, 1505, and 1555 of this title, section 5314 of Title 5, Government Organization and Employees, section 69 of Title 15, Commerce and Trade, and sections 5704, 5754, and 5761 of Title 26, Internal Revenue Code, and section 91 of Title 46, Appendix, Shipping, and enacting provisions set out as notes under this section and sections 58c, 1308, 1313, 1484, 1681, and 2434 of this title, sections 1, 5704, and 5761 of Title

26, and section 1113 of Title 31, Money and Finance] may be cited as the ‘Tariff Suspension and Trade Act of 2000’.”

Pub. L. 106-476, title I, §1441, Nov. 9, 2000, 114 Stat. 2163, provided that: “This chapter [chapter 3 (§§1441-1443) of subtitle B of title I of Pub. L. 106-476, enacting section 1308 of this title, amending section 69 of Title 15, Commerce and Trade, and enacting provisions set out as notes under section 1308 of this title], may be cited as the ‘Dog and Cat Protection Act of 2000’.”

Pub. L. 106-387, §1(a) [title X, §1001], Oct. 23, 2000, 114 Stat. 1549, 1549A-72, provided that: “This title [enacting section 1675c of this title and provisions set out as notes under section 1675c of this title] may be cited as the ‘Continued Dumping and Subsidy Offset Act of 2000’.”

#### SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-36, §1(a), June 25, 1999, 113 Stat. 127, provided that: “This Act [enacting section 1484b of this title, amending sections 58c, 81c, 81i, 1304, 1313, 1411, 1441, 1505, 1514, 1515, 1520, 1555, 1557, 1558, 1584, 1592, 1631, 1675, 2171, 2194, 2293, 2436, 2463, 2492, 2494, and 2495 of this title, sections 620 and 620c of Title 16, Conservation, sections 262n-2, 286gg, 1978, and 5712 of Title 22, Foreign Relations and Intercourse, sections 351, 357, 358, 362, 368, 584, and 1031 of Title 26, Internal Revenue Code, section 891e of Title 33, Navigation and Navigable Waters, sections 2296b, 2296b-6, and 6374 of Title 42, The Public Health and Welfare, and section 50103 of Title 49, Transportation, repealing sections 1708 and 2441 of this title, and enacting provisions set out as notes under sections 58c, 1304, 1313, 1484b, 1514, and 2434 of this title and section 351 of Title 26] may be cited as the ‘Miscellaneous Trade and Technical Corrections Act of 1999’.”

#### SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-258, §1, Oct. 14, 1998, 112 Stat. 1902, provided that: “This Act [see Tables for classification] may be cited as the ‘Ocean Shipping Reform Act of 1998’.”

#### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-295, §1(a), Oct. 11, 1996, 110 Stat. 3514, provided that: “This Act [amending sections 58c, 81c, 293, 294, 1304, 1313, 1321, 1337, 1401, 1413, 1431, 1436, 1441, 1484, 1490, 1491, 1504, 1505, 1508, 1509, 1514, 1515, 1516a, 1555, 1592, 1592a, 1625, 1631, 1641, 1671a, 1671b, 1671d, 1673a, 1673d, 1673f, 1675b, 1677, 1677-1, 1677n, 2171, 2192, 2252, 2411, 2414, 2416, 2462, 2514, 2515, 2518, 2532, 2541, 2543 to 2547, 2552, 2553, 2561, 2571, 2573, 2578a, 2707, 2905, 3007, 3010, 3332, 3358, 3381, 3432, 3437, 3451, 3552, 3571, 3572, 3591, 3592, and 3602 of this title, section 1854 of Title 7, Agriculture, section 104A of Title 17, Copyrights, and section 154 of Title 35, Patents, repealing sections 1707 and 2440 of this title, enacting provisions set out as notes under sections 58c, 81c, 1304, 1321, 1505, and 2462 of this title, and amending provisions set out as notes under sections 1466, 1553, and 2465 of this title] may be cited as the ‘Miscellaneous Trade and Technical Corrections Act of 1996’.”

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-570, title III, subtitle B, §3101, Oct. 27, 1986, 100 Stat. 3207-79, provided that: “This subtitle [subtitle B (§§3101-3161) of title III of Pub. L. 99-570, enacting sections 1590, 1628, 1629, and 2081 of this title, amending sections 507, 1401, 1433, 1436, 1454, 1459, 1497, 1509, 1584 to 1586, 1594 to 1595a, 1613, 1613b, 1619, and 1622 of this title, section 959 of Title 21, Food and Drugs, section 5316 of Title 31, Money and Finance, and section 12109 of Title 46, Shipping, repealing section 1460 of this title, and enacting provisions set out as a note under section 1613b of this title] may be cited as the ‘Customs Enforcement Act of 1986’.”

#### SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-573, §1, Oct. 30, 1984, 98 Stat. 2948, provided in part that this Act (see Tables for classification) may be cited as the “Trade and Tariff Act of 1984”.

#### SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-410, §1, Oct. 3, 1978, 92 Stat. 888, provided: “That this Act [enacting sections 58a, 1496a, 1504, 1508, 1625, and 2075 of this title, amending sections 467, 1202, 1315, 1321, 1466, 1483, 1484, 1491, 1505, 1509, 1510, 1520, 1526, 1557, 1559, 1584, 1592, 1599, 1603, 1607, 1610, 1612, 1613, 1615, 1621, and 1641 of this title, section 1124 of Title 15, Commerce and Trade, and section 883 of Title 46, Appendix, Shipping, repealing sections 58 and 1511 of this title and sections 329, 330, and 333 of former Title 46, and enacting provisions set out as notes under sections 1202, 1434, 1496a, 1504, 1557, 1592, and 1652 of this title] may be cited as the ‘Customs Procedural Reform and Simplification Act of 1978’.”

#### SHORT TITLE OF 1970 AMENDMENT

Section 201 of Pub. L. 91-271, June 2, 1970, 84 Stat. 282, provided that: “Titles II and III of this Act [amending sections 2, 6, 31, 32, 58, 66, 81c, 151, 161, 167 to 169, 261, 267, 282, 293, 341, 528, 1305, 1311, 1315, 1401, 1402, 1432, 1434, 1435b, 1438, 1441, 1443 to 1451, 1452 to 1455, 1457, 1467, 1482, 1484, 1485, 1490 to 1493, 1496, 1499 to 1503, 1505, 1506, 1509 to 1516, 1520, 1521, 1523, 1555, 1557, 1560, 1562 to 1565, 1584, 1586, 1595, 1602 to 1610, 1612 to 1614, 1617, 1618, 1623, 1641, and 1648 of this title, repealing sections 5, 5a, 7 to 11, 36, 37, 51, 63, and 1488 of this title, and enacting provisions set out as notes under this section] may be cited as ‘The Customs Administrative Act of 1970’.”

#### SHORT TITLE OF 1966 AMENDMENT

Section 1(a) of Pub. L. 89-651, Oct. 14, 1966, 80 Stat. 897, provided: “That this Act [enacting section 1544 of Title 28, Judiciary and Judicial Procedure, amending Schedules 2, 7, and 8 of the Tariff Schedules of the United States and section 2602 of Title 28, and enacting provisions set out as a note preceding section 1202 and under section 1981 of this title] may be cited as the ‘Educational, Scientific, and Cultural Materials Importation Act of 1966’.”

#### SHORT TITLE OF 1965 AMENDMENT

Section 1(a) of Pub. L. 89-241, Oct. 7, 1965, 79 Stat. 933, provided: “That this Act [amending section 1202 of this title and Schedules 1 to 8 and Appendix to Schedules, and enacting provisions set out as notes preceding section 1202 and under section 1981 of this title] may be cited as the ‘Tariff Schedules Technical Amendments Act of 1965’.”

Section 1(c) of Pub. L. 89-241, Oct. 7, 1965, 79 Stat. 933, provided that: “Title I of the Tariff Act of 1930 [subtitle I of this chapter], as in effect on or after August 31, 1963, may be cited as the ‘Tariff Schedules of the United States’.”

#### SHORT TITLE OF 1962 AMENDMENT

Section 1 of Pub. L. 87-456, May 24, 1962, 76 Stat. 72, provided: “That this Act [amending section 1312 of this title, section 1856 of Title 7, Agriculture, section 41 of Title 21, Food and Drugs, sections 4501 and 6418 of Title 26, Internal Revenue Code, section 474 of former Title 40, Public Buildings, Property, and Works, and section 2201 of Title 42, The Public Health and Welfare, repealing sections 193 to 195, 196a, 420, 1301a, 1308, 1367, 1489, 1504, and 1508 of this title and section 2383 of Title 10, Armed Forces, and enacting provisions set out as notes preceding section 1202 of this title and under section 1861 of this title and section 4501 of Title 26] may be cited as the ‘Tariff Classification Act of 1962’.”

#### SHORT TITLE OF 1958 AMENDMENT

Section 1 of Pub. L. 85-686, Aug. 20, 1958, 72 Stat. 673, provided: “That this Act [enacting section 1335 of this title, amending sections 1333, 1336, 1337, 1351, 1352a, 1360, and 1364 of this title, and enacting provisions set out as notes under sections 1351 and 1352 of this title] may be cited as the ‘Trade Agreements Extension Act of 1958’.”

#### SHORT TITLE OF 1956 AMENDMENT

Section 1 of act Aug. 2, 1956, ch. 887, 70 Stat. 943, provided: “That this Act [enacting section 1401a of this

title, amending sections 1001, 1402, 1500, and 1583 of this title, and section 372 of former Title 31, Money and Finance, repealing sections 12 to 18, 21, 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, and section 711 of former Title 31, and enacting provisions set out as notes under sections 2, 160, 1351, 1401a, and 1402 of this title] may be cited as the ‘Customs Simplification Act of 1956’.’

SHORT TITLE OF 1955 AMENDMENT

Section 1 of act June 21, 1955, ch. 169, 69 Stat. 162, provided: ‘‘That this Act [amending sections 1351, 1352, 1352a, 1363, and 1364 of this title] may be cited as the ‘Trade Agreements Extension Act of 1955’.’

SHORT TITLE OF 1954 AMENDMENT

Section 1 of act Sept. 1, 1954, ch. 1213, 68 Stat. 1136, provided: ‘‘That this Act [enacting sections 1301a and 1595a of this title, amending sections 161, 1001, 1201, 1441, 1451, 1581, 1605, 1607, 1610, 1612 of this title, section 545 of Title 18, Crimes and Criminal Procedure, section 91 of Title 46, Appendix, Shipping, sections 1421e, 1644 of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under sections 160 and 1332 of this title] may be cited as the ‘Customs Simplification Act of 1954’.’

SHORT TITLE OF 1953 AMENDMENTS

Section 1 of act Aug. 8, 1953, ch. 397, 67 Stat. 507, provided in part: ‘‘That this Act [amending sections 268, 1001, 1201, 1304, 1308, 1309, 1313, 1315, 1317, 1321, 1431, 1439, 1440, 1482, 1484, 1486, 1487, 1489, 1498, 1501, 1503, 1508, 1520, 1523, 1557, and 1562 of this title, enacting sections 1322 and 1646a of this title, and repealing sections 33-35, 39, 42-45, 273, 274, 472-475, 1320, and 1503a of this title] may be cited as the ‘Customs Simplification Act of 1953’.’

Section 1 of act Aug. 7, 1953, ch. 348, 67 Stat. 472, provided: ‘‘That this Act [amending sections 1330, 1352, and 1364 of this title, section 624 of Title 7, Agriculture, and provisions set out as notes under sections 1351, 1364, and section 1366 of this title] may be cited as the ‘Trade Agreements Extension Act of 1953’.’

SHORT TITLE OF 1951 AMENDMENT

Section 1 of act June 16, 1951, ch. 141, 65 Stat. 72, provided: ‘‘That this Act [enacting sections 1360 to 1367 of this title, amending sections 1352 and 1354 of this title, provisions set out as a note under section 1516 of this title, and section 624 of Title 7, Agriculture] may be cited as the ‘Trade Agreements Extension Act of 1951’.’

SHORT TITLE OF 1949 AMENDMENT

Section 1 of act Sept. 26, 1949, ch. 585, 63 Stat. 697, provided: ‘‘That this Act [amending sections 1351, 1352, and 1354 of this title and repealing sections 1357 to 1359 of this title] may be cited as the ‘Trade Agreements Extension Act of 1949’.’

SHORT TITLE OF 1938 AMENDMENT

Section 1 of act June 25, 1938, ch. 679, 52 Stat. 1077, provided: ‘‘That this Act [enacting sections 1321, 1467, 1528 of this title, amending sections 1001, 1201, 1304, 1308, 1309, 1315, 1317, 1401, 1402, 1451, 1459, 1460, 1484, 1485, 1491, 1499, 1501, 1516, 1520, 1524, 1553, 1557 to 1559, 1562, 1563, 1603, 1607, 1609, 1613, 1623, 1709 of this title, and section 331 of former Title 46, Shipping, and enacting provisions set out as a note under section 1516 of this title] may be cited as the ‘Customs Administrative Act of 1938’.’

SUBTITLE IV—COUNTERVAILING AND  
ANTIDUMPING DUTIES

PART I—IMPOSITION OF COUNTERVAILING DUTIES

CODIFICATION

The designations ‘‘SUBTITLE IV’’ and ‘‘PART I’’ were in the original ‘‘TITLE VII’’ and ‘‘Subtitle A’’ respec-

tively, and were editorially changed in order to conform the numbering format of this subtitle to the usages employed in the codification of the remainder of the Tariff Act of 1930 as originally enacted.

§ 1671. Countervailing duties imposed

(a) General rule

If—

(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States, and

(2) in the case of merchandise imported from a Subsidies Agreement country, the Commission determines that—

(A) an industry in the United States—

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation,

then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net countervailable subsidy. For purposes of this subsection and section 1671d(b)(1) of this title, a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

(b) Subsidies Agreement country

For purposes of this subtitle, the term ‘‘Subsidies Agreement country’’ means—

(1) a WTO member country,

(2) a country which the President has determined has assumed obligations with respect to the United States which are substantially equivalent to the obligations under the Subsidies Agreement, or

(3) a country with respect to which the President determines that—

(A) there is an agreement in effect between the United States and that country which—

(i) was in force on December 8, 1994, and

(ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States, and

(B) the agreement described in subparagraph (A) does not expressly permit—

(i) actions required or permitted by the GATT 1947 or GATT 1994, as defined in section 3501(1) of this title, or required by the Congress, or

(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.