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SUBTITLE I—HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

CODIFICATION

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

CHANGE OF NAME

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

ENACTMENT OF HARMONIZED TARIFF SCHEDULE

Pub. L. 100-418, title I, §1204(a), Aug. 23, 1988, 102 Stat. 1148, provided that: “The Tariff Act of 1930 [this chapter] is amended by striking out title I and inserting a

new title I entitled ‘Title I—Harmonized Tariff Schedule of the United States’ (hereinafter in this subtitle [subtitle B, §§1201 to 1217, of title I, see Tables for classification] referred to as the ‘Harmonized Tariff Schedule’) which—

“(1) consists of—

“(A) the General Notes;

“(B) the General Rules of Interpretation;

“(C) the Additional U.S. Rules of Interpretation;

“(D) sections I to XXII, inclusive (encompassing chapters 1 to 99, and including all section and chapter notes, article provisions, and tariff and other treatment accorded thereto); and

“(E) the Chemical Appendix to the Harmonized Tariff Schedule;

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

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

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

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

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

§ 1202. Harmonized Tariff Schedule

PUBLICATION OF HARMONIZED TARIFF SCHEDULE

The Harmonized Tariff Schedule of the United States is not published in the Code. A current version of the Harmonized Tariff Schedule is maintained and published periodically by the United States International Trade Commission and is available at <http://www.usitc.gov/tata/hts> and for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

SUBTITLE II—SPECIAL PROVISIONS

PART I—MISCELLANEOUS

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

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

EFFECTIVE DATE OF REPEAL

Repeal effective May 1, 1946, see section 512 of act Apr. 30, 1946, set out as an Effective Date note under

section 1354 of Title 22, Foreign Relations and Inter-course.

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

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

§ 1302. Omitted

CODIFICATION

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

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

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

EFFECTIVE DATE OF REPEAL

Section 261(a) of title II of Pub. L. 103-465 provided that this section is repealed "effective on the effective date of this title [Jan. 1, 1995, see Effective Date of 1994 Amendment note set out under section 1671 of this title]".

SAVINGS PROVISION

Section 261(b), (c) of title II of Pub. L. 103-465 provided that:

"(b) SAVINGS PROVISIONS.—

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

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

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

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

"(2) PROCEEDINGS NOT AFFECTED.—The provisions of subsection (a) shall not affect any proceedings, including notices of proposed rulemaking, pending before the administering authority or the International Trade Commission on the effective date of this title with respect to such section 303 [19 U.S.C. 1303]. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, in accordance with such section 303 as in effect on the day before the effective date of this title and, except as provided in paragraph (3), shall be subject to review under section 751 of the Tariff Act of 1930 [19 U.S.C. 1675] and, to the extent applicable, investigation under section 753 of such Act [19 U.S.C. 1675b]. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, set aside, or revoked in accord-

ance with law by the administering authority, a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

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

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

REFERENCES TO FORMER SECTION 1303

Section 261(d)(1)(C) of Pub. L. 103-365 provided that: "Any reference to section 303 [19 U.S.C. 1303] in any other Federal law, Executive order, rule, or regulation shall be treated as a reference to section 303 of the Tariff Act of 1930 as in effect on the day before the effective date of title II of this Act [Jan. 1, 1995, see Effective Date of 1994 Amendment note set out under section 1671 of this title]."

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

§ 1304. Marking of imported articles and containers

(a) Marking of articles

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

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

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

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

(A) Such article is incapable of being marked;

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

(C) Such article cannot be marked prior to shipment to the United States, except at an

expense economically prohibitive of its importation;

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

(E) Such article is a crude substance;

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

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

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

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

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

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

(b) Marking of containers

Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a) of this section. If articles are excepted from marking requirements under clause (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements of this

section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin.

(c) Marking of certain pipe and fittings

(1) Except as provided in paragraph (2), no exception may be made under subsection (a)(3) of this section with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, engraving, or continuous paint stenciling.

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

(d) Marking of compressed gas cylinders

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

(e) Marking of certain manhole rings or frames, covers, and assemblies thereof

No exception may be made under subsection (a)(3) of this section with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, engraving, or an equally permanent method of marking.

(f) Marking of certain coffee and tea products

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

(g) Marking of spices

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

(h) Marking of certain silk products

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

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

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

(i) Additional duties for failure to mark

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

(j) Delivery withheld until marked

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

(k) Treatment of goods of NAFTA country

(1) Application of section

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

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

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

- (i) is an original work of art, or
- (ii) is provided for under subheading 6904.10, heading 8541, or heading 8542 of the

Harmonized Tariff Schedule of the United States; and

(C) subsection (b) of this section does not apply to the usual container of any good described in subsection (a)(3)(E) or (I) of this section or subparagraph (B)(i) or (ii) of this paragraph.

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

(A) Definitions

For purposes of this paragraph:

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

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

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

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

(B) Intervention or petition regarding adverse marking decisions

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

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

(C) Effect of determination regarding decision

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

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

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

(D) Judicial review

For purposes of judicial review, the denial of a petition under subparagraph (C)(ii) shall be treated as if it were a denial of a petition of an interested party under section 1516 of this title regarding an issue arising under any of the preceding provisions of this section.

(I) Penalties

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

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

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

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

REFERENCES IN TEXT

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

PRIOR PROVISIONS

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1999 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1907(a)(2) of Pub. L. 100-418 provided that:

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

“(B) The conviction of a person under section 304(h) of the Tariff Act of 1930 [19 U.S.C. 1304(h)] for an act committed before the date of the enactment of this Act shall be disregarded for purposes of applying paragraph (2) of such subsection (as added by the amendment made by paragraph (1) of this subsection[]).”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 214 of title II of Pub. L. 98-573 provided that: “(a) For purposes of this section, the term ‘15th day’ means the 15th day after the date of the enactment of this Act [Oct. 30, 1984].

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

sections 2, 81c, 81o, and 1339 of this title, and section 162 of Title 26] shall take effect on the 15th day.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(2) A license in effect on the date of enactment of this Act [Oct. 30, 1984] under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of section 212 and such licenses shall be accepted as permits for the district or districts covered by that license.

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

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

“(e) The amendments made by section 213 [enacting sections 1589a, 1613b, and 1616a of this title, amending

sections 1602, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1618, and 1619 of this title and repealing section 7607 of Title 26, Internal Revenue Code] shall take effect October 15, 1984.”

EFFECTIVE DATE OF 1953 AMENDMENTS, ENACTMENTS, AND REPEALS

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

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

EFFECTIVE DATE OF 1938 AMENDMENT

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

SAVINGS PROVISION

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

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(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 other officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Customs officers and employees, referred to in text, were under Department of the Treasury.

MARKING REQUIREMENTS FOR ARTICLES QUALIFYING AS GOODS OF NAFTA COUNTRY

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

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147

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

§ 1305. Immoral articles; importation prohibited

(a) Prohibition of importation

All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the appropriate customs officer that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further*, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes: *Provided further*, That effective January 1, 1993, this section shall not apply to any lottery ticket, printed paper that may be used as a lottery ticket, or advertisement of any lottery, that is printed in Canada for use in connection with a lottery conducted in the United States.

(b)¹ Enforcement procedures

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

(1) the office at which such seizure took place; or

(2) the place to which such book or matter is addressed;

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

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

(c)¹ Institution of forfeiture proceedings

Notwithstanding the provisions of subsections (a) and (b) of this section, whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30 days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

(d) Stay of forfeiture proceedings

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

(b)¹ Coordination of forfeiture proceedings with criminal proceedings

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

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

(3) If the United States attorney is of the opinion that no prejudice to such investigation will

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

² So in original. Probably should not be capitalized.

result from such referral, such attorney shall immediately so notify the Customs Service in writing. The appropriate customs officer shall immediately notify in writing the addressee or consignee of the seizure and shall transmit information concerning such seizure to the United States Attorney² of the district in which is situated the office at which such seizure has taken place. The actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 14 days of the seizure unless the United States Attorney² of the district of the addressee's residence certifies in writing and includes specific, articulable facts demonstrating that the determination required in paragraph (2) of this subsection could not be made in sufficient time to comply with this deadline. In such cases, the actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 21 days of seizure.

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

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

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

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

copy of the notification described in subparagraph (A) or (B) of this paragraph shall be affixed to the complaint for forfeiture.

(c)³ Stay on motion

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

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

PRIOR PROVISIONS

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

1948—Subsec. (b). Act June 25, 1948, eff. Sept. 1, 1948, repealed subsec. (b) which related to penalties against

³So in original. Two subsecs. (b) and (c) have been enacted. Second subsecs. (b) and (c) probably should be designated (e) and (f), respectively.

government officers. See section 552 of Title 18, Crimes and Criminal Procedure.

CHANGE OF NAME

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

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

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

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1971 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

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

IMPORTATION OF RU-486

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

Memorandum for the Secretary of Health and Human Services

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

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

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

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

WILLIAM J. CLINTON.

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

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

§ 1307. Convict-made goods; importation prohibited

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

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

(June 17, 1930, ch. 497, title III, §307, 46 Stat. 689; Pub. L. 106-200, title IV, §411(a), May 18, 2000, 114 Stat. 298.)

PRIOR PROVISIONS

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

Sept. 21, 1922, was superseded by section 307 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2000—Pub. L. 106–200 inserted at end “For purposes of this section, the term ‘forced labor or/and indentured labor’ includes forced or indentured child labor.”

EFFECTIVE DATE OF 2000 AMENDMENT

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

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

Pub. L. 108–90, title V, §514, Oct. 1, 2003, 117 Stat. 1154, provided that: “For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a determination, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).”

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

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

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

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

REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR UNITED STATES MARKET

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

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

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

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

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

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

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

Pub. L. 100–418, title I, §1906, Aug. 23, 1988, 102 Stat. 1313, related to Congressional findings of deplorable

forced labor conditions in former Soviet Union and request of President to instruct Secretary of the Treasury to enforce this section without delay, prior to repeal by Pub. L. 103–199, title II, §204(a), Dec. 17, 1993, 107 Stat. 2322.

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

(a) Definitions

In this section:

(1) Cat fur

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

(2) Interstate commerce

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

(3) Customs laws

The term “customs laws of the United States” means any other law or regulation enforced or administered by the United States Customs Service.

(4) Designated authority

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

(5) Dog fur

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

(6) Dog or cat fur product

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

(7) Person

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

(8) United States

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

(b) Prohibitions

(1) In general

It shall be unlawful for any person to—

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

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

(2) Exception

This subsection shall not apply to the importation, exportation, or transportation, for

noncommercial purposes, of a personal pet that is deceased, including a pet preserved through taxidermy.

(c) Penalties and enforcement

(1) Civil penalties

(A) In general

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

- (i) \$10,000 for each separate knowing and intentional violation;
- (ii) \$5,000 for each separate grossly negligent violation; or
- (iii) \$3,000 for each separate negligent violation.

(B) Debarment

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

(C) Factors in assessing penalties

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

(D) Notice

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

(2) Forfeiture

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

(3) Enforcement

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

(4) Regulations

Not later than 270 days after November 9, 2000, the designated authorities shall, after notice and opportunity for comment, issue regu-

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

(5) Reward

The designated authority shall pay a reward of not less than \$500 to any person who furnishes information that establishes or leads to a civil penalty assessment, debarment, or forfeiture of property for any violation of this section or any regulation issued under this section.

(6) Affirmative defense

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

- (A) in determining the nature of the products alleged to have resulted in such violation; and
- (B) in ensuring that the products were accompanied by documentation, packaging, and labeling that were accurate as to the nature of the products.

(7) Coordination with other laws

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

(d) Publication of names of certain violators

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

(e) Reports

In order to enable Congress to engage in active, continuing oversight of this section, the designated authorities shall provide the following:

(1) Plan for enforcement

Within 3 months after November 9, 2000, the designated authorities shall submit to Con-

gress a plan for the enforcement of the provisions of this section, including training and procedures to ensure that United States Government personnel are equipped with state-of-the-art technologies to identify potential dog or cat fur products and to determine the true content of such products.

(2) Report on enforcement efforts

Not later than 1 year after November 9, 2000, and on an annual basis thereafter, the designated authorities shall submit a report to Congress on the efforts of the United States Government to enforce the provisions of this section and the adequacy of the resources to do so. The report shall include an analysis of the training of United States Government personnel to identify dog and cat fur products effectively and to take appropriate action to enforce this section. The report shall include the findings of the designated authorities as to whether any government has engaged in a pattern or practice of support for trade in products the importation of which are prohibited under this section.

(June 17, 1930, ch. 497, title III, § 308, as added Pub. L. 106-476, title I, § 1443(a), Nov. 9, 2000, 114 Stat. 2164.)

REFERENCES IN TEXT

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

PRIOR PROVISIONS

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

EFFECTIVE DATE

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

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(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.

FINDINGS AND PURPOSES

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

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

“(1) An estimated 2,000,000 dogs and cats are slaughtered and sold annually as part of the international

fur trade. Internationally, dog and cat fur is used in a wide variety of products, including fur coats and jackets, fur trimmed garments, hats, gloves, decorative accessories, stuffed animals, and other toys.

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

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

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

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

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

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

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

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

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

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

“(2) require accurate labeling of fur species so that consumers in the United States can make informed

choices and ensure that they are not unwitting contributors to this gruesome trade; and

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

§ 1309. Supplies for certain vessels and aircraft

(a) Exemption from customs duties and internal-revenue tax

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

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

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

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

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

(b) Drawback

Articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous customs custody elsewhere than in a bonded

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

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

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

(d) Reciprocal privileges

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

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

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § IV, K, 38 Stat. 197, which superseded a like provision made by an amendment of R.S. § 2982, by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 21, 36 Stat. 88. Section IV, K, of the act of 1913, and R.S. § 2982 were superseded by act Sept. 21, 1922, ch. 356, title III, § 309, 42 Stat. 938, and respectively repealed by sections 321 and 642 thereof. Section 309 of the act of 1922 was superseded by section 309 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

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

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

1953—Subsec. (a). Act Aug. 8, 1953, extended the exemption from payment of duty and internal revenue tax theretofore available to supplies for certain vessels and aircraft withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere to supplies withdrawn from foreign

trade zones; accorded free entry for equipment withdrawn for foreign vessels; and enlarged the classes of vessels and aircraft theretofore covered to include all vessels and aircraft operated by the United States.

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

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

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

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

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

EFFECTIVE DATE OF 1960 AMENDMENT

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

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

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

EFFECTIVE DATE OF 1938 AMENDMENT

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

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

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

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

PRIOR PROVISIONS

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

§ 1311. Bonded manufacturing warehouses

All articles manufactured in whole or in part of imported materials, or of materials subject to

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

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

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

Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the appropriate customs officer of the port, who shall certify to such shipment and exportation, or lading for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided*, That the by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under the Act of March 24, 1874, ch. 65, 18 Stat. 24, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the

duty which would be assessed and collected by law if such waste or by-products were imported from a foreign country: *Provided*, That all waste material may be destroyed under Government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

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

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

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

The provisions of section 3433 of the Revised Statutes shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this chapter and to the merchandise conveyed therein.

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

No article manufactured in a bonded warehouse from materials that are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, may be withdrawn from warehouse

for exportation to a NAFTA country, as defined in section 3301(4) of this title, without assessment of a duty on the materials in their condition and quantity, and at their weight, at the time of importation into the United States. The duty shall be paid before the 61st day after the date of exportation, except that upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the article, the customs duty may be waived or reduced (subject to section 1508(b)(2)(B) of this title) in an amount that does not exceed the lesser of—

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

(2) the total amount of customs duties paid on the article to the NAFTA country.

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

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

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

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

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

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

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

AMENDMENT OF SECTION

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

REFERENCES IN TEXT

Act March 24, 1874, referred to in text, which provided that "importers' bonded warehouses, to be used for the

storage and cleansing of imported rice intended for exportation to foreign countries, may be established at any port of entry in the United States, under such rules and regulations as the Secretary of the Treasury may prescribe”, was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

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

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

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

PRIOR PROVISIONS

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

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

AMENDMENTS

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

1993—Pub. L. 103-182 amended last par. generally. Prior to amendment, last par. read as follows: “No article manufactured in a bonded warehouse, except to the extent that such article is made from an article that is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, may be withdrawn from such warehouse for exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, without payment of a duty on such imported merchandise in its condition, and at the rate of duty in effect, at the time of importation.”

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

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

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

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

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

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

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

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1979 AMENDMENT

Section 856(b) of Pub. L. 96-39 provided that: “Effective January 1, 1980, the second proviso to the last paragraph of section 311 of the Tariff Act of 1930 [this section] is hereby repealed.”

EFFECTIVE DATE OF 1970 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

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

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

§ 1312. Bonded smelting and refining warehouses

(a) Bond; charges against bond

Any plant engaged in smelting or refining, or both, of metal-bearing materials as defined in this section may, upon the giving of satisfactory

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

(b) Cancellation of charges against bond

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) upon the transfer to another bonded smelting or refining warehouse without phys-

ical shipment of metal of bond charges representing a quantity of dutiable metal contained in imported metal-bearing materials less wastage provided for in subsection (c) of this section of the plant of initial treatment of such materials provided there is on hand at the warehouse to which the transfer is made sufficient like metal in any form to satisfy the transferred bond charges.

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

(c) Allowance on bond for wastage of metals

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

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

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

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

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

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

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

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

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

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

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

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

(e) General bond for two or more warehouses

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

(f) Definitions

For purposes of this section—

(1) the term “metal-bearing materials” means metal-bearing ores and other metal-bearing materials provided for in chapter 26 of the Harmonized Tariff Schedule of the United States, metal waste and scrap and unwrought metal to be smelted or refined provided for in chapters 71 through 83 of the Harmonized Tariff Schedule of the United States, and metal compounds to be processed for the recovery of their metal content;

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

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

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

(3) the term “product of smelting or refining” means metals or metal-bearing materials

resulting directly from smelting or refining processes, but does not include metal-bearing ores of chapter 26 of the Harmonized Tariff Schedule of the United States.

(g) Supervision and cost of labor under this section

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

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

AMENDMENT OF SECTION

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

REFERENCES IN TEXT

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

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

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

PRIOR PROVISIONS

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

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

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

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108-77, §107(c), 203(b)(2)(A), temporarily substituted “except that—” and subpars. (A) and (B) for “except that in the case of a withdrawal for exportation of such a product to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of sat-

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

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

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

See Effective and Termination Dates of 2003 Amendment note below.

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

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

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

See Effective and Termination Dates of 2003 Amendment note below.

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

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

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

See Effective and Termination Dates of 2003 Amendment note below.

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

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

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

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

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

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

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

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

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

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

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

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

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA

country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

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

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

EFFECTIVE DATE OF 1962 AMENDMENT

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

§ 1313. Drawback and refunds

(a) Articles made from imported merchandise

Upon the exportation or destruction under customs supervision of articles manufactured or produced in the United States with the use of imported merchandise, provided that those articles have not been used prior to such exportation or destruction, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation or destruction of flour or by-products produced from imported wheat. Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

(b) Substitution for drawback purposes

If imported duty-paid merchandise and any other merchandise (whether imported or domestic) of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation, or destruction under customs supervision, of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported or destroyed articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported, but only if those articles have not been used prior to such exportation or destruction; but the total amount of drawback allowed upon the exportation or destruction under customs supervision of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

(c) Merchandise not conforming to sample or specifications

(1) Conditions for drawback

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

(A) upon which the duties have been paid,
 (B) which has been entered or withdrawn
 for consumption,

(C) which is—

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

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

(D) which, within 3 years after the date of importation or withdrawal, as applicable, has been exported or destroyed under the supervision of the Customs Service,

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

(2) Designation of import entries

For purposes of paragraph (1)(C)(ii), drawback may be claimed by designating an entry of merchandise that was imported within 1 year before the date of exportation or destruction of the merchandise described in paragraph (1)(A) and (B) under the supervision of the Customs Service. The merchandise designated for drawback must be identified in the import documentation with the same eight-digit classification number and specific product identifier (such as part number, SKU, or product code) as the returned merchandise.

(3) When drawback certificates not required

For purposes of this subsection, drawback certificates are not required if the drawback claimant and the importer are the same party, or if the drawback claimant is a drawback successor to the importer as defined in subsection (s)(3) of this section.

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

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

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

tions prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(e) Imported salt for curing fish

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

(f) Exportation of meats cured with imported salt

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

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

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

(h) Jet aircraft engines

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

(i) Time limitation on exportation

Unless otherwise provided for in this section, no drawback shall be allowed under the provisions of this section unless the completed article is exported, or destroyed under the supervision of the Customs Service, within five years after importation of the imported merchandise.

(j) Unused merchandise drawback

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

(A) is, before the close of the 3-year period beginning on the date of importation—

(i) exported, or

(ii) destroyed under customs supervision;
 and

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

then upon such exportation or destruction 99 percent of the amount of each duty, tax, or fee so paid shall be refunded as drawback. The exporter (or destroyer) has the right to claim drawback under this paragraph, but may endorse such right to the importer or any intermediate party.

(2) Subject to paragraph (4), if there is, with respect to imported merchandise on which was

paid any duty, tax, or fee imposed under Federal law upon entry or importation, any other merchandise (whether imported or domestic), that—

(A) is commercially interchangeable with such imported merchandise;

(B) is, before the close of the 3-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under customs supervision; and

(C) before such exportation or destruction—

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

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

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

(II) received from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the party the imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise (and any such transferred merchandise, regardless of its origin, will be treated as the imported merchandise and any retained merchandise will be treated as domestic merchandise);

then, notwithstanding any other provision of law, upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback under this subsection, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee. For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.

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

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

(B) the commercially interchangeable merchandise in cases to which paragraph (2) applies,

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

(4)(A) Effective upon the entry into force of the North American Free Trade Agreement, the exportation to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act [19 U.S.C. 3301(4)], of merchandise that is fungible with and

substituted for imported merchandise, other than merchandise described in paragraphs (1) through (8) of section 203(a) of that Act [19 U.S.C. 3333(a)], shall not constitute an exportation for purposes of paragraph (2).

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

(k) Use of domestic merchandise acquired in exchange for imported merchandise of same kind and quality

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

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

(l) Regulations

Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the authority for the electronic submission of drawback entries and the designation of the person to whom any refund or payment of drawback shall be made.

(m) Source of payment

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

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

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

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

(B) the terms "NAFTA country" and "good subject to NAFTA drawback" have the same

respective meanings that are given such terms in sections 2(4) and 203(a) of the NAFTA Act [19 U.S.C. 3301(4), 3333(a)];

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

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

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

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

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

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

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

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

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

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

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

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

(o) Special rules for certain vessels and imported materials

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

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

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

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

(2) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsection (g) of this section, vessels built for Canadian account and ownership, or for the Government of Canada, may not be considered to be built for any foreign account and ownership, or for the government of any foreign country, except to the extent that the materials in such vessels are drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988.

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

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

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

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

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

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

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

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

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

(p) Substitution of finished petroleum derivatives

(1) In general

Notwithstanding any other provision of this section, if—

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

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

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

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

(2) Requirements

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

(A) The exporter of the exported article—

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

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

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

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

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

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

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

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

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

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

(3) “Qualified article” defined, etc.

For purposes of this subsection—

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

(i) described in—

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

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

(ii) which is—

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

(II) imported duty-paid, or

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

The transferred merchandise described in subclause (III), regardless of its origin, so

designated on the certificate of delivery or certificate of manufacture and delivery shall be the qualified article for purposes of this section. A party who issues a certificate of delivery, or certificate of manufacture and delivery, shall also certify to the Commissioner of Customs that it has not, and will not, issue such certificates for a quantity greater than the amount eligible for drawback and that appropriate records will be maintained to demonstrate that fact.

(B) An article, including an imported, manufactured, substituted, or exported article, is of the same kind and quality as the qualified article for which it is substituted under this subsection if it is a product that is commercially interchangeable with or referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article. If an article is referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article on January 1, 2000, then whether or not the article has been reclassified under another eight-digit classification after January 1, 2000, the article shall be deemed to be an article that is referred to under the same eight-digit classification of such Schedule as the qualified article for purposes of the preceding sentence.

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

(4) Limitation on drawback

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

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

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

(5) Special rules for ethyl alcohol

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

(q) Packaging material

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

Packaging material, whether imported and duty paid, and claimed for drawback under either subsection (c) or (j)(1) of this section, or imported and duty paid, or substituted, and

claimed for drawback under subsection (j)(2) of this section, shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on such imported material.

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

Packaging material that is manufactured or produced under subsection (a) or (b) of this section shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on the imported or substituted merchandise used to manufacture or produce such material.

(3) Contents

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

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

The use of any packaging material for its intended purpose prior to exportation shall not be treated as a use of such material prior to exportation for purposes of applying subsection (a), (b), or (c) of this section, or paragraph (1)(B) or (2)(C)(i) of subsection (j) of this section.

(r) Filing drawback claims

(1) A drawback entry and all documents necessary to complete a drawback claim, including those issued by the Customs Service, shall be filed or applied for, as applicable, within 3 years after the date of exportation or destruction of the articles on which drawback is claimed, except that any landing certificate required by regulation shall be filed within the time limit prescribed in such regulation. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is established that the Customs Service was responsible for the untimely filing.

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

(3)(A) The Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

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

(ii) the claimant files a request for such extension with the Customs Service—

(I) within 1 year from the last day of the 3-year period referred to in paragraph (1), or

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

whichever is later.

(B) If an extension is granted with respect to a request filed under this paragraph, the periods

of time for retaining records set forth in subsection (t) of this section and section 1508(c)(3) of this title shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

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

(s) Designation of merchandise by successor

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

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

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

(B) imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise for which the predecessor received, before the date of succession, from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the predecessor such merchandise;

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

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

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

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

(4) No drawback shall be paid under this subsection until either the predecessor or the drawback successor (who shall also certify that it has the predecessor’s records) certifies that—

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

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

(t) Drawback certificates

Any person who issues a certificate which would enable another person to claim drawback shall be subject to the recordkeeping provisions of this chapter, with the retention period beginning on the date that such certificate is issued.

(u) Eligibility of entered or withdrawn merchandise

Imported merchandise that has not been regularly entered or withdrawn for consumption

shall not satisfy any requirement for use, exportation, or destruction under this section.

(v) Multiple drawback claims

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

(w) Limited applicability for certain agricultural products

(1) In general

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

(2) Application to tobacco

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

(x) Drawbacks for recovered materials

For purposes of subsections (a), (b), and (c) of this section, the term “destruction” includes a process by which materials are recovered from imported merchandise or from an article manufactured from imported merchandise. In determining the amount of duties to be refunded as drawback to a claimant under this subsection, the value of recovered materials (including the value of any tax benefit or royalty payment) that accrues to the drawback claimant shall be deducted from the value of the imported merchandise that is destroyed, or from the value of the merchandise used, or designated as used, in the manufacture of the article.

(y) Articles shipped to the United States insular possessions

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

(June 17, 1930, ch. 497, title III, § 313, 46 Stat. 693; May 17, 1932, ch. 190, 47 Stat. 158; June 26, 1936, ch. 830, title IV, §§ 402, 403, 49 Stat. 1960; Aug. 8, 1951, ch. 297, 65 Stat. 175; Aug. 8, 1953, ch. 397, § 12, 67 Stat. 515; Aug. 6, 1956, ch. 1021, § 2, 70 Stat. 1076; Pub. L. 85-673, § 1, Aug. 18, 1958, 72 Stat. 624; Pub. L. 90-630, § 2(b), Oct. 22, 1968, 82 Stat. 1328; Pub. L. 91-692, § 3(a), Jan. 12, 1971, 84 Stat. 2076; Pub. L. 96-609, title II, § 201(a), Dec. 28, 1980, 94 Stat. 3560; Pub. L. 98-573, title II, § 202, Oct. 30, 1984, 98 Stat. 2973; Pub. L. 99-514, title XVIII, § 1888(2), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-449, title II, § 204(c)(3), Sept. 28, 1988, 102 Stat. 1862; Pub. L. 101-382, title I, § 134(a)(1), (2), title III, § 484A(a), Aug. 20, 1990, 104 Stat. 649, 707; Pub. L. 103-182, title II, § 203(b)(3), (c), title VI, § 632(a),

Dec. 8, 1993, 107 Stat. 2089, 2092, 2192; Pub. L. 103-465, title IV, §§ 404(e)(5)(A), 422(d), Dec. 8, 1994, 108 Stat. 4961, 4965; Pub. L. 104-295, §§ 7, 10, 21(e)(4), Oct. 11, 1996, 110 Stat. 3518, 3519, 3530; Pub. L. 106-36, title II, §§ 2404(a), 2419(a), 2420(a)-(d), June 25, 1999, 113 Stat. 169, 178, 179; Pub. L. 106-476, title I, §§ 1422(a)(1), (b), 1462(a), Nov. 9, 2000, 114 Stat. 2156, 2172; Pub. L. 108-77, title II, § 203(b)(3), Sept. 3, 2003, 117 Stat. 927; Pub. L. 108-429, title I, §§ 1556, 1557(a), 1563(a)-(d), title II, § 2004(d)(6), Dec. 3, 2004, 118 Stat. 2579, 2583-2585, 2592; Pub. L. 110-234, title XV, §§ 15334(a), 15421(a), May 22, 2008, 122 Stat. 1517, 1547; Pub. L. 110-246, § 4(a), title XV, §§ 15334(a), 15421(a), June 18, 2008, 122 Stat. 1664, 2279, 2309.)

AMENDMENT OF SECTION

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

REFERENCES IN TEXT

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

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

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

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

CODIFICATION

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

PRIOR PROVISIONS

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

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

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

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

Section 642 of the act of Sept. 21, 1922, also repealed sections 3015 to 3026, inclusive, 3028 to 3047, inclusive,

and 3049 to 3057, inclusive of the Revised Statutes, which were concerned with the subject of drawback.

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

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

AMENDMENTS

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

Subsec. (p)(5). Pub. L. 110-246, § 15334(a), added par. (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1993—Subsec. (a). Pub. L. 103-182, §632(a)(1), inserted “or destruction under customs supervision” after “Upon the exportation”, “provided that those articles have not been used prior to such exportation or destruction,” after “use of imported merchandise,” and “or destruction” after “refunded upon the exportation”, and substituted “by-products produced from imported wheat” for “by-products produced from wheat imported after ninety days after June 17, 1930”.

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

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

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

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

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

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

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

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

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

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

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

1988—Subsecs. (n), (o). Pub. L. 100-449 added subsecs. (n) and (o).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHANGE OF NAME

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

Pub. L. 110-234, title XV, §15334(b), May 22, 2008, 122 Stat. 1517, and Pub. L. 110-246, §4(a), title XV, §15334(b),

June 18, 2008, 122 Stat. 1664, 2279, provided that: “The amendment made by this section [amending this section] applies with respect to—

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

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

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 110-234, title XV, §15421(b), May 22, 2008, 122 Stat. 1547, and Pub. L. 110-246, §4(a), title XV, §15421(b), June 18, 2008, 122 Stat. 1664, 2309, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 [19 U.S.C. 1313(j)(2)] on or after the date of the enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title I, §1557(b), Dec. 3, 2004, 118 Stat. 2579, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to any drawback claim filed on or after that date and to any drawback entry filed before that date if the liquidation of the entry is not final on that date.”

Pub. L. 108-429, title I, §1563(g)(1), Dec. 3, 2004, 118 Stat. 2587, provided that: “The amendments made by subsections (a), (b), (c), (d), and (f) [amending this section and section 1593a of this title] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to—

“(A) any drawback entry filed on and after such date of enactment; and

“(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.”

Pub. L. 108-429, title I, §1571, Dec. 3, 2004, 118 Stat. 2587, provided that: “Except as otherwise provided in this title [amending this section and sections 1401, 1466, 1504, 1593a, 1629, 2463, and 2703 of this title, enacting provisions set out as notes under this section and sections 1401, 1466, 1504, 1629, and 2463 of this title, and repealing provisions set out as a note under section 1629 of this title], the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Dec. 3, 2004].”

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

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

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-476, title I, §1422(a)(2), Nov. 9, 2000, 114 Stat. 2156, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 9, 2000], and shall apply to—

“(A) any drawback claim filed on or after such date of enactment; and

“(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.”

Pub. L. 106-476, title I, §1462(b), Nov. 9, 2000, 114 Stat. 2173, provided that: “The amendment made by this section [amending this section] shall apply to drawback claims filed on or after the date of the enactment of this Act [Nov. 9, 2000].”

Amendment by title I of Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-36, title II, §2404(b), June 25, 1999, 113 Stat. 169, provided that: “The amendment made by this section [amending this section] applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [June 25, 1999].”

Pub. L. 106-36, title II, §2419(b), June 25, 1999, 113 Stat. 178, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [June 25, 1999], and shall apply to drawback claims filed on and after such date.”

Pub. L. 106-36, title II, §2420(e), June 25, 1999, 113 Stat. 179, provided that: “The amendments made by this section [amending this section] shall take effect as if included in the amendment made by section 632(a)(6) of the North American Free Trade Agreement Implementation Act [Pub. L. 103-182, amending this section]. For purposes of section 632(b) of that Act [set out as a note below], the 3-year requirement set forth in section 313(r) of the Tariff Act of 1930 [19 U.S.C. 1313(r)] shall not apply to any drawback claim filed within 6 months after the date of the enactment of this Act [June 25, 1999] for which that 3-year period would have expired.”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title IV, §404(e)(5)(B), Dec. 8, 1994, 108 Stat. 4961, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect on the earlier of the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995] or January 1, 1995.”

Pub. L. 103-465, title IV, §422(e), Dec. 8, 1994, 108 Stat. 4965, provided that: “This section [amending this section and sections 1314i and 1445 of Title 7, Agriculture, and enacting provisions set out as a note under section 1445 of Title 7] and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421 [set out as a note under section 2135 of this title], establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.”

[Proc. No. 6821, Sept. 12, 1995, 60 F.R. 47663, effective Sept. 13, 1995, established tariff-rate quotas on certain tobacco.]

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(b)(3) of Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

Amendment by section 203(c) of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L.

103-182, set out as an Effective Date note under section 3331 of this title.

Section 632(b) of Pub. L. 103-182 provided that: “Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the amendment made by paragraph (6) of subsection (a) [amending this section] shall apply to—

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

“(2) claims that are unliquidated, under protest, or in litigation on the date of the enactment of this Act [Dec. 8, 1993].”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 484A(a) of Pub. L. 101-382 applicable to claims filed or liquidated on or after Jan. 1, 1988, and claims that are unliquidated, under protest, or in litigation on Aug. 20, 1990, see section 484A(c) of Pub. L. 101-382, set out as a note under section 1309 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 201(b) of Pub. L. 96-609 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act [Dec. 28, 1980].”

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3(b) of Pub. L. 91-692 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to articles exported on or after the date of the enactment of this Act [Jan. 12, 1971].”

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-630, see section 4 of Pub. L. 90-630, set out as a note under section 5008 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-673 provided that: “The amendment made by the first section of this Act [amending this section] shall be effective with respect to articles exported on or after the 30th day after the date of the enactment of this Act [Aug. 18, 1958].”

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

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

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 203(c) of Pub. L. 103-182 to be made after amendment by section 632(a) of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the

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

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

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 1313a. Appropriations for refunds, drawbacks, bounties, etc.

There are appropriated such amounts as hereafter may be necessary for refund or payment of custom collections or receipts, and payment of debentures or drawbacks, bounties, and allowances, as authorized by law.

(June 30, 1949, ch. 286, title I, 63 Stat. 360.)

CODIFICATION

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

§ 1314. Repealed. June 25, 1938, ch. 679, § 35, 52 Stat. 1092, eff. July 25, 1938

Section, act June 17, 1930, ch. 497, title III, §314, 46 Stat. 695, related to reimportation of tax-free exports.

§ 1315. Effective date of rates of duty

(a) Articles entered or withdrawn from warehouse for consumption

Except as otherwise specially provided for, the rate or rates of duty imposed by or pursuant to this chapter or any other law on any article entered for consumption or withdrawn from warehouse for consumption shall be the rate or rates in effect when the documents comprising the entry for consumption or withdrawal from warehouse for consumption and any estimated or liquidated duties then required to be paid have been deposited with the Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe, except that—

(1) any article released under an informal mail entry shall be subject to duty at the rate or rates in effect when the preparation of the entry is completed;

(2) any article which is not subject to a quantitative or tariff-rate quota and which is

covered by an entry for immediate transportation made at the port of original importation under section 1552 of this title, if entered for consumption at the port designated by the consignee, or his agent, in such transportation entry without having been taken into the custody of the appropriate customs officer under section 1490 of this title, shall be subject to the rate or rates in effect when the transportation entry was accepted at the port of original importation; and

(3) any article for which duties may, under section 1505 of this title, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.

(b) Articles removed from intended place of release

Any article which has been entered for consumption but which, before release from custody of the Customs Service, is removed from the port or other place of intended release because of inaccessibility, overcarriage, strike, act of God, or unforeseen contingency, shall be subject to duty at the rate or rates in effect when the entry for consumption and any required duties were deposited in accordance with subsection (a) of this section, but only if the article is returned to such port or place within ninety days after the date of removal and the identity of the article as that covered by the entry is established in accordance with regulations prescribed by the Secretary of the Treasury.

(c) Quantity of merchandise at time of importation

Insofar as duties are based upon the quantity of any merchandise, such duties shall, except as provided in chapter 98 of the Harmonized Tariff Schedule of the United States and section 1562 of this title (relating respectively to certain beverages and to manipulating warehouses), be levied and collected upon the quantity of such merchandise at the time of its importation.

(d) Effective date of administrative rulings resulting in higher rates

No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the Federal Register of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties, or the imposition of countervailing duties under section 1303 of this title (as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 1671 of this title. This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.

(June 17, 1930, ch. 497, title III, § 315, 46 Stat. 695; June 25, 1938, ch. 679, § 6, 52 Stat. 1081; Aug. 8, 1953, ch. 397, § 3(a), 67 Stat. 508; Pub. L. 91-271,

title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 93-618, title III, § 331(c), Jan. 3, 1975, 88 Stat. 2053; Pub. L. 95-410, title I, § 101, title II, § 204, Oct. 3, 1978, 92 Stat. 888, 900; Pub. L. 96-39, title XI, § 1106(e), July 26, 1979, 93 Stat. 312; Pub. L. 100-418, title I, § 1213(c), Aug. 23, 1988, 102 Stat. 1155; Pub. L. 103-182, title VI, § 633, Dec. 8, 1993, 107 Stat. 2198; Pub. L. 103-465, title II, § 261(d)(1)(B)(i), Dec. 8, 1994, 108 Stat. 4909.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States and the Tariff Schedules of the United States, referred to in subsecs. (c) and (d), are not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

For the effective date of title II of the Uruguay Round Agreements Act [Pub. L. 103-465], referred to in subsec. (d), as Jan. 1, 1995, see section 291 of Pub. L. 103-465, set out as an Effective Date of 1994 Amendment note under section 1671 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-465 inserted “(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 1671 of this title” after “section 1303 of this title”.

1993—Subsec. (a). Pub. L. 103-182, § 633(1), substituted “Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe,” for “appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury,” in introductory provisions.

Subsec. (b). Pub. L. 103-182, § 633(2), substituted “custody of the Customs Service” for “customs custody”.

Subsec. (c). Pub. L. 103-182, § 633(3), substituted “chapter 98 of the Harmonized Tariff Schedule of the United States” for “paragraph 813”.

1988—Subsec. (d). Pub. L. 100-418 inserted at end “This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.”

1979—Subsec. (d). Pub. L. 96-39 amended directory language of Pub. L. 93-618, § 331(c), to correct a typographical error, and did not involve any change in text. See 1975 Amendment note below.

1978—Subsec. (a)(3). Pub. L. 95-410, § 101, added par. (3).

Subsec. (d). Pub. L. 95-410, § 204, substituted “publication in the Federal Register” for “publication in the weekly Treasury Decisions”.

1975—Subsec. (d). Pub. L. 93-618, as amended by Pub. L. 96-39, inserted “or the imposition of countervailing duties under section 1303 of this title” after “antidumping duties”.

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

1953—Act Aug. 8, 1953, amended section generally by dividing section into subsections, and by changing the provisions set out as subsecs. (a) and (b) to clarify such provisions with respect to effective dates of rates of duty.

1938—Act June 25, 1938, amended section generally, among which changes it inserted provisions set out as subsecs. (c) and (d).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 261(d)(2) of title II of Pub. L. 103-465 provided that: “The amendments made by this subsection [amending this section and sections 1337, 1671, 1677i, 2192, and 2194 of this title and provisions set out as a note under section 1303 of this title] shall take effect on the effective date of this title [Jan. 1, 1995, see Effective Date of 1994 Amendment note set out under section 1671 of this title].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or

after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 331(d) of Pub. L. 93-618, as amended by Pub. L. 103-465, title II, §261(d)(1)(A)(i), Dec. 8, 1994, 108 Stat. 4909, provided that:

“(1) The amendments made by this section [amending this section and sections 1303 and 1516 of this title] shall take effect on the date of the enactment of this Act [Jan. 3, 1975.]

“(2) For purposes of applying the provisions of section 303(a)(4) of the Tariff Act of 1930 [section 1303(a)(4) of this title] (as amended by subsection (a)) with respect to any investigation which was initiated before the date of the enactment of this Act [Jan. 3, 1975] under section 303 of such Act (as in effect before such date), such investigation shall be treated as having been initiated on the day after such date of enactment under section 303(a)(3)(B) of such Act.”

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

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

EFFECTIVE DATE OF 1938 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

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

§ 1316. Omitted

CODIFICATION

Section, act June 17, 1930, ch. 497, title III, §316, 46 Stat. 695, prohibiting the construction of this chapter so as to abrogate or affect the treaty between the United States and Cuba concluded on Dec. 11, 1902, was omitted in view of the termination of such treaty on Aug. 21, 1963 (see note below), and section 401 of Pub. L. 87-456, title IV, May 24, 1962, 76 Stat. 78, set out as a note under section 1351 of this title. Section 401(d) of Pub. L. 87-456 declares sections 124 and 125 of this title as inapplicable so long as section 401(a) of Pub. L. 87-456, declaring Cuba as a nation dominated or controlled by the foreign government or foreign organization controlling the world communist movement, applies.

TREATY BETWEEN UNITED STATES AND CUBA

The treaty concluded between the United States and the Republic of Cuba on Dec. 11, 1902, referred to in text, was terminated Aug. 21, 1963, pursuant to notice given by the United States on Aug. 21, 1962. See Bevans, Treaties, and Other International Agreements of the United States of America, 1776 to 1949, vol. VI, page 1106.

§ 1317. Tobacco products; supplies for certain vessels and aircraft

(a) Exportation of tobacco products

The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section 2197(a) of title 26, shall be deemed exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

(b) Exportation of supplies for certain vessels and aircraft

The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of any vessel or aircraft described in subdivision (2) or (3) of section 1309(a) of this title, or for use as ground equipment for any such aircraft, shall be deemed an exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax. With respect to merchandise for use as ground equipment, such shipment or delivery shall not be deemed an exportation within the meaning of the internal-revenue laws relating to taxes other than those imposed upon or by reason of importation.

(June 17, 1930, ch. 497, title III, §317, 46 Stat. 696; June 25, 1938, ch. 679, §5(b), 52 Stat. 1081; Aug. 8, 1953, ch. 397, §11(b), 67 Stat. 514.)

REFERENCES IN TEXT

Section 2197(a) of title 26, referred to in subsec. (a), is a reference to section 2197(a) of the Internal Revenue Code of 1939, which was repealed by section 7851 of Title 26, Internal Revenue Code.

AMENDMENTS

1953—Subsec. (b). Act Aug. 8, 1953, extended to foreign vessels the exemption from payment of duty and internal revenue tax theretofore available for supplies used in the maintenance or repair of aircraft; and provided an exemption for ground equipment for foreign-flag aircraft from duties and taxes imposed on, by reason of, importation.

1938—Act June 25, 1938, amended section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

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

EFFECTIVE DATE OF 1938 AMENDMENT

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

REPEALS

Insofar as subsec. (a) of this section related exclusively to Internal Revenue it was repealed and incorporated as section 2197(b) of the Internal Revenue Code of 1939. See section 4(a) of enacting sections of Internal Revenue Code of 1939. Section 2197(b) of I. R. C. 1939 was replaced by section 5704(b) of Title 26, Internal Revenue Code.

§ 1318. Emergencies

(a) Whenever the President shall by proclamation declare an emergency to exist by reason of a state of war, or otherwise, he may authorize the Secretary of the Treasury to extend during the continuance of such emergency the time herein prescribed for the performance of any act, and may authorize the Secretary of the Treasury to permit, under such regulations as the Secretary of the Treasury may prescribe, the importation free of duty of food, clothing, and medical, surgical, and other supplies for use in emergency relief work. The Secretary of the Treasury shall report to the Congress any action taken under the provisions of this section.

(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

(C) Take any other action that may be necessary to respond directly to the national emergency or specific threat.

(2) Notwithstanding any other provision of law, the Commissioner of Customs, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

(3) The Secretary of the Treasury or the Commissioner of Customs, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).

(June 17, 1930, ch. 497, title III, § 318, 46 Stat. 696; Pub. L. 107-210, div. A, title III, § 342, Aug. 6, 2002, 116 Stat. 981.)

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (b)(1), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

PRIOR PROVISIONS

Provisions similar to those in subsec. (a) of this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 622, 42 Stat. 988, which was superseded by section

318 of the Tariff Act of 1930, comprising this section, and repealed by section 651(a)(1) of said 1930 Act.

AMENDMENTS

2002—Pub. L. 107-210 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

TRANSFER OF FUNCTIONS

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

Functions of Secretary of the Treasury under this section with respect to functions transferred to Secretary of Commerce in sections 1303 and 1671 et seq. of this title by section 5(a)(1)(C) of Reorg. Plan No. 3 of 1979 transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(E), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title, to be exercised in consultation with Secretary of the Treasury.

PROC. NO. 2948. MERCHANDISE IN GENERAL-ORDER AND BONDED WAREHOUSES

Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41, provided:

[Whereas clauses omitted]

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority vested in me by the foregoing provision of section 318 of the Tariff Act of 1930 [this section] do hereby authorize the Secretary of the Treasury, until the termination of the national emergency proclaimed on December 16, 1950, or until it shall be determined by the President and declared by his proclamation that such action is no longer necessary, whichever is earlier:

(1) To extend the one-year period prescribed in section 491, *supra*, as amended [section 1491 of this title], for not more than one year from and after the expiration of such one-year period in any case in which such period has already expired or shall hereafter expire during the continuance of the said national emergency;

(2) To extend the three-year period prescribed in sections 557 and 559, *supra*, as amended [sections 1557 and 1559 of this title], for not more than one year from and after the expiration of such three-year period in any case in which such period has already expired or shall hereafter expire during the continuance of the said national emergency; and

(3) To extend further the one-year period prescribed in section 491, *supra*, as amended [section 1491 of this title], and the three-year period prescribed in sections 557 and 559, *supra*, as amended [sections 1557 and 1559 of this title], for additional periods of not more than one year each from and after the expiration of the immediately preceding extension in any case in which such extension shall expire during the continuance of the said national emergency:

Provided, however, that in each and every case under numbered paragraphs (1), (2), and (3) above in which the merchandise is charged against an entry bond the Secretary of the Treasury shall require that the principal

on such bond, in order to obtain the benefit of any extension which may be granted under the authority of this proclamation, shall furnish to the collector of customs at the port where the bond is on file either the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, or an additional bond with acceptable sureties to cover the period of extension; and that, in each and every case in which the merchandise remains charged against a carrier's bond the Secretary of the Treasury shall require that the principal on such bond shall agree to the extension and shall furnish to the collector of customs at the port where the charge was made the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted; and

Provided further, that as a condition to the granting of any extension or further extension of the periods prescribed in sections 491, 557, and 559 of the Tariff Act of 1930, *supra*, as amended [sections 1491, 1557 and 1559 of this title], under numbered paragraphs (1), (2), or (3) above the Secretary of the Treasury may require that there shall be furnished to the collector of customs in the district in which the warehouse is located, in connection with the application for such extension, the consent of the warehouse proprietor to such extension or, in the alternative, proof of payment of all charges or amounts due or owing to such warehouse proprietor for the storage or handling of the imported merchandise; and

Provided further, that the extensions of one year authorized by this proclamation shall not apply to any case in which the period sought to be extended expired prior to December 16, 1950, or in which the merchandise in question has been sold by the Government as abandoned.

This proclamation supersedes Proclamation No. 2599 of November 4, 1943, as amended by Proclamation No. 2712 of December 3, 1946, but it shall not be construed (1) as invalidating any action heretofore taken under the provisions of the said Proclamation No. 2599 or under the provisions of that proclamation as amended by the said Proclamation No. 2712, or (2) as imposing the conditions set forth in the second proviso above upon the granting of extensions for which applications are pending on the date of this proclamation.

HARRY S TRUMAN.

§ 1319. Duty on coffee imported into Puerto Rico

The Legislature of Puerto Rico is empowered to impose tariff duties upon coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United States. Such duties shall be collected and accounted for as now provided by law in the case of duties collected in Puerto Rico.

(June 17, 1930, ch. 497, title III, § 319, 46 Stat. 696; May 17, 1932, ch. 190, 47 Stat. 158.)

CHANGE OF NAME

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

ACTIONS UNDER CARIBBEAN BASIN ECONOMIC RECOVERY PROGRAM NOT TO AFFECT PUERTO RICAN DUTIES ON IMPORTED COFFEE

Pub. L. 98-67, title II, § 214(e), Aug. 5, 1983, 97 Stat. 393, provided that: “No action pursuant to this title [19 U.S.C. 2701 et seq.] may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) on coffee imported into Puerto Rico.”

§ 1319a. Duty on coffee; ratification of duties imposed by Legislature of Puerto Rico

The taxes and duties imposed by the Legislature of Puerto Rico by Joint Resolution Numbered 59 approved by the Governor of Puerto Rico May 5, 1930, and by Act Numbered 77 approved by the Governor of Puerto Rico May 5, 1931, as amended by Act Numbered 7 approved by the Governor April 9, 1934, including therein such taxes and duties on coffee brought into Puerto Rico from any State or Territory or district or possession of the United States, or other place subject to the jurisdiction of the United States, are legalized and ratified, and the collection of all such taxes and duties made under or by authority of either of said acts of the Puerto Rican Legislature, including such taxes and duties on coffee brought into Puerto Rico from any State, Territory, district, or possession of the United States, or other place subject to the jurisdiction of the United States, is legalized, ratified, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically authorized and directed.

(June 18, 1934, ch. 604, 48 Stat. 1017; Aug. 20, 1935, ch. 578, 49 Stat. 665.)

CODIFICATION

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

AMENDMENTS

1935—Act Aug. 20, 1935, amended section generally.

§ 1320. Repealed. Aug. 8, 1953, ch. 397, § 6(b), 67 Stat. 510

Section, act June 17, 1930, ch. 497, title III, § 320, 46 Stat. 696, related to reciprocal agreements covering advertising matter.

EFFECTIVE DATE OF REPEAL; SAVINGS PROVISION

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

§ 1321. Administrative exemptions

(a) Disregard of minor discrepancies in collection of taxes and duties; admission of articles free of duty or tax; limit on amount of exemption

The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is authorized, under such regulations as he shall prescribe, to—

(1) disregard a difference of an amount specified by the Secretary by regulation, but not less than \$20, between the total estimated duties, fees, and taxes deposited, or the total duties, fees, and taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties, fees, taxes, and interest actually accruing thereon;

(2) admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed an amount specified by

the Secretary by regulation, but not less than—

(A) \$100 in the case of articles sent as bona fide gifts from persons in foreign countries to persons in the United States (\$200 in the case of articles sent as bona fide gifts from persons in the Virgin Islands, Guam, and American Samoa), or

(B) \$200 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any exemption from duty under subheading 9804.00.30, 9804.00.65, or 9804.00.70 of title I of this Act,¹ or

(C) \$200 in any other case.

The privilege of this subdivision (2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of this subdivision (2); and

(3) waive the collection of duties, fees, taxes, and interest due on entered merchandise when such duties, fees, taxes, or interest are less than \$20 or such greater amount as may be specified by the Secretary by regulation.

(b) Reduction or modification of exemption

The Secretary of the Treasury is authorized by regulations to prescribe exceptions to any exemption provided for in subsection (a) of this section whenever he finds that such action is consistent with the purpose of subsection (a) of this section or is necessary for any reason to protect the revenue or to prevent unlawful importations.

(June 17, 1930, ch. 497, title III, § 321, as added June 25, 1938, ch. 679, § 7, 52 Stat. 1081; amended Aug. 8, 1953, ch. 397, § 13, 67 Stat. 515; Pub. L. 87-261, § 2(c), Sept. 21, 1961, 75 Stat. 541; Pub. L. 89-62, § 2, June 30, 1965, 79 Stat. 208; Pub. L. 93-618, title VI, § 610(a), Jan. 3, 1975, 88 Stat. 2075; Pub. L. 95-410, title II, § 205, Oct. 3, 1978, 92 Stat. 900; Pub. L. 97-446, title I, § 115(b), Jan. 12, 1983, 96 Stat. 2335; Pub. L. 100-418, title I, § 1214(h)(2), Aug. 23, 1988, 102 Stat. 1157; Pub. L. 103-182, title VI, § 651, Dec. 8, 1993, 107 Stat. 2209; Pub. L. 104-295, § 3(a)(8), (12), Oct. 11, 1996, 110 Stat. 3516.)

REFERENCES IN TEXT

Title I of this Act, referred to in subsec. (a)(2)(B), means title I of act June 17, 1930, as amended, which contained the Tariff Schedules of the United States and which formerly were set out under section 1202 of this title. The Tariff Schedules of the United States were replaced by the Harmonized Tariff Schedule of the United States. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-295, § 3(a)(12)(A), substituted “duties, fees, taxes, and interest actually accruing” for “duties, fees, and taxes actually accruing”.

Subsec. (a)(2)(B). Pub. L. 104-295, § 3(a)(8), inserted “, 9804.00.65,” after “9804.00.30”.

Subsec. (a)(3). Pub. L. 104-295, § 3(a)(12)(B), substituted “taxes, and interest” for “and taxes” and “taxes, or interest” for “or taxes”.

1993—Subsec. (a)(1). Pub. L. 103-182, § 651(1), substituted “of an amount specified by the Secretary by regulation, but not less than \$20,” for “of less than

\$10”, inserted “, fees,” after “duties” wherever appearing, and struck out “and” at end.

Subsec. (a)(2). Pub. L. 103-182, § 651(2), substituted “shall not exceed an amount specified by the Secretary by regulation, but not less than—” for “shall not exceed—” in introductory provisions, substituted “\$100” and “\$200” for “\$50” and “\$100”, respectively, in subpar. (A), substituted “\$200” for “\$25” in subpar. (B), substituted “\$200” for “\$5” in subpar. (C), and substituted “; and” for period at end.

Subsec. (a)(3). Pub. L. 103-182, § 651(3), added par. (3).

Subsec. (b). Pub. L. 103-182, § 651(4), struck out “to diminish any dollar amount specified in subsection (a) of this section and” after “authorized by regulations” and substituted “subsection (a) of this section” for “such subsection” in two places.

1988—Subsec. (a)(2)(B). Pub. L. 100-418 substituted “subheading 9804.00.30 or 9804.00.70” for “item 812.25 or 813.31”.

1983—Subsec. (a)(2)(A). Pub. L. 97-446 substituted “\$50” for “\$25” and “\$100” for “\$40”.

1978—Subsec. (a)(1). Pub. L. 95-410, § 205(a), substituted “\$10” for “\$3” and “duties and taxes” for “duties or taxes” in three places.

Subsec. (a)(2). Pub. L. 95-410, § 205(b)(1)–(3), substituted in: subpar. (A), “\$25” and “\$40” for “\$10” and “\$20”; subpar. (B), “\$25” for “\$10”; and subpar. (C), “\$5” for “\$1”.

1975—Subsec. (a)(2)(A). Pub. L. 93-618 inserted “\$20, in the case of articles sent as bona fide gifts from persons in the Virgin Islands, Guam, and American Samoa)” after “United States”.

1965—Subsec. (a)(2). Pub. L. 89-62 substituted “fair retail value in the country of shipment” for “value” in the material preceding subpar. (A) and “item 812.25 or 813.31 of section 1202 of this title” for “paragraph 1798(b)(2) or (c)(2) of section 1201 of this title” in subpar. (B).

1961—Subsec. (a). Pub. L. 87-261 inserted “(b)(2) or” after “paragraph 1798”.

1953—Act Aug. 8, 1953, (1) divided section into subsections; (2) increased from \$1 to \$3 the difference between deposited or assessed duties and actual duties which may be disregarded by the collector; (3) permitted free entry of bona fide gifts from persons outside the United States up to \$10; (4) allowed persons to bring with them articles up to \$10 in value for their personal use; (5) continued to allow free entry up to \$1 in other cases; and (6) enabled the Secretary of the Treasury to reduce these amounts if he found such action necessary to protect the revenue.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 3(b) of Pub. L. 104-295 provided that: “The amendments made by this section [amending this section and sections 1401, 1431, 1504, 1508, 1509, 1515, 1592, and 1631 of this title and repealing section 1707 of this title] shall apply as of December 8, 1993.”

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Section 115(c) of Pub. L. 97-446 provided that: “The amendments made by this section [amending the Tariff Schedules and this section] shall apply with respect to returning residents of the United States who arrive in the United States on or after the 15th day after the date of the enactment of this Act [Jan. 12, 1983].”

EFFECTIVE DATE OF 1975 AMENDMENT

Section 610(b) of Pub. L. 93-618 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act [Jan. 3, 1975].”

¹ See References in Text note below.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 4 of Pub. L. 89-62 provided in part that: "The amendments made by section 2 [amending this section] shall apply with respect to articles arriving in the United States on or after October 1, 1965."

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2(d) of Pub. L. 87-261 provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and former section 1201 of this title] shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act [Sept. 21, 1961]."

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

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

EFFECTIVE DATE

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

§ 1322. International traffic and rescue work; United States-Mexico Boundary Treaty of 1970

(a) Vehicles and other instruments of international traffic except communications satellites

Vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be excepted from the application of the customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury. The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.

(b) Rescue and relief equipment; personal property related to use of land under United States-Mexico Boundary Treaty of 1970; forfeit of articles to United States

The Secretary of the Treasury may provide by regulation or instruction for the admission, without entry and without the payment of any duty or tax imposed upon or by reason of importation, of—

(1) aircraft, equipment, supplies, and spare parts for use in searches, rescues, investigations, repairs, and salvage in connection with accidental damage to aircraft;

(2) fire-fighting and rescue and relief equipment and supplies for emergent temporary use in connection with conflagrations;

(3) rescue and relief equipment and supplies for emergent temporary use in connection with floods and other disasters; and

(4) personal property related to the use and enjoyment of a separated tract of land as described in article III of the Treaty To Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado Rivers as the International Boundary between the United States of America and the United Mexican States signed on November 23, 1970.

Any articles admitted under the authority of this subsection and used otherwise than for a

purpose herein expressed, or not exported in such time and manner as may be prescribed in the regulations or instructions herein authorized, shall be forfeited to the United States.

(June 17, 1930, ch. 497, title III, §322, as added Aug. 8, 1953, ch. 397, §14, 67 Stat. 516; amended Pub. L. 92-549, title I, §107, Oct. 25, 1972, 86 Stat. 1162; Pub. L. 98-573, title I, §§124(c), 127(b), Oct. 30, 1984, 98 Stat. 2959.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-573, §127(b), substituted "excepted" for "granted the customary exceptions".

Pub. L. 98-573, §124(c), inserted "The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof."

1972—Pub. L. 92-549, §107(a), inserted "United States-Mexico Boundary Treaty of 1970" in section catchline. Subsec. (b)(4). Pub. L. 92-549, §107(b), added cl. (4).

EFFECTIVE DATE OF 1984 AMENDMENT

Section 195(a), (b), (d) of Pub. L. 98-573 provided that: "(a) Except as provided in section 126 and in subsections (b) and (c), the amendments made by subtitles B, C, and D [amending this section and sections 1202 and 1504 of this title] shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act [Oct. 30, 1984]."

"(b)(1) The amendment made by sections 117 and 124 [amending this section] shall apply with respect to articles entered on or after January 1, 1985.

"(2) The amendments made by section 127 [amending this section] shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

"(d) For purposes of this section—

"(1) The term 'entered' means entered, or withdrawn from warehouse for consumption in the customs territory of the United States.

"(2) The term 'entry' includes any withdrawal from warehouse."

EFFECTIVE DATE

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

§ 1323. Conservation of fishery resources

Upon the convocation of a conference on the use or conservation of international fishery resources, the President shall, by all appropriate means at his disposal, seek to persuade countries whose domestic fishing practices or policies affect such resources, to engage in negotiations in good faith relating to the use or conservation of such resources. If, after such efforts by the President and by other countries which have agreed to engage in such negotiations, any other country whose conservation practices or policies affect the interests of the United States and such other countries, has, in the judgment of the President, failed or refused to engage in such negotiations in good faith, the President may, if he is satisfied that such action is likely to be effective in inducing such country to engage in such negotiations in good faith, increase the rate of duty on any fish (in any form) which is the product of such country, for such time as he deems necessary, to a rate not more than 50 percent above the rate existing on July 1, 1934.

(June 17, 1930, ch. 497, title III, §323, as added Pub. L. 87-794, title II, §257(i), Oct. 11, 1962, 76 Stat. 883.)

PART II—UNITED STATES INTERNATIONAL TRADE
COMMISSION

§ 1330. Organization of Commission

(a) Membership

The United States International Trade Commission (referred to in this subtitle as the “Commission”) shall be composed of six commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. No person shall be eligible for appointment as a commissioner unless he is a citizen of the United States, and, in the judgment of the President, is possessed of qualifications requisite for developing expert knowledge of international trade problems and efficiency in administering the duties and functions of the Commission. A person who has served as a commissioner for more than 5 years (excluding service as a commissioner before January 3, 1975) shall not be eligible for reappointment as a commissioner. Not more than three of the commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable.

(b) Terms of office

The terms of office of the commissioners holding office on January 3, 1975, which (but for this sentence) would expire on June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1978, June 16, 1979, and June 16, 1980, shall expire on December 16, 1976, June 16, 1978, December 16, 1979, June 16, 1981, December 16, 1982, and June 16, 1984, respectively. The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that—

(1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

(2) any commissioner may continue to serve as a commissioner after an expiration of his term of office until his successor is appointed and qualified.

(c) Chairman and vice chairman; quorum

(1) The chairman and the vice chairman of the Commission shall be designated by the President from among the members of the Commission not ineligible, under paragraph (3), for designation. The President shall notify the Congress of his designations under this paragraph. If, as of the date on which a term begins under paragraph (2), the President has not designated the chairman of the Commission for such term, the Commissioner¹ who, as of such date—

(A) is a member of a different political party than the chairman of the Commission for the immediately preceding term, and

(B) has the longest period of continuous service as a commissioner,

shall serve as chairman of the Commission for the portion of such term preceding the date on

which an individual designated by the President takes office as chairman.

(2) After June 16, 1978, the terms of office for the chairman and vice chairman of the Commission shall be as follows:

(A) The first term of office occurring after such date shall begin on June 17, 1978, and end at the close of June 16, 1980.

(B) Each term of office thereafter shall begin on the day after the closing date of the immediately preceding term of office and end at the close of the 2-year period beginning on such day.

(3)(A) The President may not designate as the chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member, or who has less than 1 year of continuous service as a commissioner as of the date such designation is being made.

(B) The President may not designate as the vice chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman for that term is a member.

(C) If any commissioner does not complete a term as chairman or vice chairman by reason of death, resignation, removal from office as a commissioner, or expiration of his term of office as a commissioner, the President shall designate as the chairman or vice chairman, as the case may be, for the remainder of such term a commissioner who is a member of the same political party. Designation of a chairman under this subparagraph may be made without regard to the 1-year continuous service requirement under subparagraph (A).

(4) The vice chairman shall act as chairman in case of the absence or disability of the chairman. During any period in which there is no chairman or vice chairman, the commissioner having the longest period of continuous service as a commissioner shall act as chairman.

(5) No commissioner shall actively engage in any business, vocation, or employment other than that of serving as a commissioner.

(6) A majority of the commissioners in office shall constitute a quorum, but the Commission may function notwithstanding vacancies.

(d) Effect of divided vote in certain cases

(1) In a proceeding in which the Commission is required to determine—

(A) under section 2252 of this title, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as “serious injury”), or

(B) under section 2436 of this title, whether market disruption exists,

and the commissioners voting are equally divided with respect to such determination, then the determination, agreed upon by either group of commissioners may be considered by the President as the determination of the Commission.

(2) If under section 2252(b) or 2436 of this title there is an affirmative determination of the

¹ So in original. Probably should not be capitalized.

Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of the commissioners voting are unable to agree on a finding or recommendation described in section 2252(e)(1) of this title or the finding described in section 2436(a)(3) of this title, as the case may be (hereafter in this subsection referred to as a “remedy finding”), then—

(A) if a plurality of not less than three commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of section 2253 of this title, be treated as the remedy finding of the Commission, or

(B) if two groups, both of which include not less than 3 commissioners, each agree upon a remedy finding and the President reports under section 2254(a) of this title that—

(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of section 2253 of this title, be treated as the remedy finding of the Commission, or

(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of section 2253 of this title, be treated as the remedy finding of the Commission.

(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.

(4) In a case to which paragraph (2)(B)(ii) applies, for purposes of section 2253(a) of this title, notwithstanding section 2192(a)(1)(A) of this title, the second blank space in the joint resolution described in such section 2192(a)(1)(A) of this title shall be filled with the appropriate date and the following: “The action which shall take effect under section 203(a) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners _____, _____, and _____.” The three blank spaces shall be filled with the names of the appropriate Commissioners.

(5) Whenever, in any case in which the Commission is authorized to make an investigation upon its own motion, upon complaint, or upon application of any interested party, one-half of the number of commissioners voting agree that the investigation should be made, such investigation shall thereupon be carried out in accordance with the statutory authority covering the matter in question. Whenever the Commission is authorized to hold hearings in the course of any investigation and one-half of the number of commissioners voting agree that hearings should be held, such hearings shall thereupon be

held in accordance with the statutory authority covering the matter in question.

(e) Authorization of appropriations

(1) For the fiscal year beginning October 1, 1976, and each fiscal year thereafter, there are authorized to be appropriated to the Commission only such sums as may hereafter be provided by law.

(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

- (i) \$54,000,000 for fiscal year 2003.
- (ii) \$57,240,000 for fiscal year 2004.

(B) Not to exceed \$2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.

(3) There are authorized to be appropriated to the Commission for each fiscal year after September 30, 1977, in addition to any other amount authorized to be appropriated for such fiscal year, such sums as may be necessary for increases authorized by law in salary, pay, retirement, and other employee benefits.

(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.

(f) Treatment of Commission under Paperwork Reduction Act

The Commission shall be considered to be an independent regulatory agency for purposes of chapter 35 of title 44.

(June 17, 1930, ch. 497, title III, §330, 46 Stat. 696; Aug. 7, 1953, ch. 348, title II, §201, 67 Stat. 472; Pub. L. 93-618, title I, §§172(a), (b), 175(b), Jan. 3, 1975, 88 Stat. 2009-2011; Pub. L. 94-455, title XVIII, §1801(a), (b), Oct. 4, 1976, 90 Stat. 1762; Pub. L. 95-106, §1, 2(a), Aug. 17, 1977, 91 Stat. 867; Pub. L. 95-430, Oct. 10, 1978, 92 Stat. 1020; Pub. L. 97-456, §1(a), Jan. 12, 1983, 96 Stat. 2503; Pub. L. 98-573, title II, §248(c), title VII, §701, Oct. 30, 1984, 98 Stat. 2998, 3043; Pub. L. 99-272, title XIII, §13021, Apr. 7, 1986, 100 Stat. 305; Pub. L. 100-203, title IX, §9502, Dec. 22, 1987, 101 Stat. 1330-380; Pub. L. 100-418, title I, §§1401(b)(4), 1611, 1612, Aug. 23, 1988, 102 Stat. 1240, 1262; Pub. L. 100-647, title IX, §9001(a)(15), Nov. 10, 1988, 102 Stat. 3808; Pub. L. 101-207, §2, Dec. 7, 1989, 103 Stat. 1833; Pub. L. 101-382, title I, §101, Aug. 20, 1990, 104 Stat. 633; Pub. L. 102-185, §1(a)(1), (2), (c)(1), Dec. 4, 1991, 105 Stat. 1280; Pub. L. 107-210, div. A, title III, §371, Aug. 6, 2002, 116 Stat. 991; Pub. L. 108-429, title II, §2004(a)(13), Dec. 3, 2004, 118 Stat. 2590.)

REFERENCES IN TEXT

Section 203(a) of the Trade Act of 1974, referred to in subsec. (d)(4), is classified to section 2253(a) of this title.

CODIFICATION

Provisions of subsec. (c) which prescribed the annual basic compensation of the commissioners were omitted to conform to the provisions of the Executive Schedule. See sections 5314 and 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, §700, 39 Stat. 795. That section was superseded by section 330 of act June 17, 1930, comprising this section.

AMENDMENTS

2004—Subsec. (e)(4). Pub. L. 108-429 made technical correction to directory language of Pub. L. 107-210, §371(b). See 2002 Amendment note below.

2002—Subsec. (e)(2)(A)(i). Pub. L. 107-210, §371(a)(1), added cl. (i) and struck out former cl. (i) which read as follows: “\$41,170,000 for fiscal year 1991.”

Subsec. (e)(2)(A)(ii). Pub. L. 107-210, §371(a)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: “\$44,052,000 for fiscal year 1992.”

Subsec. (e)(4). Pub. L. 107-210, §371(b), as amended by Pub. L. 108-429, added par. (4).

1991—Subsec. (c)(1). Pub. L. 102-185, §1(c)(1), inserted at end “If, as of the date on which a term begins under paragraph (2), the President has not designated the chairman of the Commission for such term, the Commissioner who, as of such date—

“(A) is a member of a different political party than the chairman of the Commission for the immediately preceding term, and

“(B) has the longest period of continuous service as a commissioner,

shall serve as chairman of the Commission for the portion of such term preceding the date on which an individual designated by the President takes office as chairman.”

Subsec. (c)(3)(A). Pub. L. 102-185, §1(a)(2)(A), inserted “, or who has less than 1 year of continuous service as a commissioner as of the date such designation is being made” before the period.

Pub. L. 102-185, §1(a)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The President may not designate as the chairman of the Commission for any term—

“(i) either of the two commissioners with the shortest period of service on the Commission as of the beginning date of the term of office for which the designation of chairman is to be made; or

“(ii) any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member.”

Subsec. (c)(3)(C). Pub. L. 102-185, §1(a)(2)(B), inserted at end “Designation of a chairman under this subparagraph may be made without regard to the 1-year continuous service requirement under subparagraph (A).”

Pub. L. 102-185, §1(a)(1)(B), struck out at end “Designation of a chairman under this subparagraph may be made without regard to the limitation set forth in subparagraph (A)(i).”

1990—Subsec. (e)(2). Pub. L. 101-382 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1990 not to exceed \$39,943,000; of which not to exceed \$2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses. No part of any sum that is appropriated under the authority of this paragraph may be used by the Commission for the making

of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.”

1989—Subsec. (e)(2). Pub. L. 101-207 substituted “1990” for “1988” and “\$39,943,000” for “\$35,386,000”.

1988—Subsec. (c)(3)(A)(i). Pub. L. 100-647 substituted “with the shortest period of service on” for “most recently appointed to”.

Pub. L. 100-418, §1611, which directed that subsec. (c)(A)(i) of this section be amended by substituting “with the shortest period of service on” for “most recently appointed to”, was probably intended to be an amendment to subsec. (c)(3)(A)(i). See amendment by Pub. L. 100-647 above.

Subsec. (d)(1)(A). Pub. L. 100-418, §1401(b)(4)(A), substituted “2252” for “2251”.

Subsec. (d)(2). Pub. L. 100-418, §1401(b)(4)(B)(i), (iii), in introductory provisions substituted “2252(b)” and “2252(e)(1)” for “2251” and “2251(d)(1)”, respectively.

Subsec. (d)(2)(A). Pub. L. 100-418, §1401(b)(4)(B)(iv), substituted “section 2253 of this title” for “sections 2252 and 2253 of this title”.

Subsec. (d)(2)(B). Pub. L. 100-418, §1401(b)(4)(B)(iv), (v), in introductory provisions substituted “section 2254(a) of this title” for “section 2253(b) of this title” and, in cls. (i) and (ii), substituted “section 2253 of this title” for “sections 2252 and 2253 of this title”.

Subsec. (d)(4). Pub. L. 100-418, §1401(b)(4)(C), substituted “section 2253(a) of this title” for “section 2253(c)(1) of this title” and “section 203(a) of the Trade Act of 1974” for “section 203(c)(1) of the Trade Act of 1974”.

Subsec. (f). Pub. L. 100-418, §1612, added subsec. (f).

1987—Subsec. (e)(2). Pub. L. 100-203 substituted “for fiscal year 1988 not to exceed \$35,386,000” for “fiscal year 1986 not to exceed \$28,901,000”.

1986—Subsec. (e)(2). Pub. L. 99-272 amended first sentence generally, substituting “for fiscal year 1986 not to exceed \$28,901,000” for “for fiscal year 1985 not to exceed \$28,410,000”.

1984—Subsec. (d)(4). Pub. L. 98-573, §248(c), substituted “the joint resolution described in such section 2192(a)(1)(A)” for “the concurrent resolution described in such section 2192”.

Subsec. (e)(2). Pub. L. 98-573, §701, substituted authorization of appropriation of not more than \$28,410,000 for fiscal year 1985 for necessary expenses, including the rental of conference rooms in the District of Columbia and elsewhere for provision authorizing appropriation of not more than \$19,737,000 for necessary expenses for fiscal year 1983, and inserted provision that not more than \$2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.

1983—Subsec. (e)(2). Pub. L. 97-456 substituted authorization of appropriation of not exceeding \$19,737,000 for fiscal 1983 for authorization not exceeding \$12,963,000 for fiscal 1979, and inserted provision relating to reimbursement by agencies of the executive branch for studies requested by them.

1978—Subsec. (e)(2). Pub. L. 95-430 substituted provisions authorizing \$12,963,000 to be appropriated for the necessary expenses of the Commission for fiscal year 1979 for provisions authorizing \$11,522,000 to be appropriated for similar expenses for fiscal year 1978.

1977—Subsec. (c). Pub. L. 95-106, §2(a), inserted provisions in par. (1) for the Congressional notification of Presidential designations, substituted, in par. (2), provisions covering the expiration of terms of office after June 16, 1978, for provisions covering the expiration of terms of office on and after June 17, 1975, added par. (3), and redesignated as pars. (4) to (6) provisions formerly contained in par. (1).

Subsec. (e). Pub. L. 95-106, §1, designated existing provisions as par. (1) and added pars. (2) and (3).

1976—Subsec. (b). Pub. L. 94-455, §1801(a), inserted provisions that any commissioner may continue to serve as a commissioner after an expiration of his term of office until his successor is appointed and qualified.

Subsec. (d)(1). Pub. L. 94-455, §1801(b)(2), substituted provisions relating to consideration by the President of determinations of the Commission as to whether increased imports of an article are a substantial cause of serious injury or threat or whether market disruption exists for provisions relating to consideration by the President of findings of the Commission in connection with any authority conferred upon the President by law to make changes in import restrictions.

Subsec. (d)(2) to (5). Pub. L. 94-455, §1801(b), added pars. (2) to (4) and redesignated former par. (2) as (5).

1975—Subsec. (a). Pub. L. 93-618, §172(a), substituted “United States International Trade Commission” for “United States Tariff Commission” and inserted provision that a person who has served as a commissioner for more than five years (excluding service as a commissioner before January 3, 1975) shall not be eligible for reappointment as a commissioner.

Subsec. (b). Pub. L. 93-618, §172(a), lengthened the term of office from 6 years to 9 years for commissioners appointed after Jan. 3, 1975, and substituted Dec. 16, 1976, June 16, 1978, Dec. 16, 1979, June 16, 1981, Dec. 16, 1982, and June 16, 1984, for June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1978, June 16, 1979, and June 16, 1980, respectively, as the expiration dates for the terms of office of commissioners serving on Jan. 3, 1975.

Subsec. (c). Pub. L. 93-618, §172(b), designated existing provisions as par. (1), inserted “Except as provided in paragraph (2),” before “The”, and added par. (2).

Subsec. (e). Pub. L. 93-618, §175(b), added subsec. (e).
1953—Subsec. (d). Act Aug. 7, 1953, added subsec. (d).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 1(a)(3) of Pub. L. 102-185 provided that:

“(A) MODIFICATION.—The amendments made by paragraph (1) [amending this section] shall apply to terms beginning on and after June 17, 1990.

“(B) 1-YEAR REQUIREMENT.—The amendments made by paragraph (2) [amending this section] shall apply to terms beginning on and after June 17, 1996.”

Section 1(c)(2) of Pub. L. 102-185 provided that: “The amendment made by this subsection [amending this section] shall take effect on the 10th day following the date of the enactment of this Act [Dec. 4, 1991].”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

Amendment by section 1401(b)(4) of Pub. L. 100-418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§2251 et seq.) of subchapter II of chapter 12 of this title on or after that date, see section 1401(c) of Pub. L. 100-418, set out as a note under section 2251 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 248(c) of Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 2(b) of Pub. L. 95-106 provided that: “The amendment made by this section [amending this section] shall apply with respect to the designation of chairmen and vice chairmen of the United States International Trade Commission for terms beginning after June 16, 1978.”

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1801(c) of Pub. L. 94-455 provided that: “The amendments made by subsection (b) [amending this section] shall apply to determinations, findings, and recommendations made under sections 201 and 406 of the Trade Act of 1974 [sections 2251 and 2436 of this title] after the date of the enactment of this Act [Oct. 4, 1976].”

APPOINTMENT OF CHAIRMAN IN 1992

Section 1(b) of Pub. L. 102-185 provided that: “In the case of the term of the chairman of the United States International Trade Commission beginning June 17, 1992—

“(1) section 330(c)(3)(A) of the Tariff Act of 1930 [19 U.S.C. 1330(c)(3)(A)] shall not apply, and

“(2) the President shall designate as chairman a Commissioner who is a member of the same political party as the chairman of the Commission serving on June 16, 1986.”

§ 1331. General powers

(a) Administration

(1)(A) Except as provided in paragraph (2), the chairman of the Commission shall—

(i) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

(ii) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, and

(iii) exercise and be responsible for all other administrative functions of the Commission.

(B) The chairman of the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

(C) Any decision by the chairman under subparagraph (A) or (B) shall be subject to disapproval by a majority vote of all the commissioners in office.

(2) Subject to approval by a majority vote of all the commissioners in office, the chairman may—

(A) terminate the employment of any supervisory employee of the Commission whose duties involve substantial personal responsibility for Commission matters and who is compensated at a rate equal to, or in excess of, the rate for grade GS-15 of the General Schedule in section 5332 of title 5, and

(B) formulate the annual budget of the Commission.

(3) No member of the Commission, in making public statements with respect to any policy matter for which the Commission has responsibility, shall represent himself as speaking for the Commission, or his views as being the views of the Commission, with respect to such matter except to the extent that the Commission has adopted the policy being expressed.

(b) Application of civil service law

Except for employees excepted under civil service rules, all employees of the commission shall be appointed from lists of eligibles to be supplied by the Director of the Office of Personnel Management and in accordance with the civil service law.

(c) Expenses

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other places than at their respective headquarters, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman (except that in the case of a commissioner, or the personal staff of any commissioner, such vouchers may be approved by that commissioner).

(d) Principal office at Washington

The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such agents as it may designate, prosecute any inquiry necessary to its duties in any part of the United States or in any foreign country.

(e) Office at New York

The commission is authorized to establish and maintain an office at the port of New York for the purpose of directing or carrying on any investigation, receiving and compiling statistics, selecting, describing, and filing samples of articles, and performing any of the duties or exercising any of the powers imposed upon it by law.

(f) Official seal

The commission is authorized to adopt an official seal, which shall be judicially noticed.

(June 17, 1930, ch. 497, title III, § 331, 46 Stat. 697; Pub. L. 95-106, § 3(a), (b), Aug. 17, 1977, 91 Stat. 868; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 97-456, § 1(b), Jan. 12, 1983, 96 Stat. 2503.)

CODIFICATION

In subsec. (a), provisions which specified a salary of \$7,500 per year for the secretary to the commission have been omitted as obsolete and superseded. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

In subsec. (b), the words "Except for employees excepted under the civil service rules" substituted for "With the exception of the secretary, a clerk to each commissioner, and such special experts as the commission may from time to time find necessary for the conduct of its work". Appointments are now subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5.

PRIOR PROVISIONS

Provisions similar to subssecs. (a) to (e) of this section were contained in act Sept. 8, 1916, ch. 463, § 701, 39 Stat. 975. That section was superseded by section 331 of act June 17, 1930, comprising this section.

Provisions similar to those in subssecs. (f) and (g) of this section were contained in act Sept. 21, 1922, ch. 356, title III, § 318, 42 Stat. 947. That section was superseded by section 331 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 97-456 designated existing provisions relating to the chairman's exercise of and responsibility for all administrative functions as subpar. (A), redesignated former subpars. (A) through (C) as cls. (i) through (iii), added subpar. (B), designated provisions relating to disapproval by a majority of the commissioners of any decision by the chairman as subpar. (C), and in (C) as so designated, substituted "subparagraph (A) or (B)" for "this paragraph" after "chairman under".

1977—Subsec. (a). Pub. L. 95-106, § 3(a), designated existing provisions as par. (1), substituted provisions authorizing the chairman to perform certain required functions subject to approval by the Commission for provisions authorizing the Commission to perform certain required functions and inserted provisions requiring the chairman to exercise and be responsible for all other administrative functions of the Commission, and added pars. (2) and (3).

Subsec. (c). Pub. L. 95-106, § 3(b)(1), substituted "approved by the chairman (except that in the case of a commissioner, or the personal staff of any commissioner, such vouchers may be approved by that commissioner)" for "approved by the Commission".

Subsec. (d). Pub. L. 95-106, § 3(b)(2), redesignated subssecs. (e) to (g) as (d) to (f), respectively. Former subsec. (d), relating to offices and supplies, was struck out.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3(c) of Pub. L. 95-106 provided that: "The amendments made by this section [amending this section] take effect on the date of enactment of this Act [Aug. 17, 1977]."

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "Civil Service Commission" in subsec. (b) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 1332. Investigations**(a) Investigations and reports**

It shall be the duty of the commission to investigate the administration and fiscal and industrial effects of the customs laws of this country, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.

(b) Investigations of tariff relations

The commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treat-

ties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production.

(c) Investigation of Paris Economy Pact

The commission shall have power to investigate the Paris Economy Pact and similar organizations and arrangements in Europe.

(d) Information for President and Congress

In order that the President and the Congress may secure information and assistance, it shall be the duty of the commission to—

(1) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of the United States of articles of the United States, whenever in the opinion of the commission it is practicable;

(2) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of foreign countries of articles imported into the United States, whenever in the opinion of the commission such conversion costs or costs of production are necessary for comparison with conversion costs or costs of production in the United States and can be reasonably ascertained;

(3) Select and describe articles which are representative of the classes or kinds of articles imported into the United States and which are similar to or comparable with articles of the United States; select and describe articles of the United States similar to or comparable with such imported articles; and obtain and file samples of articles so selected, whenever the commission deems it advisable;

(4) Ascertain import costs of such representative articles so selected;

(5) Ascertain the grower's, producer's, or manufacturer's selling prices in the principal growing, producing, or manufacturing centers of the United States of the articles of the United States so selected; and

(6) Ascertain all other facts which will show the differences in or which affect competition between articles of the United States and imported articles in the principal markets of the United States.

(e) Definitions

When used in this subdivision and in subdivision (d) of this section—

(1) The term "article" includes any commodity, whether grown, produced, fabricated, manipulated, or manufactured;

(2) The term "import cost" means the transaction value of the imported merchandise determined in accordance with section 1401a(b) of this title plus, when not included in the transaction value, all necessary expenses, exclusive of customs duties, of bringing such merchandise to the United States.

(f) Omitted

(g) Reports to President and Congress

The commission shall put at the disposal of the President of the United States, the Commit-

tee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress. However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress on the first Monday of December of each year after June 17, 1930, a statement of the methods adopted and all expenses incurred, a summary of all reports made during the year, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting. Each such annual report shall include a list of all complaints filed under section 1337 of this title during the year for which such report is being made, the date on which each such complaint was filed, and the action taken thereon, and the status of all investigations conducted by the commission under such section during such year and the date on which each such investigation was commenced.

(June 17, 1930, ch. 497, title III, § 332, 46 Stat. 698; Pub. L. 93-618, title I, § 173, title III, § 341(b), Jan. 3, 1975, 88 Stat. 2010, 2056; Pub. L. 96-39, title II, § 202(a)(1), July 26, 1979, 93 Stat. 201; Pub. L. 100-418, title I, § 1613, Aug. 23, 1988, 102 Stat. 1262; Pub. L. 100-647, title IX, § 9001(a)(16), Nov. 10, 1988, 102 Stat. 3808.)

CODIFICATION

Subsec. (f) directed the Tariff Commission to ascertain the cost of crude petroleum during three years preceding 1930.

PRIOR PROVISIONS

Provisions similar to subsecs. (a), (b), and (g) were contained in act Sept. 8, 1916, ch. 463, §§ 702 to 704, 39 Stat. 796. Those sections were superseded by section 332 of act June 17, 1930, comprising this section.

Provisions similar to those in subdiv. (c) were contained in act Sept. 8, 1916, ch. 463, § 708, 39 Stat. 798. That section was superseded by section 332 of act June 17, 1930, comprising this section.

Provisions similar to subdvs. (d) and (e) were contained in act Sept. 21, 1922, ch. 356, title III, § 318, 42 Stat. 947. Section 318 of act 1922 was superseded by section 332 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of said 1930 act.

Act Oct. 3, 1913, ch. 16, § IV, R, 38 Stat. 201, directed President to ascertain certain facts and report to Congress when imports amounted to less than 5 per centum of domestic consumption, prior to repeal by act Sept. 21, 1922, ch. 356, title III, § 321, 42 Stat. 947.

AMENDMENTS

1988—Subsec. (g). Pub. L. 100-647 substituted "report to Congress on the first" for "report to Congress. on the first".

Pub. L. 100-418 substituted ". However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business

information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress." for ", and shall report to Congress".

1979—Subsec. (e)(2). Pub. L. 96-39 substituted "the transaction value of the imported merchandise determined in accordance with section 1401a(b) of this title plus, when not included in the transaction value, all necessary expenses, exclusive of customs duties, of bringing such merchandise to the United States" for "the price at which an article is freely offered for sale in the ordinary course of trade in the usual wholesale quantities for exportation to the United States plus, when not included in such price, all necessary expenses, exclusive of customs duties, of bringing such imported article to the United States".

1975—Subsec. (g). Pub. L. 93-618 substituted "a summary of all reports made during the year, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting" for "and a summary of all reports made during the year", and inserted last sentence relating to complaints included in annual reports.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-618 effective on 90th day after Jan. 3, 1975, see section 341(c) of Pub. L. 93-618, set out as a note under section 1337 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) relating to an annual report to Congress on the first Monday of December of each year, see section 3003 of Pub. L. 104-66, set out as a note under section 1113 of Title 31, Money and Finance, and page 194 of House Document No. 103-7.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (g) of this section regarding reports by United States International Trade Commission to President delegated to United States Trade Representative, see section 5-301 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

CONTINUATION OF REPORTS WITH RESPECT TO SYNTHETIC ORGANIC CHEMICALS

Pub. L. 95-106, § 5, Aug. 17, 1977, 91 Stat. 869, directed International Trade Commission to make, for each calendar year ending before Jan. 1, 1981, reports with respect to synthetic organic chemicals similar in scope to reports made with respect to such chemicals for calendar year 1976.

REVIEW OF CUSTOMS TARIFF SCHEDULES

Act Sept. 1, 1954, ch. 1213, title I, §101, 68 Stat. 1136, as amended Aug. 2, 1956, ch. 894, 70 Stat. 955; May 19, 1958, Pub. L. 85-418, § 3, 72 Stat. 120, provided for a complete study by the Tariff Commission for the purpose of clarifying and simplifying the tariff classification, with a report to go to the President and to the chairmen of the appropriate committees of Congress no later than Jan. 1, 1959. See section 1332 of this title.

§ 1332a. Importation of red cedar shingles

(a) Investigation by Commission

The United States International Trade Commission is directed to conduct an investigation as soon as practicable after the close of the calendar year 1939 and each calendar year thereafter, for the purpose of ascertaining the quantities of red cedar shingles shipped by producers in the United States and the quantities of imported red cedar shingles entered for consumption, or withdrawn from warehouse for consumption, during each of the three calendar years immediately preceding any such investigation.

(b) Duty on imported shingles; amount

If the Commission finds, on the basis of an investigation under subdivision (a) of this section, that in any calendar year after 1938 the quantity of imported red cedar shingles entered for consumption, or withdrawn from warehouse for consumption, was in excess of 30 per centum of the combined total for such year of the respective quantities ascertained in such investigation, it shall so report to the President. If the President approves the report of the Commission, he shall so proclaim, and on and after the day following the filing of such proclamation with the Division of the Federal Register and so long as any trade agreement entered into under the authority of section 1351 of this title, shall be in effect with respect to the importation into the United States of red cedar shingles, there shall be a duty upon imported red cedar shingles entered for consumption, or withdrawn from warehouse for consumption, in any calendar year in excess of 30 per centum of the annual average for the preceding three calendar years of the combined total of the quantity of such shingles shipped by producers in the United States and of the quantity of such imported shingles entered for consumption, or withdrawn from warehouse for consumption. The rate of such duty shall be 25 cents per square. Any duty imposed under this section shall be treated for the purposes of all provisions of law relating to customs revenue as a duty imposed by section 1001¹ of this title, and shall not apply to shingles entered for consumption before the duty becomes applicable.

(c) Exemptions from duty

The quantity of red cedar shingles entitled to exemption from any duty imposed pursuant to this section shall be ascertained for each quota period by the Commission and reported to the Secretary of the Treasury.

(July 1, 1940, ch. 499, 54 Stat. 708; Pub. L. 93-618, title I, § 171(b), Jan. 3, 1975, 88 Stat. 2009.)

REFERENCES IN TEXT

Section 1001 of this title, referred to in subsec. (b), was struck out by Pub. L. 87-456, title I, § 101(a), May 24, 1962, 76 Stat. 72.

CODIFICATION

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

AMENDMENTS

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

¹ See References in Text note below.

§ 1333. Testimony and production of papers**(a) Authority to obtain information**

For the purposes of carrying out its functions and duties in connection with any investigation authorized by law, the commission or its duly authorized agent or agents (1) shall have access to and the right to copy any document, paper, or record, pertinent to the subject matter under investigation, in the possession of any person, firm, copartnership, corporation, or association engaged in the production, importation, or distribution of any article under investigation, (2) may summon witnesses, take testimony, and administer oaths, (3) may require any person, firm, copartnership, corporation, or association to produce books or papers relating to any matter pertaining to such investigation, and (4) may require any person, firm, copartnership, corporation, or association, to furnish in writing, in such detail and in such form as the commission may prescribe, information in their possession pertaining to such investigation. Any member of the commission may sign subpoenas, and members and agents of the commission, when authorized by the commission, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) Witnesses and evidence

Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Mandamus

At the request of the commission, any such court shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this part or any order of the commission made in pursuance thereof.

(d) Depositions

The commission may order testimony to be taken by deposition in any proceeding or investigation pending before the commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person, firm, copartnership, corporation, or association, may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and

testify and produce documentary evidence before the commission, as hereinbefore provided.

(e) Fees and mileage of witnesses

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same, except employees of the commission, shall severally be entitled to the same fees and mileage as are paid for like services in the courts of the United States.

(f) Statements under oath

The commission is authorized, in order to ascertain any facts required by subdivision (d) of section 1332 of this title to require any importer and any American grower, producer, manufacturer, or seller to file with the commission a statement, under oath, giving his selling prices in the United States of any article imported, grown, produced, fabricated, manipulated, or manufactured by him.

(g) Representation in court proceedings

The Commission shall be represented in all judicial proceedings by attorneys who are employees of the Commission or, at the request of the Commission, by the Attorney General of the United States.

(h) Administrative protective orders

Any correspondence, private letters of reprimand, and other documents and files relating to violations or possible violations of administrative protective orders issued by the Commission in connection with investigations or other proceedings under this subtitle shall be treated as information described in section 552(b)(3) of title 5.

(June 17, 1930, ch. 497, title III, § 333, 46 Stat. 699; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85-686, § 9(a), (b), Aug. 20, 1958, 72 Stat. 679; Pub. L. 91-452, title II, § 229, Oct. 15, 1970, 84 Stat. 930; Pub. L. 93-618, title I, § 174, Jan. 3, 1975, 88 Stat. 2011; Pub. L. 101-382, title I, § 135(a), Aug. 20, 1990, 104 Stat. 651.)

CODIFICATION

As originally enacted subsec. (b) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia". However, the words "United States District Court for the District of Columbia" have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of Title 28 which states that "the District of Columbia constitutes one judicial district".

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, § 706, 39 Stat. 797, as amended by act Sept. 21, 1922, ch. 356, title III, § 318(f),

42 Stat. 947. These acts were superseded by section 333 of act June 17, 1930, comprising this section, and section 318(f) of the 1922 act was repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1990—Subsec. (h). Pub. L. 101-382 added subsec. (h).
 1975—Subsec. (c). Pub. L. 93-618, §174(1), substituted “At the request of” for “Upon application of the Attorney General of the United States, at the request of”.

Subsec. (g). Pub. L. 93-618, §174(2), added subsec. (g).
 1970—Subsec. (e). Pub. L. 91-452 struck out provisions relating to the immunity from prosecution of any natural person compelled to testify or produce evidence in obedience to the subpoena of the commission.

1958—Subsec. (a). Pub. L. 85-686, §9(a), substituted “For the purposes of carrying out its functions and duties in connection with any investigation authorized by law” for “For the purposes of carrying Part II of this subtitle into effect”, inserted provisions empowering the commission to require any person, firm, copartnership, corporation, or association to furnish in writing, in such detail and in such form as the commission may prescribe, information in their possession pertaining to an investigation.

Subsec. (d). Pub. L. 85-686, §9(b), substituted “pending before the commission” for “pending under Part II of this subtitle”.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 1334. Cooperation with other agencies

The commission shall in appropriate matters act in conjunction and cooperation with the Treasury Department, the Department of Commerce, the Federal Trade Commission, or any other departments, or independent establishments of the Government, and such departments and independent establishments of the Government shall cooperate fully with the commission for the purposes of aiding and assisting in its work, and, when directed by the President, shall furnish to the commission, on its request, all records, papers, and information in their possession relating to any of the subjects of investigation by the commission and shall detail, from time to time, such officials and employees to said commission as he may direct.

(June 17, 1930, ch. 497, title III, §334, 46 Stat. 700.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, §707, 39 Stat. 797. That section was superseded by section 334 of act June 17, 1930, comprising this section.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission transferred, with certain reservations, to Chairman of such Commission by Reorg. Plan No. 8 of 1950, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1335. Rules and regulations

The commission is authorized to adopt such reasonable procedures and rules and regulations

as it deems necessary to carry out its functions and duties.

(June 17, 1930, ch. 497, title III, §335, as added Aug. 20, 1958, Pub. L. 85-686, §9(c)(2), 72 Stat. 680.)

PRIOR PROVISIONS

A prior section 335 of act June 17, 1930, related to disclosure of trade secrets and prescribed penalty therefor, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See section 1905 of Title 18, Crimes and Criminal Procedure.

§ 1336. Equalization of costs of production

(a) Change of classification or duties

In order to put into force and effect the policy of Congress by this chapter intended, the commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article. In the course of the investigation the commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the commission shall specify in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute.

(b) Repealed. Pub. L. 96-39, title II, § 202(a)(2)(A), July 26, 1979, 93 Stat. 202

(c) Proclamation by the President

The President shall by proclamation approve the rates of duty and changes in classification specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

(d) Effective date of rates and changes

Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification specified in the report of the commission shall take effect.

(e) Ascertainment of differences in costs of production

In ascertaining under this section the differences in costs of production, the commission

shall take into consideration, in so far as it finds it practicable:

(1) In the case of a domestic article

(A) The cost of production as hereinafter in this section defined; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

(2) In the case of a foreign article

(A) The cost of production as hereinafter in this section defined, or, if the commission finds that such cost is not readily ascertainable, the commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and/or the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets); (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association in a foreign country.

(f) Modification of changes in duty

Any increased or decreased rate of duty or change in classification which has taken effect as above provided may be modified or terminated in the same manner and subject to the same conditions and limitations (including time of taking effect) as is provided in this section in the case of original increases, decreases, or changes.

(g) Prohibition against transfers from the free list to the dutiable list or from the dutiable list to the free list

Nothing in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of Subtitle I of this chapter, or in any amendatory act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provisions of this section upon such articles shall exceed the maximum ad valorem rate so specified.

(h) Definitions

For the purpose of this section—

(1) The term “domestic article” means an article wholly or in part the growth or product of the United States; and the term “foreign article” means an article wholly or in part the growth or product of a foreign country.

(2) The term “United States” includes the several States and Territories and the District of Columbia.

(3) The term “foreign country” means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions).

(4) The term “cost of production”, when applied with respect to either a domestic article or a foreign article, includes, for a period which is representative of conditions in production of the article: (A) The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; (B) the usual general expenses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; and (C) the cost of containers and coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for delivery.

(i) Rules and regulations of President

The President is authorized to make all needful rules and regulations for carrying out his functions under the provisions of this section.

(j) Repealed. Pub. L. 96-39, title II, § 202(a)(2)(D), July 26, 1979, 93 Stat. 202

(k) Investigations prior to June 17, 1930

All uncompleted investigations instituted prior to June 17, 1930, under the provisions of sections 154 to 159¹ of this title, including investigations in which the President has not proclaimed changes in classification or increases or decreases in rates of duty, shall be dismissed without prejudice; but the information and evidence secured by the commission in any such investigation may be given due consideration in any investigation instituted under the provisions of this section.

(June 17, 1930, ch. 497, title III, § 336, 46 Stat. 701; Aug. 2, 1956, ch. 887, § 2(d), 70 Stat. 946; Pub. L. 85-686, § 9(c)(1), Aug. 20, 1958, 72 Stat. 679; Pub. L. 96-39, title II, § 202(a)(2), July 26, 1979, 93 Stat. 202.)

REFERENCES IN TEXT

Sections 154 to 159 of this title, referred to in subsec. (k), were repealed by section 651(a)(1) of act June 17, 1930.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title III, § 315, 42 Stat. 941. That section was superseded by section 336 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39, § 202(a)(2)(A), struck out subsec. (b) which related to the setting of ad valorem rates based upon the American selling price of domestic articles as would be necessary to equalize differences in the costs of production.

Subsec. (c). Pub. L. 96-39, § 202(a)(2)(B), substituted “changes in classification specified in any report” for

¹ See References in Text note below.

“changes in classification and in basis of value specified in any report”.

Subsec. (d). Pub. L. 96-39, §202(a)(2)(C), substituted “changes in classification specified in the report” for “changes in classification or in basis of value specified in the report”.

Subsec. (f). Pub. L. 96-39, §202(a)(2)(C), substituted “change in classification which has taken effect” for “change in classification or in basis of value which has taken effect”.

Subsec. (j). Pub. L. 96-39, §202(a)(2)(D), struck out subsec. (j) which authorized the Secretary of the Treasury to make necessary rules and regulations for the entry and declaration of foreign articles with respect to which a change in the basis of value had been made.

Subsec. (k). Pub. L. 96-39, §202(a)(2)(C), substituted “changes in classification or increases or decreases” for “changes in classification or in basis of value or increases or decreases”.

1958—Subsec. (a). Pub. L. 85-686 struck out provisions which authorized the commission to adopt such reasonable procedure and rules and regulations as it deemed necessary to execute its functions under this section. See section 1335 of this title.

1956—Subsec. (b). Act Aug. 2, 1956, struck out “(as defined in section 1402(g))” after “selling price”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 2, 1956, effective only as to articles entered, or withdrawn from warehouse, for consumption on or after thirtieth day following publication of the final list provided for in section 6(a) of said act, set out in note under section 1402 of this title, see section 8 of act Aug. 2, 1956, set out as an Effective Date note under section 1401a of this title.

§ 1337. Unfair practices in import trade

(a) Unlawful activities; covered industries; definitions

(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), (D), and (E)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

- (i) to destroy or substantially injure an industry in the United States;
- (ii) to prevent the establishment of such an industry; or
- (iii) to restrain or monopolize trade and commerce in the United States.

(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

- (i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17; or
- (ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946 [15 U.S.C. 1051 et seq.].

(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17.

(E) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consigner, of an article that constitutes infringement of the exclusive rights in a design protected under chapter 13 of title 17.

(2) Subparagraphs (B), (C), (D), and (E) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, mask work, or design concerned, exists or is in the process of being established.

(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned—

- (A) significant investment in plant and equipment;
- (B) significant employment of labor or capital; or
- (C) substantial investment in its exploitation, including engineering, research and development, or licensing.

(4) For the purposes of this section, the phrase “owner, importer, or consignee” includes any agent of the owner, importer, or consignee.

(b) Investigation of violations by Commission

(1) The Commission shall investigate any alleged violation of this section on complaint under oath or upon its initiative. Upon commencing any such investigation, the Commission shall publish notice thereof in the Federal Register. The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall, within 45 days after an investigation is initiated, establish a target date for its final determination.

(2) During the course of each investigation under this section, the Commission shall consult with, and seek advice and information from, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as it considers appropriate.

(3) Whenever, in the course of an investigation under this section, the Commission has reason to believe, based on information before it, that a matter, in whole or in part, may come within the purview of part II of subtitle IV of this chapter, it shall promptly notify the Secretary of

Commerce so that such action may be taken as is otherwise authorized by such part II. If the Commission has reason to believe that the matter before it (A) is based solely on alleged acts and effects which are within the purview of section 1671 or 1673 of this title, or (B) relates to an alleged copyright infringement with respect to which action is prohibited by section 1008 of title 17, the Commission shall terminate, or not institute, any investigation into the matter. If the Commission has reason to believe the matter before it is based in part on alleged acts and effects which are within the purview of section 1671 or 1673 of this title, and in part on alleged acts and effects which may, independently from or in conjunction with those within the purview of such section, establish a basis for relief under this section, then it may institute or continue an investigation into the matter. If the Commission notifies the Secretary or the administering authority (as defined in section 1677(1) of this title) with respect to a matter under this paragraph, the Commission may suspend its investigation during the time the matter is before the Secretary or administering authority for final decision. Any final decision by the administering authority under section 1671 or 1673 of this title with respect to the matter within such section 1671 or 1673 of this title of which the Commission has notified the Secretary or administering authority shall be conclusive upon the Commission with respect to the issue of less-than-fair-value sales or subsidization and the matters necessary for such decision.

(c) Determinations; review

The Commission shall determine, with respect to each investigation conducted by it under this section, whether or not there is a violation of this section, except that the Commission may, by issuing a consent order or on the basis of an agreement between the private parties to the investigation, including an agreement to present the matter for arbitration, terminate any such investigation, in whole or in part, without making such a determination. Each determination under subsection (d) or (e) of this section shall be made on the record after notice and opportunity for a hearing in conformity with the provisions of subchapter II of chapter 5 of title 5. All legal and equitable defenses may be presented in all cases. A respondent may raise any counterclaim in a manner prescribed by the Commission. Immediately after a counterclaim is received by the Commission, the respondent raising such counterclaim shall file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the party would exist under section 1391 of title 28. Any counterclaim raised pursuant to this section shall relate back to the date of the original complaint in the proceeding before the Commission. Action on such counterclaim shall not delay or affect the proceeding under this section, including the legal and equitable defenses that may be raised under this subsection. Any person adversely affected by a final determination of the Commission under subsection (d), (e), (f), or (g) of this section may appeal such determination, within 60 days after the determination becomes final, to the United States

Court of Appeals for the Federal Circuit for review in accordance with chapter 7 of title 5. Notwithstanding the foregoing provisions of this subsection, Commission determinations under subsections (d), (e), (f), and (g) of this section with respect to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable in accordance with section 706 of title 5. Determinations by the Commission under subsections (e), (f), and (j) of this section with respect to forfeiture of bonds and under subsection (h) of this section with respect to the imposition of sanctions for abuse of discovery or abuse of process shall also be reviewable in accordance with section 706 of title 5.

(d) Exclusion of articles from entry

(1) If the Commission determines, as a result of an investigation under this section, that there is a violation of this section, it shall direct that the articles concerned, imported by any person violating the provision of this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry.

(2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that—

(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

(e) Exclusion of articles from entry during investigation except under bond; procedures applicable; preliminary relief

(1) If, during the course of an investigation under this section, the Commission determines that there is reason to believe that there is a violation of this section, it may direct that the articles concerned, imported by any person with respect to whom there is reason to believe that such person is violating this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under

this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry, except that such articles shall be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.

(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission's notice of investigation is published in the Federal Register. The Commission may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent.

(3) The Commission may grant preliminary relief under this subsection or subsection (f) of this section to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.

(4) The Commission shall prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2).

(f) Cease and desist orders; civil penalty for violation of orders

(1) In addition to, or in lieu of, taking action under subsection (d) or (e) of this section, the Commission may issue and cause to be served on any person violating this section, or believed to be violating this section, as the case may be, an order directing such person to cease and desist from engaging in the unfair methods or acts involved, unless after considering the effect of such order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such order should not be issued. The Commission may at any time, upon such notice and in such manner as it deems proper, modify or revoke any such order, and, in the case of a revocation, may take action under subsection (d) or (e) of this section, as the case may be. If a temporary cease and desist order is issued in addition to, or in lieu of, an exclusion order under subsection (e) of this section, the Commission may require the complainant to post a bond, in an amount determined by the Commission to be sufficient to protect the respondent from any injury, as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission shall

prescribe the terms and conditions under which the bonds may be forfeited under this paragraph.

(2) Any person who violates an order issued by the Commission under paragraph (1) after it has become final shall forfeit and pay to the United States a civil penalty for each day on which an importation of articles, or their sale, occurs in violation of the order of not more than the greater of \$100,000 or twice the domestic value of the articles entered or sold on such day in violation of the order. Such penalty shall accrue to the United States and may be recovered for the United States in a civil action brought by the Commission in the Federal District Court for the District of Columbia or for the district in which the violation occurs. In such actions, the United States district courts may issue mandatory injunctions incorporating the relief sought by the Commission as they deem appropriate in the enforcement of such final orders of the Commission.

(g) Exclusion from entry or cease and desist order; conditions and procedures applicable

(1) If—

(A) a complaint is filed against a person under this section;

(B) the complaint and a notice of investigation are served on the person;

(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

(D) the person fails to show good cause why the person should not be found in default; and

(E) the complainant seeks relief limited solely to that person;

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

(A) no person appears to contest an investigation concerning a violation of the provisions of this section,

(B) such a violation is established by substantial, reliable, and probative evidence, and

(C) the requirements of subsection (d)(2) of this section are met.

(h) Sanctions for abuse of discovery and abuse of process

The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.

(i) Forfeiture

(1) In addition to taking action under subsection (d) of this section, the Commission may

issue an order providing that any article imported in violation of the provisions of this section be seized and forfeited to the United States if—

(A) the owner, importer, or consignee of the article previously attempted to import the article into the United States;

(B) the article was previously denied entry into the United States by reason of an order issued under subsection (d) of this section; and

(C) upon such previous denial of entry, the Secretary of the Treasury provided the owner, importer, or consignee of the article written notice of—

(i) such order, and

(ii) the seizure and forfeiture that would result from any further attempt to import the article into the United States.

(2) The Commission shall notify the Secretary of the Treasury of any order issued under this subsection and, upon receipt of such notice, the Secretary of the Treasury shall enforce such order in accordance with the provisions of this section.

(3) Upon the attempted entry of articles subject to an order issued under this subsection, the Secretary of the Treasury shall immediately notify all ports of entry of the attempted importation and shall identify the persons notified under paragraph (1)(C).

(4) The Secretary of the Treasury shall provide—

(A) the written notice described in paragraph (1)(C) to the owner, importer, or consignee of any article that is denied entry into the United States by reason of an order issued under subsection (d) of this section; and

(B) a copy of such written notice to the Commission.

(j) Referral to President

(1) If the Commission determines that there is a violation of this section, or that, for purposes of subsection (e) of this section, there is reason to believe that there is such a violation, it shall—

(A) publish such determination in the Federal Register, and

(B) transmit to the President a copy of such determination and the action taken under subsection (d), (e), (f), (g), or (i) of this section, with respect thereto, together with the record upon which such determination is based.

(2) If, before the close of the 60-day period beginning on the day after the day on which he receives a copy of such determination, the President, for policy reasons, disapproves such determination and notifies the Commission of his disapproval, then, effective on the date of such notice, such determination and the action taken under subsection (d), (e), (f), (g), or (i) of this section with respect thereto shall have no force or effect.

(3) Subject to the provisions of paragraph (2), such determination shall, except for purposes of subsection (c) of this section, be effective upon publication thereof in the Federal Register, and the action taken under subsection (d), (e), (f), (g), or (i) of this section, with respect thereto shall be effective as provided in such sub-

sections, except that articles directed to be excluded from entry under subsection (d) of this section or subject to a cease and desist order under subsection (f) of this section shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission shall prescribe the terms and conditions under which bonds may be forfeited under this paragraph.

(4) If the President does not disapprove such determination within such 60-day period, or if he notifies the Commission before the close of such period that he approves such determination, then, for purposes of paragraph (3) and subsection (c) of this section such determination shall become final on the day after the close of such period or the day on which the President notifies the Commission of his approval, as the case may be.

(k) Period of effectiveness; termination of violation or modification or rescission of exclusion or order

(1) Except as provided in subsections (f) and (j) of this section, any exclusion from entry or order under this section shall continue in effect until the Commission finds, and in the case of exclusion from entry notifies the Secretary of the Treasury, that the conditions which led to such exclusion from entry or order no longer exist.

(2) If any person who has previously been found by the Commission to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), (g), or (i) of this section—

(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and

(B) relief may be granted by the Commission with respect to such petition—

(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.

(l) Importation by or for United States

Any exclusion from entry or order under subsection (d), (e), (f), (g), or (i) of this section, in cases based on a proceeding involving a patent, copyright, mask work, or design under subsection (a)(1) of this section, shall not apply to any articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government. Whenever any article would have been excluded from entry or would not have been entered pursuant to the provisions of such subsections but for the operation of this subsection, an owner of the patent, copyright, mask work, or design adversely affected shall be entitled to reasonable and entire compensation in an action before the United

States Court of Federal Claims pursuant to the procedures of section 1498 of title 28.

(m) “United States” defined

For purposes of this section and sections 1338 and 1340¹ of this title, the term “United States” means the customs territory of the United States as defined in general note 2 of the Harmonized Tariff Schedule of the United States.

(n) Disclosure of confidential information

(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is properly designated as confidential pursuant to Commission rules may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it.

(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

(A) an officer or employee of the Commission who is directly concerned with—

(i) carrying out the investigation or related proceeding in connection with which the information is submitted,

(ii) the administration of a bond posted pursuant to subsection (e), (f), or (j) of this section,

(iii) the administration or enforcement of an exclusion order issued pursuant to subsection (d), (e), or (g) of this section, a cease and desist order issued pursuant to subsection (f) of this section, or a consent order issued pursuant to subsection (c) of this section,

(iv) proceedings for the modification or rescission of a temporary or permanent order issued under subsection (d), (e), (f), (g), or (i) of this section, or a consent order issued under this section, or

(v) maintaining the administrative record of the investigation or related proceeding,

(B) an officer or employee of the United States Government who is directly involved in the review under subsection (j) of this section, or

(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under subsection (d), (e), or (g) of this section resulting from the investigation or related proceeding in connection with which the information is submitted.

(June 17, 1930, ch. 497, title III, § 337, 46 Stat. 703; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Pub. L. 85-686, § 9(c)(1), Aug. 20, 1958, 72 Stat. 679; Pub. L. 93-618, title III, § 341(a), Jan. 3, 1975, 88 Stat. 2053; Pub. L. 96-39, title I, § 106(b)(1), title XI, § 1105, July 26, 1979, 93 Stat. 193, 310; Pub. L. 96-417, title VI, § 604, Oct. 10, 1980, 94 Stat. 1744; Pub. L. 97-164, title I, §§ 160(a)(5), 163(a)(4), Apr. 2, 1982, 96 Stat. 48, 49; Pub. L. 98-620, title IV, § 413, Nov. 8, 1984, 98 Stat. 3362; Pub. L. 100-418, title I, §§ 1214(h)(3), 1342(a),

(b), Aug. 23, 1988, 102 Stat. 1157, 1212, 1215; Pub. L. 100-647, title IX, § 9001(a)(7), (12), Nov. 10, 1988, 102 Stat. 3807; Pub. L. 102-563, § 3(d), Oct. 28, 1992, 106 Stat. 4248; Pub. L. 103-465, title II, § 261(d)(1)(B)(ii), title III, § 321(a), Dec. 8, 1994, 108 Stat. 4909, 4943; Pub. L. 104-295, § 20(b)(11), (12), (c)(2), Oct. 11, 1996, 110 Stat. 3527, 3528; Pub. L. 106-113, div. B, § 1000(a)(9) [title V, § 5005(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-594; Pub. L. 108-429, title II, § 2004(d)(5), Dec. 3, 2004, 118 Stat. 2592.)

REFERENCES IN TEXT

The Trademark Act of 1946, referred to in subsec. (a)(1)(C), is act July 5, 1946, ch. 540, 60 Stat. 427, as amended, also popularly known as the Lanham Act, which is classified generally to chapter 22 (§ 1051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

The Federal Rules of Civil Procedure, referred to in subsecs. (e)(3), (h), and (k)(2)(B)(ii), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 1340 of this title, referred to in subsec. (m), was omitted from the Code.

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

CODIFICATION

The reference to the Philippine Islands, formerly contained in subsec. (k), was omitted because of independence of the Philippines proclaimed by the President of the United States in Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Inter-course, and set out as a note thereunder.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title III, § 316, 42 Stat. 943. That section was superseded by section 337 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2004—Subsec. (a)(1)(E). Pub. L. 108-429, § 2004(d)(5)(A), realigned margins.

Subsec. (a)(2). Pub. L. 108-429, § 2004(d)(5)(B), substituted “(D), and (E)” for “and (D)”.

1999—Subsec. (a)(1)(A). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(1)(A)(i)], substituted “(D), and (E)” for “and (D)”.

Subsec. (a)(1)(E). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(1)(A)(ii)], added subpar. (E).

Subsec. (a)(2), (3). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(1)(B)], substituted “mask work, or design” for “or mask work”.

Subsec. (i). Pub. L. 106-113, § 1000(a)(9) [title V, § 5005(b)(2)], substituted “mask work, or design” for “or mask work” in two places.

1996—Subsec. (b)(3). Pub. L. 104-295, § 20(c)(2), amended Pub. L. 103-465, § 321(a)(1)(C)(i). See 1994 Amendment note below.

Pub. L. 104-295, § 20(b)(12), struck out “such section and” before “such part II” in first sentence.

Pub. L. 104-295, § 20(b)(11), amended Pub. L. 103-465, § 261(d)(1)(B)(ii)(I). See 1994 Amendment note below.

1994—Subsec. (b). Pub. L. 103-465, § 321(a)(1)(A), struck out “; time limits” after “Commission” in heading.

Subsec. (b)(1). Pub. L. 103-465, § 321(a)(1)(B), substituted third and fourth sentences for “The Commission shall conclude any such investigation, and make its determination under this section, at the earliest practicable time, but not later than one year (18 months in more complicated cases) after the date of publication of notice of such investigation. The Commission shall publish in the Federal Register its reasons for designating any investigation as a more com-

¹ See References in Text note below.

plicated investigation. For purposes of the one-year and 18-month periods prescribed by this subsection, there shall be excluded any period of time during which such investigation is suspended because of proceedings in a court or agency of the United States involving similar questions concerning the subject matter of such investigation.”

Subsec. (b)(3). Pub. L. 103-465, § 321(a)(1)(C)(ii), struck out after fourth sentence “For purposes of computing the 1-year or 18-month periods prescribed by this subsection, there shall be excluded such period of suspension.”

Pub. L. 103-465, § 321(a)(1)(C)(i), as amended by Pub. L. 104-295, § 20(c)(2), in first sentence, made technical amendment to reference in original act which appears in text as reference to “such part II”.

Pub. L. 103-465, § 261(d)(1)(B)(ii)(II)-(V), in second sentence, struck out “1303,” after “purview of section” and comma after “1671” and made technical amendment to references to sections 1671 and 1673 of this title to correct references to corresponding sections of original act, in third sentence, substituted “1671” for “1303, 1671,” and in last sentence, struck out “of the Secretary under section 1303 of this title or” after “Any final decision” and substituted “1671 or” for “1303, 1671, or”.

Pub. L. 103-465, § 261(d)(1)(B)(ii)(I), as amended by Pub. L. 104-295, § 20(b)(11), in first sentence, struck out reference to section 1303 of this title after “within the purview” and made technical amendment to reference to part II of subtitle IV of this chapter by substituting in the original “of subtitle B of title VII of this Act” for “of section 303 or of subtitle B of title VII of the Tariff Act of 1930”.

Subsec. (c). Pub. L. 103-465, § 321(a)(2), in first sentence, substituted “an agreement between the private parties to the investigation, including an agreement to present the matter for arbitration” for “a settlement agreement”, inserted after third sentence “A respondent may raise any counterclaim in a manner prescribed by the Commission. Immediately after a counterclaim is received by the Commission, the respondent raising such counterclaim shall file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the party would exist under section 1391 of title 28. Any counterclaim raised pursuant to this section shall relate back to the date of the original complaint in the proceeding before the Commission. Action on such counterclaim shall not delay or affect the proceeding under this section, including the legal and equitable defenses that may be raised under this subsection.”, and inserted at end “Determinations by the Commission under subsections (e), (f), and (j) of this section with respect to forfeiture of bonds and under subsection (h) of this section with respect to the imposition of sanctions for abuse of discovery or abuse of process shall also be reviewable in accordance with section 706 of title 5.”

Subsec. (d). Pub. L. 103-465, § 321(a)(5)(A), designated existing provisions as par. (1), substituted “there is a violation” for “there is violation” in first sentence, and added par. (2).

Subsec. (e)(1). Pub. L. 103-465, § 321(a)(3)(A), in last sentence, substituted “prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.” for “determined by the Commission and prescribed by the Secretary.”

Subsec. (e)(2). Pub. L. 103-465, § 321(a)(3)(B), inserted at end “If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent.”

Subsec. (e)(4). Pub. L. 103-465, § 321(a)(3)(C), added par. (4).

Subsec. (f)(1). Pub. L. 103-465, § 321(a)(4), inserted at end “If a temporary cease and desist order is issued in addition to, or in lieu of, an exclusion order under subsection (e) of this section, the Commission may require

the complainant to post a bond, in an amount determined by the Commission to be sufficient to protect the respondent from any injury, as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission shall prescribe the terms and conditions under which the bonds may be forfeited under this paragraph.”

Subsec. (g)(2)(C). Pub. L. 103-465, § 321(a)(5)(B), added subpar. (C).

Subsec. (j)(3). Pub. L. 103-465, § 321(a)(6), substituted “shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission shall prescribe the terms and conditions under which bonds may be forfeited under this paragraph.” for “shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary until such determination becomes final.”

Subsec. (l). Pub. L. 103-465, § 321(a)(8), substituted “Court of Federal Claims” for “Claims Court”.

Subsec. (n)(2)(A). Pub. L. 103-465, § 321(a)(7)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted.”

Subsec. (n)(2)(C). Pub. L. 103-465, § 321(a)(7)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.”

1992—Subsec. (b)(3). Pub. L. 102-563 amended second sentence generally. Prior to amendment, second sentence read as follows: “If the Commission has reason to believe the matter before it is based solely on alleged acts and effects which are within the purview of section 1303, 1671, or 1673 of this title, it shall terminate, or not institute, any investigation into the matter.”

1988—Subsec. (a). Pub. L. 100-418, § 1342(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as provided in this section.”

Subsec. (b)(2). Pub. L. 100-418, § 1342(b)(1)(A), substituted “Department of Health and Human Services” for “Department of Health, Education, and Welfare”.

Subsec. (b)(3). Pub. L. 100-418, § 1342(b)(1)(B), substituted “Secretary of Commerce” for “Secretary of the Treasury”.

Subsec. (c). Pub. L. 100-418, § 1342(a)(2), inserted before period at end of first sentence “, except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination”.

Pub. L. 100-418, § 1342(b)(2), inserted reference to subsec. (g) in two places.

Subsec. (e). Pub. L. 100-418, § 1342(a)(3), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f)(1). Pub. L. 100-418, § 1342(a)(4)(A), substituted “In addition to, or in lieu of,” for “In lieu of”.

Subsec. (f)(2). Pub. L. 100-418, § 1342(a)(4)(B), substituted “\$100,000 or twice” for “\$10,000 or”.

Subsecs. (g) to (i). Pub. L. 100-418, § 1342(a)(5), added subsecs. (g) to (i). Former subsecs. (g) to (i) redesignated (j) to (l), respectively.

Subsec. (j). Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (g) as (j). Former subsec. (j) redesignated (m).

Subsec. (j)(1)(B), (2), (3). Pub. L. 100-418, §1342(b)(3), inserted reference to subsecs. (g) and (i).

Subsec. (k). Pub. L. 100-418, §1342(b)(4), which directed the substitution “(j)” for “(g)” was executed by making that substitution in par. (1) and not in par. (2), as added by Pub. L. 100-418, §1342(a)(6), to reflect the probable intent of Congress.

Pub. L. 100-418, §1342(a)(6), as amended by Pub. L. 100-647, §9001(a)(7), designated existing provisions as par. (1) and added par. (2).

Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (h) as (k).

Subsec. (l). Pub. L. 100-418, §1342(b)(5), inserted reference to subsecs. (g) and (i).

Pub. L. 100-418, §1342(a)(7), substituted “a proceeding involving a patent, copyright, or mask work under subsection (a)(1)” for “claims of United States letters patent” and “an owner of the patent, copyright, or mask work” for “a patent owner”.

Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (i) as (l).

Subsec. (m). Pub. L. 100-418, §1342(a)(5)(A), redesignated former subsec. (j) as (m).

Pub. L. 100-418, §1214(h)(3), substituted “general note 2 of the Harmonized Tariff Schedule of the United States” for “general headnote 2 of the Tariff Schedules of the United States”.

Subsec. (n). Pub. L. 100-418, §1342(a)(8), added subsec. (n).

Subsec. (n)(2)(B). Pub. L. 100-647, §9001(a)(12), substituted “subsection (j)” for “subsection (h)”.

1984—Subsec. (c). Pub. L. 98-620 inserted “, within 60 days after the determination becomes final,” after “appeal such determination”.

1982—Subsec. (c). Pub. L. 97-164, §163(a)(4), substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

Subsec. (i). Pub. L. 97-164, §160(a)(5), substituted “United States Claims Court” for “Court of Claims”.

1980—Subsec. (c). Pub. L. 96-417 provided that the appeal of determinations to the United States Court of Customs and Patent Appeals be reviewed in accordance with chapter 7 of title 5 and substituted provision that review of findings concerning the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy, be in accordance with section 706 of title 5 for provision giving such court jurisdiction to review determinations in same manner and subject to same limitations and conditions as in case of appeals from decisions of the United States Customs Court.

1979—Subsec. (b)(3). Pub. L. 96-39, §1105(a), substituted “a matter, in whole or in part,” for “the matter” and inserted provisions relating to matters based solely or in part on alleged acts and effects within the purview of section 1303, 1671, or 1673 of this title.

Pub. L. 96-39, §106(b)(1), substituted “part II of subtitle IV of this chapter” for “the Antidumping Act, 1921”.

Subsec. (c). Pub. L. 96-39, §1105(c), substituted “Any person adversely affected by a final determination of the Commission under subsection (d), (e), or (f) of this section” for “Any person adversely affected by a final determination of the Commission under subsection (d) or (e) of this section”.

Subsec. (f). Pub. L. 96-39, §1105(b), designated existing provisions as par. (1) and added par. (2).

1975—Subsec. (a). Pub. L. 93-618 substituted “Commission” for “President” and “as provided in this section” for “as hereinafter provided”.

Subsec. (b). Pub. L. 93-618 designated existing provisions as first sentence of par. (1), substituted “The Commission shall investigate any alleged violation of this section” for “To assist the President in making any decisions under this section the commission is au-

thorized to investigate any alleged violation hereof” in first sentence of par. (1) as so designated, and added remainder of par. (1) and pars. (2) and (3).

Subsec. (c). Pub. L. 93-618 substituted provisions covering determinations by the Commission and appeals to the United States Court of Customs and Patent Appeals for provisions covering all aspects of hearings and review as part of investigations of unfair practices in import trade.

Subsec. (d). Pub. L. 93-618 substituted provisions covering the exclusion of articles from entry, formerly covered in subsec. (e), for provisions directing that final findings of the Commission be transmitted with the record to the President, covered by subsec. (g).

Subsec. (e). Pub. L. 93-618 substituted provisions covering the entry of articles under bond during investigation, formerly covered in subsec. (f), for provisions covering the exclusion of articles from entry, covered by subsec. (d).

Subsec. (f). Pub. L. 93-618 added subsec. (f). Provisions of former subsec. (f) covering entry of articles under bond are covered by subsec. (e).

Subsec. (g). Pub. L. 93-618 substituted provisions covering referral to the President, formerly covered by subsec. (d), for provisions covering the continuance of exclusion, covered by subsec. (h).

Subsec. (h). Pub. L. 93-618 substituted provisions covering the period of effectiveness, formerly covered by subsec. (g), for provisions defining “United States”, covered by subsec. (j).

Subsec. (i). Pub. L. 93-618 added subsec. (i).

Subsec. (j). Pub. L. 93-618 added subsec. (j) defining “United States”, formerly covered by subsec. (h).

1958—Subsec. (c). Pub. L. 85-686 struck out “under and in accordance with such rules as it may promulgate” after “commission shall make such investigation”. See section 1335 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 261(d)(1)(B)(ii) of Pub. L. 103-465 effective on effective date of title II of Pub. L. 103-465, Jan. 1, 1995, see section 261(d)(2) of Pub. L. 103-465, set out as a note under section 1315 of this title.

Section 322 of title III of Pub. L. 103-465 provided that: “The amendments made by this subtitle [subtitle C (§§321, 322) of title III of Pub. L. 103-465, enacting sections 1368 and 1659 of Title 28, Judiciary and Judicial Procedure, and amending this section and section 1446 of Title 28] apply—

“(1) with respect to complaints filed under section 337 of the Tariff Act of 1930 [19 U.S.C. 1337] on or after the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], or

“(2) in cases under such section 337 in which no complaint is filed, with respect to investigations initiated under such section on or after such date.”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

Amendment by section 1214(h)(3) of Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

Section 1342(d) of Pub. L. 100-418 provided that:

“(1)(A) Subject to subparagraph (B), the amendments made by this section [amending this section and repealing section 1337a of this title] shall take effect on the date of the enactment of this Act [Aug. 23, 1988].

“(B) The United States International Trade Commission is not required to apply the provision in section 337(e)(2) of the Tariff Act of 1930 [19 U.S.C. 1337(e)(2)] (as amended by subsection (a)(3) of this section) relating to the posting of bonds until the earlier of—

“(i) the 90th day after such date of enactment; or
 “(ii) the day on which the Commission issues interim regulations setting forth the procedures relating to such posting.

“(2) Notwithstanding any provision of section 337 of the Tariff Act of 1930, the United States International Trade Commission may extend, by not more than 90 days, the period within which the Commission is required to make a determination in an investigation conducted under such section 337 if—

“(A) the Commission would, but for this paragraph, be required to make such determination before the 180th day after the date of enactment of this Act; and

“(B) the Commission finds that the investigation is complicated.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 106(b)(1) of Pub. L. 96-39 effective Jan. 1, 1980, see section 107 of Pub. L. 96-39, set out as an Effective Date note under section 1671 of this title.

Amendment by section 1105 of Pub. L. 96-39 effective July 26, 1979, see section 1114 of Pub. L. 96-39, set out as an Effective Date note under section 2581 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 341(c) of Pub. L. 93-618 provided that: “The amendments made by this section [amending this section and section 1337 of this title] shall take effect on the 90th day after the date of the enactment of this Act [Jan. 3, 1975], except that, for purposes of issuing regulations under section 337 of the Tariff Act of 1930 [this section], such amendments shall take effect on the date of the enactment of this Act [Jan. 3, 1975]. For purposes of applying section 337(b) of the Tariff Act of 1930 [subsection (b) of this section] (as amended by subsection (a) [as amended by section 341(a) of Pub. L. 93-618]) with respect to investigations being conducted by the International Trade Commission under section 337 of the Tariff Act [this section] on the day prior to the 90th day after the date of the enactment of this Act [Jan. 3, 1975], such investigations shall be considered as having been commenced on such 90th day.”

TRANSFER OF FUNCTIONS

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

CONGRESSIONAL FINDINGS AND PURPOSES RESPECTING PART 3 OF PUB. L. 100-418

Section 1341 of Pub. L. 100-418 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) United States persons that rely on protection of intellectual property rights are among the most advanced and competitive in the world; and

“(2) the existing protection under section 337 of the Tariff Act of 1930 [this section] against unfair trade

practices is cumbersome and costly and has not provided United States owners of intellectual property rights with adequate protection against foreign companies violating such rights.

“(b) PURPOSE.—The purpose of this part [part 3 (§§ 1341, 1342) of subtitle C of title I of Pub. L. 100-418, amending this section, repealing section 1337a of this title, and enacting provisions set out as a note above] is to amend section 337 of the Tariff Act of 1930 to make it a more effective remedy for the protection of United States intellectual property rights.”

ASSIGNMENT OF CERTAIN FUNCTIONS

Memorandum of President of the United States, July 21, 2005, 70 F.R. 43251, provided:

Memorandum for the United States Trade Representative

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 337(j)(1)(B), section 337(j)(2), and section 337(j)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1337(j)(1), (j)(2), and (j)(4)).

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

GEORGE W. BUSH.

§ 1337a. Repealed. Pub. L. 100-418, title I, § 1342(c), Aug. 23, 1988, 102 Stat. 1215

Section, act July 2, 1940, ch. 515, 54 Stat. 724, related to importation of products produced under process covered by claims of unexpired patent.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 23, 1988, see section 1342(d) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 1337 of this title.

§ 1338. Discrimination by foreign countries

(a) Additional duties

The President when he finds that the public interest will be served shall by proclamation specify and declare new or additional duties as hereinafter provided upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country—

(1) Imposes, directly or indirectly, upon the disposition in or transportation in transit through or reexportation from such country of any article wholly or in part the growth or product of the United States any unreasonable charge, exaction, regulation, or limitation which is not equally enforced upon the like articles of every foreign country; or

(2) Discriminates in fact against the commerce of the United States, directly or indirectly, by law or administrative regulation or practice, by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or prohibition, in such manner as to place the commerce of the United States at a disadvantage compared with the commerce of any foreign country.

(b) Exclusion from importation

If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the United States, as aforesaid, but has, after the issuance of a proclamation as authorized in subdivision

(a) of this section, maintained or increased its said discriminations against the commerce of the United States, the President is authorized, if he deems it consistent with the interests of the United States, to issue a further proclamation directing that such products of said country or such articles imported in its vessels as he shall deem consistent with the public interests shall be excluded from importation into the United States.

(c) Application of proclamation

Any proclamation issued by the President under the authority of this section shall, if he deems it consistent with the interests of the United States, extend to the whole of any foreign country or may be confined to any subdivision or subdivisions thereof; and the President shall, whenever he deems the public interests require, suspend, revoke, supplement, or amend any such proclamation.

(d) Duties to offset commercial disadvantages

Whenever the President shall find as a fact that any foreign country places any burden or disadvantage upon the commerce of the United States by any of the unequal impositions or discriminations aforesaid, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty as he shall determine will offset such burden or disadvantage, not to exceed 50 per centum ad valorem or its equivalent, on any products of, or on articles imported in a vessel of, such foreign country; and thirty days after the date of such proclamation there shall be levied, collected, and paid upon the articles enumerated in such proclamation when imported into the United States from such foreign country such new or additional rate or rates of duty; or, in case of articles declared subject to exclusion from importation into the United States under the provisions of subdivision (b) of this section, such articles shall be excluded from importation.

(e) Duties to offset benefits to third country

Whenever the President shall find as a fact that any foreign country imposes any unequal imposition or discrimination as aforesaid upon the commerce of the United States, or that any benefits accrue or are likely to accrue to any industry in any foreign country by reason of any such imposition or discrimination imposed by any foreign country other than the foreign country in which such industry is located, and whenever the President shall determine that any new or additional rate or rates of duty or any prohibition hereinbefore provided for do not effectively remove such imposition or discrimination and that any benefits from any such imposition or discrimination accrue or are likely to accrue to any industry in any foreign country, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty upon the articles wholly or in part the growth or product of any such industry as he shall determine will offset such benefits, not to exceed 50 per centum ad valorem or its equivalent, upon importation from any foreign country into the United States of such articles; and on

and after thirty days after the date of any such proclamation such new or additional rate or rates of duty so specified and declared in such proclamation shall be levied, collected, and paid upon such articles.

(f) Forfeiture of articles

All articles imported contrary to the provisions of this section shall be forfeited to the United States and shall be liable to be seized, prosecuted, and condemned in like manner and under the same regulations, restrictions, and provisions as may from time to time be established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws. Whenever the provisions of this chapter shall be applicable to importations into the United States of articles wholly or in part the growth or product of any foreign country, they shall be applicable thereto whether such articles are imported directly or indirectly.

(g) Ascertainment by Commission of discriminations

It shall be the duty of the commission to ascertain and at all times to be informed whether any of the discriminations against the commerce of the United States enumerated in subdivisions (a), (b), and (e) of this section are practiced by any country; and if and when such discriminatory acts are disclosed, it shall be the duty of the commission to bring the matter to the attention of the President, together with recommendations.

(h) Rules and regulations of Secretary of the Treasury

The Secretary of the Treasury with the approval of the President shall make such rules and regulations as are necessary for the execution of such proclamations as the President may issue in accordance with the provisions of this section.

(i) "Foreign country" defined

When used in this section the term "foreign country" means any empire, country, dominion, colony or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions), within which separate tariff rates or separate regulations of commerce are enforced.

(June 17, 1930, ch. 497, title III, § 338, 46 Stat. 704.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title III, § 317, 42 Stat. 944. That section was superseded by section 338 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 Act.

§ 1339. Trade Remedy Assistance Office

(a) Establishment; public information

There is established in the Commission a separate office to be known as the Trade Remedy Assistance Office which shall provide full information to the public upon request and shall, to the extent feasible, provide assistance and advice to interested parties concerning—

(1) remedies and benefits available under the trade laws, and

(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

(b) Procedural assistance by Office and other agencies

The Trade Remedy Assistance Office, in coordination with each agency responsible for administering a trade law, shall provide technical and legal assistance and advice to eligible small businesses to enable them—

(1) to prepare and file petitions and applications (other than those which, in the opinion of the Office, are frivolous); and

(2) to seek to obtain the remedies and benefits available under the trade laws, including any administrative review or administrative appeal thereunder.

(c) Definitions

For purposes of this section—

(1) The term “eligible small business” means any business concern which, in the agency’s judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an “eligible small business”, the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) of this section to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

(2) The term “trade laws” means—

(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to injury caused by import competition);

(B) chapters 2 and 3 of such title II [19 U.S.C. 2271 et seq., 2341 et seq.] (relating to adjustment assistance for workers and firms);

(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

(D) subtitle IV of this chapter (relating to the imposition of countervailing duties and antidumping duties);

(E) section 1862 of this title (relating to the safeguarding of national security); and

(F) section 1337 of this title (relating to unfair practices in import trade).

(June 17, 1930, ch. 497, title III, § 339, as added Pub. L. 98-573, title II, § 221[(a)], Oct. 30, 1984, 98 Stat. 2989; Pub. L. 99-514, title XVIII, § 1888(3), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-418, title I, § 1614, Aug. 23, 1988, 102 Stat. 1263.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (c)(2)(A) to (C), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapters 1, 2, and 3 of title II of the Trade Act of 1974 are classified generally to parts 1 (§ 2251 et seq.), 2 (§ 2271 et seq.), and 3 (§ 2341 et seq.) of subchapter II of chapter 12 of this title, respectively. Chapter 1 of title III of the Trade Act of 1974 is classified generally to subchapter III (§ 2411 et seq.) of chapter 12 of this

title. For complete classification of this Act to the Code, see section 2101 of this title and Tables.

PRIOR PROVISIONS

A prior section 339 of act June 17, 1930, related to effect of repeal and reenactment of laws relating to Tariff Commission upon status of appropriations, employees, and privileges, prior to repeal by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418, § 1614(1), substituted “a separate office to be known as the Trade” for “a Trade”, and “upon request and shall, to the extent feasible, provide assistance and advice to interested parties” for “, upon request,” in introductory provisions.

Subsec. (b). Pub. L. 100-418, § 1614(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.”

1986—Subsec. (c)(2)(A). Pub. L. 99-514 substituted “injury” for “relief”.

EFFECTIVE DATE

Section 221(b) of Pub. L. 98-573 provided that: “Section 339 of the Tariff Act of 1930 [this section] (as added by subsection (a)) shall take effect on the 90th day after the date of the enactment of this Act [Oct. 30, 1984].”

PLAN AMENDMENTS NOT REQUIRED UNTIL

JANUARY 1, 1989

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

§ 1340. Omitted

CODIFICATION

Section, act June 17, 1930, ch. 497, title III, § 340, 46 Stat. 706, related to preparation of a certain report by commission to Congress. See Tariff Commission Reports, No. 46, Parts 1 to 8.

§ 1341. Interference with functions of Commission

(a) Interfering with or influencing the Commission or its employees

It shall be unlawful for any person (1) to prevent or attempt to prevent, by force, intimidation, threat, or in any other manner, any member or employee of the commission from exercising the functions imposed upon the commission by this subtitle, or (2) to induce, or attempt to induce, by like means any such member or employee to make any decision or order, or to take any action, with respect to any matter within the authority of the commission.

(b) Penalty

Any person who violates any of the provisions of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisonment for not more than one year, or both.

(c) “Person” defined

As used in this section the term “person” includes an individual, corporation, association,

partnership, or any other organization or group of individuals.

(June 17, 1930, ch. 497, title III, § 341, 46 Stat. 707.)

PART III—PROMOTION OF FOREIGN TRADE

§ 1351. Foreign trade agreements

(a) Authority of President; modification and decrease of duties; altering import restrictions

(1) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

(A) To enter into foreign trade agreements with foreign governments or instrumentalities thereof: *Provided*, That the enactment of the Trade Agreements Extension Act of 1955 shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade.

(B) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder.

(2) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made—

(A) Increasing by more than 50 per centum any rate of duty existing on July 1, 1934; except that a specific rate of duty existing on July 1, 1934, may be converted to its ad valorem equivalent based on the value of imports of the article concerned during the calendar year 1934 (determined in the same manner as provided in subparagraph (D)(ii)) and the proclamation may provide an ad valorem rate of duty not in excess of 50 per centum above such ad valorem equivalent.

(B) Transferring any article between the dutiable and free lists.

(C) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, or with respect to which notice of intention to negotiate was published in the Federal Register on November 16, 1954, decreasing by more than 50 per centum any rate of duty existing on January 1, 1945.

(D) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1958, decreasing (except as provided in subparagraph (C) of this paragraph) any rate of duty below the lowest of the following rates:

(i) The rate 15 per centum below the rate existing on January 1, 1955.

(ii) In the case of any article subject to an ad valorem rate of duty above 50 per centum (or a combination of ad valorem rates aggregating more than 50 per centum), the rate 50 per centum ad valorem (or a combination of ad valorem rates aggregating 50 per centum). In the case of any article subject to a specific rate of duty (or a combination of rates including a specific rate) the ad valorem equivalent of which has been determined by the President to have been above 50 per centum during a period determined by the President to be a representative period, the rate 50 per centum ad valorem or the rate (or a combination of rates), however stated, the ad valorem equivalent of which the President determines would have been 50 per centum during such period. The standards of valuation contained in section 1401a of this title (as in effect, with respect to the article concerned, during the representative period) shall be utilized by the President, to the maximum extent he finds such utilization practicable, in making the determinations under the preceding sentence.

(E) In order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the rates provided for in paragraph (4)(A) of this subsection.

(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph and of subparagraph (B) of paragraph (4) of this subsection, the provisions of any proclamation made under paragraph (1)(B) of this subsection, and the provisions of any proclamation of suspension under paragraph (5) of this subsection, shall be in effect from and after such time as is specified in the proclamation.

(B) In the case of any decrease in duty to which paragraph (2)(D) of this subsection applies—

(i) if the total amount of the decrease under the foreign trade agreement does not exceed 15 per centum of the rate existing on January 1, 1955, the amount of decrease becoming initially effective at one time shall not exceed 5 per centum of the rate existing on January 1, 1955;

(ii) except as provided in clause (i), not more than one-third of the total amount of the decrease under the foreign trade agreement shall become initially effective at one time; and

(iii) no part of the decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year.

(C) No part of any decrease in duty to which the alternative specified in paragraph (2)(D)(i) of this subsection applies shall become initially effective after the expiration of the three-year pe-

riod which begins on July 1, 1955. If any part of such decrease has become effective, then for purposes of this subparagraph any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period expires.

(D) If (in order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955) the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed any limitation specified in paragraph (2)(C) or (D) or paragraph (4)(A) or (B) of this subsection or subparagraph (B) of this paragraph by not more than whichever of the following is lesser:

- (i) The difference between the limitation and the next lower whole number, or
- (ii) One-half of 1 per centum ad valorem.

In the case of a specific rate (or of a combination of rates which includes a specific rate), the one-half of 1 per centum specified in clause (ii) of the preceding sentence shall be determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purposes of paragraph (2)(D)(ii) of this subsection.

(4)(A) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made, in order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the following rates:

- (i) The rate which would result from decreasing the rate existing on July 1, 1958, by 20 per centum of such rate.
- (ii) Subject to paragraph (2)(B) of this subsection, the rate 2 per centum ad valorem below the rate existing on July 1, 1958.
- (iii) The rate 50 per centum ad valorem or, in the case of any article subject to a specific rate of duty or to a combination of rates including a specific rate, any rate (or combination of rates), however stated, the ad valorem equivalent of which has been determined as 50 per centum ad valorem.

The provisions of clauses (ii) and (iii) of this subparagraph and of subparagraph (B)(ii) of this paragraph shall, in the case of any article, subject to a combination of ad valorem rates of duty, apply to the aggregate of such rates; and, in the case of any article, subject to a specific rate of duty or to a combination of rates including a specific rate, such provisions shall apply on the basis of the ad valorem equivalent of such rate or rates, during a representative period (whether or not such period includes July 1, 1958), determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purpose of paragraph (2)(D)(ii) of this subsection.

(B)(i) In the case of any decrease in duty to which clause (i) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 10 per centum of the rate of duty existing on July 1, 1958, or, in any case in which the rate has been

increased since that date, exceed such 10 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(ii) In the case of any decrease in duty to which clause (ii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 1 per centum ad valorem or, in any case in which the rate has been increased since July 1, 1958, exceed such 1 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(iii) In the case of any decrease in duty to which clause (iii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed one-third of the total amount of the decrease under the foreign trade agreement.

(C) In the case of any decrease in duty to which subparagraph (A) of this paragraph applies (i) no part of a decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year, nor after the first part shall have been in effect for a period or periods aggregating more than three years, and (ii) no part of a decrease shall become initially effective after the expiration of the four-year period which begins on July 1, 1962. If any part of a decrease has become effective, then for the purposes of clauses (i) and (ii) of the preceding sentence any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period or the four-year period, as the case may be, expires.

(5) Repealed. Pub. L. 87-794, title II, §257(b), Oct. 11, 1962, 76 Stat. 882.

(6) The President may at any time terminate, in whole or in part, any proclamation made pursuant to this section.

(b) Cuba; preferential customs treatment; decrease of rates

Nothing in this section or the Trade Expansion Act of 1962 [19 U.S.C. 1801 et seq.] shall be construed to prevent the application, with respect to rates of duty established under this section or the Trade Expansion Act of 1962 pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an agreement with Cuba concluded under this section or the Trade Expansion Act of 1962, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba. Nothing in this chapter or the Trade Expansion Act of 1962 shall be construed to preclude the application to any product of Cuba (including products preferentially free of duty) of a rate of duty not higher than the rate applicable to the like products of other foreign countries

(except the Philippines), whether or not the application of such rate involves any preferential customs treatment. No rate of duty on products of Cuba shall be decreased—

(1) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, by more than 50 per centum of the rate of duty existing on January 1, 1945, with respect to products of Cuba.

(2) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1962, below the applicable alternative specified in subsection (a)(2)(C) or (D) or (4)(A) of this section (subject to the applicable provisions of subsection (a)(3)(B), (C), and (D) and (4)(B) and (C) of this section), each such alternative to be read for the purposes of this paragraph as relating to the rate of duty applicable to products of Cuba. With respect to products of Cuba, the limitation of subsection (a)(2)(D)(ii) or (4)(A)(iii) of this section may be exceeded to such extent as may be required to maintain an absolute margin of preference to which such products are entitled.

(3) In order to carry out a foreign trade agreement entered into after June 30, 1962, and before July 1, 1967, below the lowest rate permissible by applying title II of the Trade Expansion Act of 1962 [19 U.S.C. 1821 et seq.] to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on July 1, 1962, with respect to such product.

(c) Definitions

(1) As used in this section, the term “duties and other import restrictions” includes (A) rate and form of import duties and classification of articles, and (B) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports.

(2) For purposes of this section—

(A) Except as provided in subsection (d) of this section, the terms “existing on July 1, 1934”, “existing on January 1, 1945”, “existing on January 1, 1955”, and “existing on July 1, 1958” refer to rates of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on the date specified, except rates in effect by reason of action taken pursuant to section 1362 of this title.

(B) The term “existing” without the specification of any date, when used with respect to any matter relating to the conclusion of, or proclamation to carry out, a foreign trade agreement, means existing on the day on which that trade agreement is entered into.

(d) Rate basis for additional increases or decreases; restoration of terminated treaties forbidden

(1) When any rate of duty has been increased or decreased for the duration of war or an emergency, by agreement or otherwise, any further increase or decrease shall be computed upon the basis of the post-war or post-emergency rate carried in such agreement or otherwise.

(2) Where under a foreign trade agreement the United States has reserved the unqualified right

to withdraw or modify, after the termination of war or an emergency, a rate on a specific commodity, the rate on such commodity to be considered as “existing on January 1, 1945” for the purpose of this section shall be the rate which would have existed if the agreement had not been entered into.

(3) No proclamation shall be made pursuant to this section for the purpose of carrying out any foreign trade agreement the proclamation with respect to which has been terminated in whole by the President prior to July 5, 1945.

(e) Repealed. Pub. L. 87-794, title II, § 257(b), Oct. 11, 1962, 76 Stat. 882

(f) Information and advice from industry, agriculture, and labor

It is declared to be the sense of the Congress that the President, during the course of negotiating any foreign trade agreement under this section, should seek information and advice with respect to such agreement from representatives of industry, agriculture, and labor.

(June 17, 1930, ch. 497, title III, § 350, as added June 12, 1934, ch. 474, § 1, 48 Stat. 943; amended June 7, 1943, ch. 118, § 2, 57 Stat. 125; July 5, 1945, ch. 269, §§ 2, 3, 59 Stat. 410; Sept. 26, 1949, ch. 585, §§ 4, 6, 63 Stat. 698; June 21, 1955, ch. 169, § 3, 69 Stat. 162; Pub. L. 85-686, § 3, Aug. 20, 1958, 72 Stat. 673; Pub. L. 87-794, title II, § 257(a), (b), Oct. 11, 1962, 76 Stat. 881, 882; Pub. L. 96-39, title II, § 202(a)(3), July 26, 1979, 93 Stat. 202.)

REFERENCES IN TEXT

The Trade Agreements Extension Act of 1955, referred to in subsec. (a)(1)(A), is act June 21, 1955, ch. 169, 69 Stat. 162, which is classified to sections 1351(a), (b), (c), (e), 1352(c), 1352a, 1363(b), and 1364(a), (b), (e) of this title. For complete classification of this Act to the Code, see Short Title of 1955 Amendment note set out under section 1654 of this title and Tables.

Paragraph (5) of this subsection, referred to in subsec. (a)(3)(A), was repealed by Pub. L. 87-794, title III, § 257(b), Oct. 11, 1962, 76 Stat. 882.

The Trade Expansion Act of 1962, referred to in subsec. (b), is Pub. L. 87-794, Oct. 11, 1962, 76 Stat. 872, as amended, which is classified generally to chapter 7 (§ 1801 et seq.) of this title. Title II of the Trade Expansion Act of 1962, also referred to in subsec. (b), is classified generally to subchapter II (§ 1821 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 1362 of this title, referred to in subsec. (c)(2)(A), related to suspension or withdrawal of concessions from Communistic areas and was repealed by Pub. L. 87-794, title II, § 257(e)(1), Oct. 11, 1962, 76 Stat. 882.

AMENDMENTS

1979—Subsec. (a)(2)(D)(ii). Pub. L. 96-39 struck out reference to standards of valuation contained in section 1402 of this title.

1962—Subsec. (a)(5). Pub. L. 87-794, § 257(b), repealed par. (5) which provided that, subject to the provisions of section 1362 of this title, duties and other import restrictions proclaimed pursuant to this section shall apply to all articles the growth, produce, or manufacture of all foreign countries, whether imported directly or indirectly, and required the President to suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts (including the operations of international cartels)

or policies which in his opinion tend to defeat the purposes of this section.

Subsec. (b). Pub. L. 87-794, §257(a), inserted references to the Trade Expansion Act of 1962 in first and second sentences, substituted "1955, and before July 1, 1962" for "1955" in par. (2), and added par. (3).

Subsec. (e). Pub. L. 87-794, §257(b), repealed subsec. (e) which related to reports to Congress by the President and the Tariff Commission.

1958—Subsec. (a)(2)(A). Pub. L. 85-686, §3(a)(1), substituted "any rate of duty existing on July 1, 1934" for "any rate of duty existing on July 1, 1945", and inserted provisions permitting conversion of a specific rate of duty existing on July 1, 1934, to its ad valorem equivalent, and allowing an ad valorem rate of duty not in excess of 50 per centum above such ad valorem equivalent.

Subsec. (a)(2)(D). Pub. L. 85-686, §3(a)(2), (3), inserted "and before July 1, 1958," after "June 12, 1955", in opening par., and substituted "section 1401a or 1402 of this title (as in effect, with respect to the article concerned," for "section 1402 of this title (as in effect)".

Subsec. (a)(2)(E). Pub. L. 85-686, §3(a)(4), added subpar. (E).

Subsec. (a)(3)(A). Pub. L. 85-686, §3(a)(5), inserted "and of subparagraph (B) of paragraph 4 of this subsection" after "subparagraphs (B) and (C) of this paragraph", and substituted "suspension under paragraph (5)" for "suspension under paragraph (4)".

Subsec. (a)(3)(D). Pub. L. 85-686, §3(a)(6), inserted "or paragraph (4)(A) or (B)" after "paragraph (2)(C) or (D)".

Subsec. (a)(4) to (6). Pub. L. 85-686, §3(a)(7), (8), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (b). Pub. L. 85-686, §3(b)(1), substituted "an agreement with Cuba" for "an exclusive agreement with Cuba" in opening par.

Subsec. (b)(2). Pub. L. 85-686, §3(b)(2), inserted "or (4)(A)" after "subsection (a)(2)(C) or (D)", "and (4)(B) and (C)" after "subsection (a)(3)(B), (C), and (D)", and "or (4)(A)(iii)" after "subsection (a)(2)(D)(ii)".

Subsec. (c)(2)(A). Pub. L. 85-686, §3(c), defined "existing on July 1, 1934" and "existing on July 1, 1958".

Subsec. (e)(1). Pub. L. 85-686, §3(d), provided for the inclusion in the report of the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports, remaining restrictions, and the measures available to seek their removal in accordance with the objectives of this section.

Subsec. (f). Pub. L. 85-686, §3(e), added subsec. (f).

1955—Subsec. (a). Act June 21, 1955, §3(a), among other changes, authorized the President to reduce tariff rates existing on January 1, 1955 by a total of 15 percent in stages of not more than 5 percent of such rates, or to reduce those rates which are higher than 50 percent of the value of an import to a rate not less than 50 percent, in stages of not more than one-third of the reduction in any one year.

Subsec. (b). Act June 21, 1955, §3(b), made applicable to Cuban products the new limits of authority to reduce tariffs.

Subsec. (c). Act June 21, 1955, §3(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Act June 21, 1955, §3(d), added subsec. (e). 1949—Subsec. (a). Act Sept. 26, 1949, struck out obsolete language referring to the depression which existed at the time of the original enactment of section.

Subsec. (b). Act Sept. 26, 1949, substituted period for colon following Cuba, struck out proviso which followed, and inserted in lieu thereof the last two sentences.

1945—Subsec. (a)(2). Act July 5, 1945, struck out "existing" after "per centum any", and inserted "however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress)," after "rate of duty".

Subsec. (b). Act July 5, 1945, struck out "payable" after "That the duties", and substituted "however established, existing on January 1, 1945 (even though

temporarily suspended by Act of Congress)." for "now payable thereon" in proviso.

Subsec. (d). Act July 5, 1945, added subsec. (d). 1943—Subsec. (a)(2). Act June 7, 1943, inserted matter within parentheses in proviso.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

TREATY BETWEEN UNITED STATES AND CUBA

The treaty concluded between the United States and the Republic of Cuba, on Dec. 11, 1902, referred to in subsec. (b) of the text, was terminated Aug. 21, 1963, pursuant to notice given by the United States on Aug. 21, 1962. See Bevans, *Treaties and Other International Agreements of the United States of America, 1776-1949*, vol. VI, page 1106.

TARIFF TREATMENT OF CUBAN PRODUCTS

Section 401 of Pub. L. 87-456, title IV, May 24, 1962, 76 Stat. 78, provided that:

"(a) Cuba is hereby declared to be a nation described in section 5 of the Trade Agreements Extension Act of 1951, as amended (19 U.S.C. 1362, relating to imports from nations and areas dominated or controlled by the foreign government or foreign organization controlling the world Communist movement). Articles which are—

"(1) the growth, produce, or manufacture of Cuba, and
 "(2) imported on or after the date of enactment of this Act [May 24, 1962],

shall be denied the benefits of concessions contained in any trade agreement entered into under the authority of section 350 of the Tariff Act of 1930, as amended (19 U.S.C. 1351).

"(b) Nothing in subsection (a) shall affect the rates of duty or the customs or excise treatment of articles the growth, produce, or manufacture of any country other than Cuba.

"(c) Subsection (a) shall not apply on or after the date on which the President proclaims that he has determined that Cuba is no longer dominated or controlled by the foreign government or foreign organization controlling the world Communist movement.

"(d) The Act of December 17, 1903 (19 U.S.C. 124, 125), and section 316 of the Tariff Act of 1930, as amended (19 U.S.C. 1316), both relating to the implementation of the treaty with Cuba concluded on December 11, 1902, shall not apply during the period during which subsection (a) applies."

ADMINISTRATION OF TRADE AGREEMENTS PROGRAM

For provisions relating to the administration of the trade agreements program, see Ex. Ord. No. 11846, Mar. 27, 1975, 40 F.R. 14291, set out as a note under section 2111 of this title.

CONGRESSIONAL APPROVAL OR DISAPPROVAL OF GENERAL AGREEMENT ON TARIFFS AND TRADE

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 1364 of this title, and enacting notes set out under sections 1351 and 1352 of this title] shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade."

REDUCTION OF PROTECTION RESULTING FROM 1956 AMENDMENTS

Section 2(e) of act Aug. 2, 1956, ch. 887, 70 Stat. 946, provided that: "In any action relating to tariff adjustments by executive action, including action taken pursuant to section 350 of the Tariff Act of 1930, as amended [this section] the United States Tariff Commission [now United States International Trade Commission]

and each officer of the executive branch of the Government concerned shall give full consideration to any reduction in the level of tariff protection which has resulted or is likely to result from the amendment of section 402 of the Tariff Act of 1930 made by this Act [sections 1401a and 1402 of this title].”

Section 2(e) of act Aug. 2, 1956, effective only as to articles entered, or withdrawn from warehouse, for consumption on or after thirtieth day following publication of the final list provided for in section 6(a) of said act Aug. 2, 1956, set out in note under section 1402 of this title, see note set out under section 1401a of this title.

COMMISSION ON FOREIGN ECONOMIC POLICY

Act Aug. 7, 1953, ch. 348, title III, §§301-310, 67 Stat. 473-475, as amended by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 657, provided for the establishment of a Commission on Foreign Economic Policy to examine and report on the subjects of international trade and its enlargement consistent with a sound domestic economy, our foreign economic policy, and the trade aspects of our national security and total foreign policy, and to recommend appropriate policies and measures. The Commission was to submit a report on its findings within 60 days after the second session of the 83rd Congress was convened, and was to expire 90 days after the submission of its report to Congress.

EXTENSION OF PRESIDENTIAL AUTHORITY

Authority of President to enter into trade agreements under this section extended until close of Dec. 31, 1962, see note under section 1352 of this title.

EXECUTIVE ORDER NO. 9832

Ex. Ord. No. 9832, Feb. 25, 1947, 12 F.R. 1363, revoked by Ex. Ord. No. 10004, Oct. 6, 1948, 13 F.R. 5851.

EXECUTIVE ORDER NO. 10004

Ex. Ord. No. 10004, Oct. 6, 1948, 13 F.R. 5851, superseded by Ex. Ord. No. 10082, Oct. 5, 1949, 14 F.R. 6105.

EXECUTIVE ORDER NO. 10082

Ex. Ord. No. 10082, Oct. 5, 1949, 14 F.R. 6105, as amended by Ex. Ord. No. 10170, Oct. 13, 1950, 15 F.R. 6901, which related to administrative procedures for reciprocal trade-agreements program, was revoked by Ex. Ord. No. 11075, Jan. 15, 1963, 28 F.R. 473, set out as a note under section 1801 of this title.

EXECUTIVE ORDER NO. 10741

Ex. Ord. No. 10741, Nov. 26, 1957, 22 F.R. 9451, which established the Trade Policy Committee, was revoked by Ex. Ord. No. 11075, Jan. 15, 1963, 28 F.R. 473, set out as a note under section 1801 of this title.

§ 1352. Equalization of costs of production

(a) Application to importation of articles under foreign-trade agreement

The provisions of section 1336 of this title shall not apply to any article with respect to the importation of which into the United States a foreign-trade agreement has been concluded pursuant to this part or the Trade Expansion Act of 1962 [19 U.S.C. 1801 et seq.] or the Trade Act of 1974 [19 U.S.C. 2101 et seq.] or to any provision of any such agreement. The third paragraph of section 1311 of this title shall apply to any agreement concluded pursuant to this part or the Trade Expansion Act of 1962 or the Trade Act of 1974 to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such

agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

(b) Termination of foreign trade agreement

Every foreign trade agreement concluded pursuant to this part shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than three years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than six months' notice.

(c) Termination of authority of President

The authority of the President to enter into foreign trade agreements under section 1351 of this title shall terminate on June 30, 1958.

(June 12, 1934, ch. 474, §2, 48 Stat. 944; Mar. 1, 1937, ch. 22, 50 Stat. 24; Apr. 12, 1940, ch. 96, 54 Stat. 107; June 7, 1943, ch. 118, §1, 57 Stat. 125; July 5, 1945, ch. 269, §1, 59 Stat. 410; Sept. 26, 1949, ch. 585, §3, 63 Stat. 698; June 16, 1951, ch. 141, §§2, 9(a), 65 Stat. 72, 75; Aug. 7, 1953, ch. 348, title I, §101, 67 Stat. 472; July 1, 1954, ch. 445, §1, 68 Stat. 360; June 21, 1955, ch. 169, §2, 69 Stat. 162; Pub. L. 87-794, title II, §257(d), Oct. 11, 1962, 76 Stat. 882; Pub. L. 93-618, title VI, §602(a), Jan. 3, 1975, 88 Stat. 2072; Pub. L. 96-39, title XI, §1106(h)(2), July 26, 1979, 93 Stat. 313.)

REFERENCES IN TEXT

The Trade Expansion Act of 1962, referred to in subsec. (a), is Pub. L. 87-794, Oct. 11, 1962, 76 Stat. 872, as amended, which is classified generally to chapter 7 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (a), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to chapter 12 (§2101 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 amended directory language of Pub. L. 93-618, §602(a), to correct a typographical error, and did not involve any change in text. See 1975 Amendment note below.

1975—Subsec. (a). Pub. L. 93-618, as amended by Pub. L. 96-39, inserted reference to the Trade Act of 1974.

1962—Subsec. (a). Pub. L. 87-794 inserted references to agreements concluded pursuant to the Trade Expansion Act of 1962.

1955—Subsec. (c). Act June 21, 1955, substituted “June 30, 1958” for “June 12, 1955”.

1954—Subsec. (c). Act July 1, 1954, substituted “1955” for “1954”.

1953—Subsec. (c). Act Aug. 7, 1953, substituted “1954” for “1953”.

1951—Subsec. (a). Act June 16, 1951, substituted “section 1336 of this title” for “sections 1336 and 1516(b) of this title”.

Subsec. (c). Act June 16, 1951, substituted “1953” for “1951”.

1949—Subsec. (c). Act Sept. 26, 1949, §3, substituted “1953” for “1948”.

1945—Subsec. (c). Act. July 5, 1945, substituted “1948” for “1945”.

1943—Subsec. (c). Joint Res. June 7, 1943, substituted “1945” for “1943”.

1940—Subsec. (c). Joint Res. Apr. 12, 1940, substituted “1943” for “1940”.

1937—Subsec. (c). Act Mar. 1, 1937, substituted “1937” for “1934”.

REPEALS

Act Sept. 26, 1949, §2, repealed act June 26, 1948, ch. 678, §2, 62 Stat. 1053, which had extended the President’s authority from June 12, 1948, until the close of June 30, 1949.

EXTENSION OF PRESIDENTIAL AUTHORITY

Section 257(c) of Pub. L. 87-794 extended authority of President to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 (section 1351 of this title) from close of June 30, 1962, until close of Dec. 31, 1962.

Section 2 of Pub. L. 85-686, Aug. 20, 1958, 72 Stat. 673, extended authority of President to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 (section 1351 of this title) from close of June 30, 1958, until close of June 30, 1962.

§ 1352a. Repealed. Pub. L. 87-794, title II, § 257(f), Oct. 11, 1962, 76 Stat. 882

Section, acts July 1, 1954, ch. 445, §2, 68 Stat. 360; June 21, 1955, ch. 169, §7, 69 Stat. 166; Aug. 20, 1958, Pub. L. 85-686, §8(a), 72 Stat. 678, related to restriction on decrease of duties, impairment of national security, investigations and reports, and reports to Congress. See section 1801 et seq. of this title.

ACTIONS COMMENCED PRIOR TO OCTOBER 11, 1962

Section 257(f) of Pub. L. 87-794 provided in part that: “Any action (including any investigation begun) under section 2 [section 1352a of this title] before the date of the enactment of this Act [Oct. 11, 1962] shall be considered as having been taken or begun under section 232 [section 1862 of this title].”

§ 1353. Indebtedness of foreign countries, effect on

Nothing in this part shall be construed to give any authority to cancel or reduce, in any manner, any of the indebtedness of any foreign country to the United States.

(June 12, 1934, ch. 474, §3, 48 Stat. 944.)

§ 1354. Notice of intention to negotiate agreement; opportunity to be heard; President to seek information and advice

Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this part, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall request the International Trade Commission to make the investigation and report provided for by section 1360 of this title, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, Commerce, and Defense, and from such other sources as he may deem appropriate.

(June 12, 1934, ch. 474, §4, 48 Stat. 945; July 5, 1945, ch. 269, §4, 59 Stat. 411; Aug. 10, 1949, ch. 412,

§12(a), 63 Stat. 591; Sept. 26, 1949, ch. 585, §5, 63 Stat. 698; June 16, 1951, ch. 141, §3(c), 65 Stat. 73; Pub. L. 93-618, title I, §171(b), Jan. 3, 1975, 88 Stat. 2009.)

AMENDMENTS

1975—Pub. L. 93-618 substituted “United States International Trade Commission” for “United States Tariff Commission”.

1951—Act June 16, 1951, provided that the President request the Tariff Commission to make the investigation and report.

1949—Act Sept. 26, 1949, changed the Tariff Commission’s functions under these sections from investigatory to advisory functions.

1945—Act July 5, 1945, inserted “War, Navy,” after “Departments of State”.

CHANGE OF NAME

National Military Establishment changed to Department of Defense by act Aug. 10, 1949.

REPEALS

Act Sept. 26, 1949, §2, repealed act June 26, 1948, ch. 678, §3(c), 62 Stat. 1054, formerly cited as a credit to this section.

§§ 1355, 1356. Repealed. Pub. L. 89-23, § 7, May 22, 1965, 79 Stat. 113

Sections, act Apr. 11, 1941, ch. 59, §§1, 2, 55 Stat. 133, 134, related to the importation of coffee under Inter-American Coffee Agreement. See sections 1356a to 1356e of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective May 22, 1965, the date the President made the determination required by section 8 of Pub. L. 89-23, set out as a note under section 1356a of this title.

§§ 1356a to 1356j. Omitted

CODIFICATION

Sections were omitted. See sections 1356k and 1356l of this title.

Section 1356a, Pub. L. 89-23, §2, May 22, 1965, 79 Stat. 112, authorized the President, for a period not to exceed October 1, 1968, to carry out the provisions of the International Coffee Agreement, 1962.

Section 1356b, Pub. L. 89-23, §3, May 22, 1965, 79 Stat. 112, defined “coffee” for section 1356a of this title.

Section 1356c, Pub. L. 89-23, §4, May 22, 1965, 79 Stat. 112, authorized delegation of Presidential powers and duties and required protection of consumer interests under sections 1356a to 1356e of this title.

Section 1356d, Pub. L. 89-23, §5, May 22, 1965, 79 Stat. 113, required the President to submit an annual report to Congress on the International Coffee Agreement, 1962.

Section 1356e, Pub. L. 89-23, §6, May 22, 1965, 79 Stat. 113, authorized appropriations for sections 1356a to 1356e of this title and limited contributions for administration of the International Coffee Agreement, 1962.

Section 1356f, Pub. L. 90-634, title III, §302, Oct. 24, 1968, 82 Stat. 1348; Pub. L. 91-694, §1, Jan. 12, 1971, 84 Stat. 2077; Pub. L. 92-262, Mar. 24, 1972, 86 Stat. 113, authorized the President, for a period not to exceed October 1, 1973, to carry out the provisions of the International Coffee Agreement, 1968.

Section 1356g, Pub. L. 90-634, title III, §303, Oct. 24, 1968, 82 Stat. 1348, defined “coffee” for section 1356f of this title.

Section 1356h, Pub. L. 90-634, title III, §304, Oct. 24, 1968, 82 Stat. 1348, authorized delegation of Presidential powers and duties and required protection of consumer interests under sections 1356f to 1356j of this title and provided for remedial action under the International Coffee Agreement, 1968.

Section 1356i, Pub. L. 90-634, title III, §305, Oct. 24, 1968, 82 Stat. 1349, required the President to submit an annual report to Congress on the International Coffee Agreement, 1968.

Section 1356j, Pub. L. 90-634, title III, §306, Oct. 24, 1968, 82 Stat. 1349, provided procedures to prevent discrimination against vessels registered under laws of the United States in shipping coffee to the United States.

§ 1356k. Importation of coffee under International Coffee Agreement, 1983; Presidential powers and duties

On and after the entry into force of the International Coffee Agreement, 1983, and before October 1, 1989, the President is authorized, in order to carry out and enforce the provisions of that agreement—

(1) to regulate the entry of coffee for consumption, or withdrawal of coffee from warehouse for consumption, or any other form of entry or withdrawal of coffee such as for transportation or exportation, including whenever quotas are in effect pursuant to the agreement, (A) the limitation of entry, or withdrawal from warehouse, of coffee imported from countries which are not members of the International Coffee Organization, and (B) the prohibition of entry of any shipment from any member of the International Coffee Organization of coffee which is not accompanied either by a valid certificate of origin, a valid certificate of reexport, a valid certificate of reshipment, or a valid certificate of transit, issued by a qualified agency in such form as required under the agreement;

(2) to require that every export or reexport of coffee from the United States shall be accompanied by a valid certificate of origin or a valid certificate of reexport, issued by a qualified agency of the United States designated by him, in such form as required under the agreement;

(3) to require the keeping of such records, statistics, and other information, and the rendering of such reports, relating to the importation, distribution, prices, and consumption of coffee as he may from time to time prescribe; and

(4) to take such other action, and issue and enforce such rules and regulations, as he may consider necessary or appropriate in order to implement the obligations of the United States under the agreement.

(Pub. L. 96-599, §2, Dec. 24, 1980, 94 Stat. 3491; Pub. L. 97-276, §161, Oct. 2, 1982, 96 Stat. 1204; Pub. L. 97-446, §154, Jan. 12, 1983, 96 Stat. 2345; Pub. L. 98-120, §1, Oct. 12, 1983, 97 Stat. 809; Pub. L. 100-418, title I, §1123(a), Aug. 23, 1988, 102 Stat. 1146.)

REFERENCES IN TEXT

The International Coffee Agreement, 1983, referred to in text, was entered into force for the United States provisionally Oct. 1, 1983, and definitively Sept. 11, 1985.

CODIFICATION

Section was enacted as part of the International Coffee Agreement Act of 1980, and not as part of the Tariff Act of 1930 which comprises this chapter.

AMENDMENTS

1988—Pub. L. 100-418 substituted “October 1, 1989” for “October 1, 1986”.

1983—Pub. L. 98-120 in provisions preceding par. (1) substituted “, 1983” for “1976” and “before October 1, 1986” for “for such period prior to October 1, 1983 as the agreement remains in effect”.

Pub. L. 97-446 substituted “October 1, 1983” for “the expiration of this joint resolution”.

1982—Pub. L. 97-276 substituted “the expiration of this joint resolution” for “October 1, 1982”.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1123(b) of Pub. L. 100-418 provided that: “The amendment made by subsection (a) [amending this section] shall take effect January 1, 1987.”

SHORT TITLE

Section 1 of Pub. L. 96-599 provided that: “This Act [enacting this section and sections 1356l to 1356n of this title] may be cited as the ‘International Coffee Agreement Act of 1980’.”

§ 1356l. “Coffee” defined

As used in this section and section 1356k of this title, the term “coffee” means coffee as defined in article 3 of the International Coffee Agreement, 1983.

(Pub. L. 96-599, §3, Dec. 24, 1980, 94 Stat. 3491; Pub. L. 98-120, §1(1), Oct. 12, 1983, 97 Stat. 809.)

CODIFICATION

Section was enacted as part of the International Coffee Agreement Act of 1980, and not as part of the Tariff Act of 1930 which comprises this chapter.

AMENDMENTS

1983—Pub. L. 98-120 substituted “, 1983” for “1976”.

§§ 1356m, 1356n. Repealed. Pub. L. 105-362, title XIV, § 1401(a), Nov. 10, 1998, 112 Stat. 3294

Section 1356m, Pub. L. 96-599, §4, Dec. 24, 1980, 94 Stat. 3492, related to delegation of Presidential powers and duties, protection of interests of United States consumers, and remedial action with respect to the International Coffee Agreement Act of 1980.

Section 1356n, Pub. L. 96-599, §5, Dec. 24, 1980, 94 Stat. 3492; Pub. L. 98-120, §1(1), Oct. 12, 1983, 97 Stat. 809, related to annual report by the President to Congress on the International Coffee Agreement, 1983.

§§ 1357 to 1359. Repealed. Sept. 26, 1949, ch. 585, § 2, 63 Stat. 698

Sections, act June 26, 1948, ch. 678, §§3(a), (b), 4, 5, 62 Stat. 1053, 1054, related to the investigatory functions of the Tariff Commission and the report by the President to Congress.

§ 1360. Investigation before trade negotiations

(a) Report by International Trade Commission

Before entering into negotiations concerning any proposed foreign trade agreement under section 1351 of this title, the President shall furnish the United States International Trade Commission (hereinafter in sections 1352(a), (c), 1354, and 1360 to 1367 of this title, and section 624(b) of title 7, referred to as the “Commission”) with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list the Commission shall make an investigation and report to the President the findings of the Commission with

respect to each such article as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of said section without causing or threatening serious injury to the domestic industry producing like or directly competitive articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or directly competitive articles the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than six months after the receipt of such list by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the six-month period.

(b) Procedures and determinations

(1) In the course of any investigation pursuant to this section the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. If in the course of any such investigation the Commission shall find with respect to any article on the list upon which a tariff concession has been granted that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles, the Commission shall promptly institute an investigation with respect to that article pursuant to section 1364 of this title.

(2) In each such investigation the Commission shall, to the extent practicable and without excluding other factors, ascertain for the last calendar year preceding the investigation the average invoice price on a country-of-origin basis (converted into currency of the United States in accordance with the provisions of section 5151 of title 31) at which the foreign article was sold for export to the United States, and the average prices at which the like or directly competitive domestic articles were sold at wholesale in the principal markets of the United States. The Commission shall also, to the extent practicable, estimate for each article on the list the maximum increase in annual imports which may occur without causing serious injury to the domestic industry producing like or directly competitive articles. The Commission shall request the executive departments and agencies for information in their possession concerning prices and other economic data from the principal supplier foreign country of each such article.

(June 16, 1951, ch. 141, §3(a), (b), 65 Stat. 72; Pub. L. 85-686, §4, Aug. 20, 1958, 72 Stat. 675; Pub. L. 93-618, title I, §171(b), Jan. 3, 1975, 88 Stat. 2009.)

REFERENCES IN TEXT

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

CODIFICATION

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

Section is comprised of subsecs. (a) and (b) of section 3 of act June 16, 1951. Subsec. (c) of the 1951 act amended section 1354 of this title.

In subsec. (b)(2), "section 5151 of title 31" was substituted for "section 522 of the Tariff Act of 1930 [31 U.S.C. 372]" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-618 substituted "United States International Trade Commission" for "United States Trade Commission".

1958—Subsec. (a). Pub. L. 85-686, §4(a), substituted "six months" for "120 days", and "six-month" for "120-day".

Subsec. (b). Pub. L. 85-686, §4(b), (c), redesignated existing provisions as par. (1), inserted provision to require the Commission to promptly institute an investigation pursuant to section 1364 of this title when the Commission finds with respect to any article on the list upon which a tariff concession has been granted that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles, and added par. (2).

§ 1361. Action by President; reports to Congress

(a) Transmittal by President of trade agreement and message to Congress

Within thirty days after any trade agreement under section 1351 of this title has been entered into which, when effective, will (1) require or make appropriate any modification of duties or other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to the domestic industry producing like or directly competitive articles as found and reported by the United States International Trade Commission under section 1360 of this title, or (2) fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury, the President shall transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of Representatives, or both, are not in session at the time of such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

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

Promptly after the President has transmitted such foreign trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of the portions of its report to the President dealing with the articles with respect

to which such limits or minimum requirements are not complied with.

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

CODIFICATION

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

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-618 substituted “United States International Trade Commission” for “Tariff Commission”.

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

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

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

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

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

PRESIDENTIAL ACTION IN EFFECT ON OCTOBER 11, 1962

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.