

other provision of law, be liquidated or reliquidated as though such entry had been made on the day after the date of the enactment of this Act.”

**§ 1467. Special inspection, examination, and search**

Whenever a vessel from a foreign port or place or from a port or place in any Territory or possession of the United States arrives at a port or place in the United States or the Virgin Islands, whether directly or via another port or place in the United States or the Virgin Islands, the appropriate customs officer for such port or place of arrival may, under such regulations as the Secretary of the Treasury may prescribe and for the purpose of assuring compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, cause inspection, examination, and search to be made of the persons, baggage, and merchandise discharged or unladen from such vessel, whether or not any or all such persons, baggage, or merchandise has previously been inspected, examined, or searched by officers of the customs.

(June 17, 1930, ch. 497, title IV, §467, as added June 25, 1938, ch. 679, §11, 52 Stat. 1083; amended Pub. L. 91-271, title III, §301(g), June 2, 1970, 84 Stat. 288.)

AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector of customs.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE

This section effective on the 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.

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 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.

PART III—ASCERTAINMENT, COLLECTION, AND RECOVERY OF DUTIES

**§ 1481. Invoice; contents**

**(a) In general**

All invoices of merchandise to be imported into the United States and any electronic equip-

ment thereof considered acceptable by the Secretary in regulations prescribed under this section shall set forth, in written, electronic, or such other form as the Secretary shall prescribe, the following:

(1) The port of entry to which the merchandise is destined;

(2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;

(3) A detailed description of the merchandise, including the commercial name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;

(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;

(5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;

(6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;

(7) The kind of currency, whether gold, silver, or paper;

(8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices when the amounts for such charges are unknown to the seller or shipper;

(9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise; and

(10) Any other fact that the Secretary may by regulation require as being necessary to a proper appraisalment, examination and classification of the merchandise.

**(b) Shipments not purchased and not shipped by manufacturer**

If the merchandise is shipped to a person in the United States by a person other than the manufacturer, otherwise than by purchase, such person shall state on the invoice the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper.

**(c) Importer provision of information**

Any information required to be set forth on an invoice may alternatively be provided by any of

the parties qualifying as an “importer of record” under section 1484(a)(2)(B) of this title by such means, in such form or manner, and within such time as the Secretary shall by regulation prescribe.

**(d) Exceptions by regulations**

The Secretary of the Treasury may by regulations provide for such exceptions from the requirements of this section as he deems advisable and may allow for the submission or electronic transmission of partial invoices, electronic equivalents of invoices, bills, or other documents or parts thereof, required under this section.

(June 17, 1930, ch. 497, title IV, § 481, 46 Stat. 719; Pub. L. 103-182, title VI, § 636, Dec. 8, 1993, 107 Stat. 2200.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 481, 42 Stat. 958. That section was superseded by section 481 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions as to the weights or measures, and currency, in which invoices should be made out and the contents of invoices, with additional provisions as to invoices of merchandise intended for immediate transportation without appraisal, and a provision as to the signing of the invoice, were contained in R.S. § 2837 and act Oct. 3, 1913, ch. 16, § III, C, 38 Stat. 181 (superceding Customs Administrative Act of June 10, 1890, ch. 407, § 2, 26 Stat. 131, as amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 91), which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 481, 42 Stat. 958, and repealed by sections 642 and 643 thereof.

R.S. §§ 2838, 2853 (as amended by Act June 10, 1880, ch. 190) and 2860, contained provisions concerning invoices and their contents, prior to repeal by Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

Act May 27, 1921, ch. 14, § 401, 42 Stat. 16, required invoices to contain, in addition to statements then required by law, such other statements as the Secretary of the Treasury should prescribe, and a statement as to the currency in which made out, and section 402 of that Act required the owner, importer, etc., to set forth on the invoice or statement in form of an invoice, and in the entry, in addition to statements then required by law such statements, under oath if required, as the Secretary might prescribe. These provisions were omitted from the Code as superseded by this section, and section 1485(a) of this title.

Provisions on the subject matter of subdivision (c) of this section were contained in act Oct. 3, 1913, ch. 16, § III, W, 38 Stat. 190, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 481, 42 Stat. 958, and repealed by section 643 thereof.

**AMENDMENTS**

1993—Subsec. (a). Pub. L. 103-182, § 636(1)(A), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “All invoices of merchandise to be imported into the United States shall set forth—”.

Subsec. (a)(3). Pub. L. 103-182, § 636(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;”.

Subsec. (a)(10). Pub. L. 103-182, § 636(1)(C), amended par. (10) generally. Prior to amendment, par. (10) read

as follows: “Any other facts deemed necessary to a proper appraisal, examination, and classification of the merchandise that the Secretary of the Treasury may require.”

Subsec. (c). Pub. L. 103-182, § 636(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “When the merchandise has been purchased in different consular districts for shipment to the United States and is assembled for shipment and embraced in a single invoice which is produced for certification under the provisions of paragraph (2) of subdivision (a) of section 1482 of this title, the invoice shall have attached thereto the original bills or invoices received by the shipper, or extracts therefrom, showing the actual prices paid or to be paid for such merchandise. The consular officer to whom the invoice is so produced for certification may require that any such original bill or invoice be certified by the consular officer for the district in which the merchandise was purchased.”

Subsec. (d). Pub. L. 103-182, § 636(3), inserted before period at end “and may allow for the submission or electronic transmission of partial invoices, electronic equivalents of invoices, bills, or other documents or parts thereof, required under this section”.

**§ 1482. Repealed. Pub. L. 103-182, title VI, § 690(b)(8), Dec. 8, 1993, 107 Stat. 2223**

Section, acts June 17, 1930, ch. 497, title IV, § 482, 46 Stat. 720; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Oct. 25, 1951, ch. 562, § 4(4), 65 Stat. 640; Aug. 8, 1953, ch. 397, § 16(a), 67 Stat. 517; June 2, 1970, Pub. L. 91-271, title III, § 301(h), 84 Stat. 288, set forth requirements for certified invoices including time of certification, declarations, number and destination of copies, and certification by other than an American consulate in remote areas.

**§ 1483. Repealed. Pub. L. 97-446, title II, § 201(c), Jan. 12, 1983, 96 Stat. 2349**

Section, acts June 17, 1930, ch. 497, title IV, § 483, 46 Stat. 721; Oct. 3, 1978, Pub. L. 95-410, title II, § 207, 92 Stat. 901, provided that for specified purposes the consignee of merchandise be deemed the owner.

**EFFECTIVE DATE OF REPEAL**

Repeal effective with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as an Effective Date of 1983 Amendment note under section 1484 of this title.

**§ 1484. Entry of merchandise**

**(a) Requirement and time**

(1) Except as provided in sections 1490, 1498, 1552, and 1553 of this title, one of the parties qualifying as “importer of record” under paragraph (2)(B), either in person or by an agent authorized by the party in writing, shall, using reasonable care—

(A) make entry therefor by filing with the Bureau of Customs and Border Protection such documentation or, pursuant to an authorized electronic data interchange system, such information as is necessary to enable the Bureau of Customs and Border Protection to determine whether the merchandise may be released from custody of the Bureau of Customs and Border Protection;<sup>1</sup>

(B) complete the entry, or substitute 1 or more reconfigured entries on an import activity summary statement, by filing with the Customs Service the declared value, classification and rate of duty applicable to the mer-

<sup>1</sup> So in original. The word “and” probably should appear at end.

chandise, and such other documentation or, pursuant to an electronic data interchange system, such other information as is necessary to enable the Customs Service to—

- (i) properly assess duties on the merchandise,
- (ii) collect accurate statistics with respect to the merchandise, and
- (iii) determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

(2)(A) The documentation or information required under paragraph (1) with respect to any imported merchandise shall be filed or transmitted in such manner and within such time periods as the Secretary shall by regulation prescribe. Such regulations shall provide for the filing of import activity summary statements, and permit the filing of reconfigured entries, covering merchandise released under a special delivery permit pursuant to section 1448(b) of this title and entries or warehouse withdrawals made during a calendar month, within such time period as is prescribed in regulations but not to exceed the 20th day following such calendar month. Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 1500, 1501, or 1504 of this title.

(B) When an entry of merchandise is made under this section, the required documentation or information shall be filed or electronically transmitted either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 1641 of this title. When a consignee declares on entry that he is the owner or purchaser of merchandise the Customs Service may, without liability, accept the declaration. For the purposes of this chapter, the importer of record must be one of the parties who is eligible to file the documentation or information required by this section.

(C) The Secretary, in prescribing regulations to carry out this subsection, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports. Corrections of errors in such statistical data shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau. The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the enforcement of laws governing the importation and exportation of merchandise, the facilitation of the commerce of the United States, and the equal treatment of all importers of record of imported merchandise.

## **(b) Reconciliation**

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

A party may elect to file a reconciliation with regard to such entry elements as are identified by the party pursuant to regulations prescribed by the Secretary. If the party so

elects, the party shall declare that a reconciliation will be filed. The declaration shall be made in such manner as the Secretary shall prescribe and at the time the documentation or information required by subsection (a)(1)(B) of this section or the import activity summary statement is filed with, or transmitted to, the Customs Service, or at such later time as the Customs Service may, in its discretion, permit. The reconciliation shall be filed by the importer of record at such time and in such manner as the Secretary prescribes but not later than 21 months after the date the importer declares his intent to file the reconciliation. In the case of reconciling issues relating to the assessment of antidumping and countervailing duties, the reconciliation shall be filed not later than 90 days after the date the Customs Service advises the importer that the period of review for antidumping or countervailing duty purposes has been completed. Before filing a reconciliation, an importer of record shall post bond or other security pursuant to such regulations as the Secretary may prescribe.

### **(2) Regulations regarding AD/CV duties**

The Secretary shall prescribe, in consultation with the Secretary of Commerce, such regulations as are necessary to adapt the reconciliation process for use in the collection of antidumping and countervailing duties.

### **(c) Release of merchandise**

The Customs Service may permit the entry and release of merchandise from customs custody in accordance with such regulations as the Secretary may prescribe. No officer of the Customs Service shall be liable to any person with respect to the delivery of merchandise released from customs custody in accordance with such regulations.

### **(d) Signing and contents**

(1) Entries shall be signed by the importer of record, or his agent, unless filed pursuant to an electronic data interchange system. If electronically filed, each transmission of data shall be certified by an importer of record or his agent, one of whom shall be resident in the United States for purposes of receiving service of process, as being true and correct to the best of his knowledge and belief, and such transmission shall be binding in the same manner and to the same extent as a signed document. The entry shall set forth such facts in regard to the importation as the Secretary may require and shall be accompanied by such invoices, bills of lading, certificates, and documents, or their electronically submitted equivalents, as are required by regulation.

(2) The Secretary, in prescribing regulations governing the content of entry documentation, shall require that entry documentation contain such information as may be necessary to determine whether the imported merchandise bears an infringing trademark in violation of section 1124 of title 15 or any other applicable law, including a trademark appearing on the goods or packaging.

### **(e) Production of invoice**

The Secretary may provide by regulation for the production of an invoice, parts thereof, or

the electronic equivalents thereof, in such manner and form, and under such terms and conditions, as the Secretary considers necessary.

**(f) Statistical enumeration**

The Secretary, the Secretary of Commerce, and the United States International Trade Commission shall establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.

**(g) Statement of cost of production**

Under such regulations as the Secretary may prescribe, the Customs Service may require a verified statement from the manufacturer or producer showing the cost of producing the imported merchandise, if the Customs Service considers such verification necessary for the appraisal of such merchandise.

**(h) Admissibility of data electronically transmitted**

Any entry or other information transmitted by means of an authorized electronic data interchange system shall be admissible in any and all administrative and judicial proceedings as evidence of such entry or information.

**(i) Special rule for foreign trade zone operations**

**(1) In general**

Notwithstanding any other provision of law and except as provided in paragraph (3), all merchandise (including merchandise of different classes, types, and categories), withdrawn from a foreign trade zone during any 7-day period, shall, at the option of the operator or user of the zone, be the subject of a single estimated entry or release filed on or before the first day of the 7-day period in which the merchandise is to be withdrawn from the zone. The estimated entry or release shall be treated as a single entry and a single release of merchandise for purposes of section 58c(a)(9)(A) of this title and all fee exclusions and limitations of such section 58c of this title shall apply, including the maximum and minimum fee amounts provided for under subsection (b)(8)(A)(i) of such section. The entry summary for the estimated entry or release shall cover only the merchandise actually withdrawn from the foreign trade zone during the 7-day period.

**(2) Other requirements**

The Secretary of the Treasury may require that the operator or user of the zone—

(A) use an electronic data interchange approved by the Customs Service—

(i) to file the entries described in paragraph (1); and

(ii) to pay the applicable duties, fees, and taxes with respect to the entries; and

(B) satisfy the Customs Service that accounting, transportation, and other controls over the merchandise are adequate to protect the revenue and meet the requirements of other Federal agencies.

**(3) Exception**

The provisions of paragraph (1) shall not apply to merchandise the entry of which is prohibited by law or merchandise for which the filing of an entry summary is required before the merchandise is released from customs custody.

**(4) Foreign trade zone; zone**

In this subsection, the terms “foreign trade zone” and “zone” mean a zone established pursuant to the Act of June 18, 1934, commonly known as the Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

**(j) Treatment of multiple entries of merchandise as single transaction**

In the case of merchandise that is purchased and invoiced as a single entity but—

(1) is shipped in an unassembled or disassembled condition in separate shipments due to the size or nature of the merchandise, or

(2) is shipped in separate shipments due to the inability of the carrier to include all of the merchandise in a single shipment (at the instruction of the carrier),

the Customs Service may, upon application by an importer in advance, treat such separate shipments for entry purposes as a single transaction.

(June 17, 1930, ch. 497, title IV, § 484, 46 Stat. 722; June 25, 1938, ch. 679, § 12, 52 Stat. 1083; Aug. 8, 1953, ch. 397, §§ 3(b), 16(b), (c), 67 Stat. 509, 517; Pub. L. 91-271, title III, § 301(i), June 2, 1970, 84 Stat. 288; Pub. L. 93-618, title VI, § 608(a), Jan. 3, 1975, 88 Stat. 2073; Pub. L. 95-106, § 4, Aug. 17, 1977, 91 Stat. 869; Pub. L. 95-410, title I, § 102(a), Oct. 3, 1978, 92 Stat. 888; Pub. L. 97-446, title II, § 201(d), Jan. 12, 1983, 96 Stat. 2349; Pub. L. 103-182, title VI, § 637(a), Dec. 8, 1993, 107 Stat. 2200; Pub. L. 104-153, § 12, July 2, 1996, 110 Stat. 1389; Pub. L. 104-295, §§ 18(b), 21(e)(6), Oct. 11, 1996, 110 Stat. 3524, 3531; Pub. L. 106-200, title IV, § 410(a), May 18, 2000, 114 Stat. 297; Pub. L. 106-476, title I, § 1460(a), Nov. 9, 2000, 114 Stat. 2171; Pub. L. 108-429, title II, § 2101, Dec. 3, 2004, 118 Stat. 2597; Pub. L. 109-280, title XIV, § 1635(a), Aug. 17, 2006, 120 Stat. 1170.)

REFERENCES IN TEXT

The Foreign Trade Zones Act, referred to in subsec. (i)(4), is act June 18, 1934, ch. 590, 48 Stat. 998, as amended, which is classified generally to chapter 1A (§ 81a et seq.) of this title. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 484, 42 Stat. 960. That section was superseded by section 484 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions requiring entry of goods, and prescribing the manner of making it, the documents to be produced, etc., were contained in R.S. §2785. Provision for entry when the particulars of the merchandise were unknown was made by R.S. §2788. A special provision regarding entry of distilled spirits and wines was contained in R.S. §2794. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Provisions relating to the production of certified invoices were contained in act Oct. 3, 1913, ch. 16, §III, E, 38 Stat. 182, which reenacted the provisions of the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 92, which amended Customs Administrative Act of June 10, 1890, ch. 407, §4, 26 Stat. 131. Said section III, E, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989. Earlier provisions were contained in R.S. §2860, and act June 22, 1874, ch. 391, §§9, 10, and 11, all repealed by act June 10, 1890, ch. 407, §29, 26 Stat. 141.

R.S. §2842 required bond for the production of an invoice duly certified by the oath of the owner or one of them, in the case of merchandise belonging to a resident of the United States absent from the place of entry. R.S. §2852, provided that when merchandise was admitted to entry on invoice, the collector should certify the same, and no other evidence of value should be admitted on the part of the owner, except in corroboration of the entry. R.S. §2859, made special provision for entry of merchandise from countries where there was no United States consul, etc. These sections were all repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §§2847 and 2848 authorized the Secretary of the Treasury to admit to entry in certain cases merchandise subject to ad valorem duty, belonging to a person not residing in the United States, not accompanied with an invoice verified and authenticated as required by preceding section. They became inoperative by the repeal of R.S. §§2843, 2845, by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 104, and the enactment of provisions for entry of goods without invoice by section 4 of said Customs Administrative Act amended by the Payne-Aldrich Tariff Act, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, §III, E, and were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §2858, provided that the Secretary of the Treasury, whenever it had become impracticable for the person desiring to make entry of merchandise to produce any invoice thereof, might authorize the entry thereof, and remit forfeitures in such cases, as in other cases under the revenue laws. It was repealed by the Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, reenacted by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 104.

A provision relating to statistical enumeration of merchandise, except that the "accurate statement" was to be a part of the declaration therein provided for, and a further provision making it the duty of the consular officer to whom the invoice should be produced to require the information to be given, were contained in act Oct. 3, 1913, ch. 16, §III, F, 38 Stat. 182, amending the Customs Administrative Act of June 10, 1890, ch. 407, §5, 26 Stat. 132, as previously amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 95. Said section III, F, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

Prior provisions on the subject of subsequent entry of part of merchandise and separate entry of packages contained in packages for delivery to others were contained in act May 1, 1876, ch. 89, §1, 19 Stat. 49, which was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989; and in act Oct. 3, 1913, ch. 16, §III, F, 38 Stat. 182, amending Customs Administrative Act of June 10, 1890, ch. 407, §5, 26 Stat. 132, as previously amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 95. Said section III, F, was repealed by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

## AMENDMENTS

2006—Subsec. (a)(1)(A). Pub. L. 109-280, §1635(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "make entry therefor by filing with the Customs Service—

"(i) such documentation or, pursuant to an electronic data interchange system, such information as is necessary to enable the Customs Service to determine whether the merchandise may be released from customs custody, and

"(ii) notification whether an import activity summary statement will be filed; and".

Subsec. (a)(2)(A). Pub. L. 109-280, §1635(a)(2), inserted "merchandise released under a special delivery permit pursuant to section 1448(b) of this title and" after "covering" in second sentence.

2004—Subsec. (a)(1)(B). Pub. L. 108-429, §2101(a)(1), inserted ", or substitute 1 or more reconfigured entries on an import activity summary statement," after "entry" in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 108-429, §2101(a)(2), in second sentence, inserted "and permit the filing of reconfigured entries," after "statements," and, at end, inserted "Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 1500, 1501, or 1504 of this title."

Subsec. (b)(1). Pub. L. 108-429, §2101(b), substituted "21 months" for "15 months" in fourth sentence.

2000—Subsec. (i). Pub. L. 106-200 added subsec. (i).

Subsec. (j). Pub. L. 106-476 added subsec. (j).

1996—Subsec. (a)(1). Pub. L. 104-295, §21(e)(6), substituted "and 1553" for "1553, and 1336(j)".

Subsec. (b)(1). Pub. L. 104-295, §18(b), substituted "A party may elect to file a reconciliation with regard to such entry elements as are identified by the party pursuant to regulations prescribed by the Secretary. If the party so elects, the party shall declare that a reconciliation will be filed. The declaration shall be made in such manner as the Secretary shall prescribe and at the time the documentation or information required by subsection (a)(1)(B) of this section or the import activity summary statement is filed with, or transmitted to, the Customs Service, or at such later time as the Customs Service may, in its discretion, permit. The reconciliation shall be filed by the importer of record at such time and in such manner as the Secretary prescribes but not later than 15 months after the date the importer declares his intent to file the reconciliation. In the case of reconciling issues relating to the assessment of antidumping and countervailing duties, the reconciliation shall be filed not later than 90 days after the date the Customs Service advises the importer that the period of review for antidumping or countervailing duty purposes has been completed." for "A party that electronically transmits an entry summary or import activity summary statement may at the time of filing such summary or statement notify the Customs Service of his intention to file a reconciliation pursuant to such regulations as the Secretary may prescribe. Such reconciliation must be filed by the importer of record within such time period as is prescribed by regulation but no later than 15 months following the filing of the entry summary or import activity summary statement; except that the prescribed time period for reconciliation issues relating to the assessment of antidumping and countervailing duties shall require filing no later than 90 days after the Customs Service advises the importer that a period of review for antidumping or countervailing duty purposes has been completed."

Subsec. (d). Pub. L. 104-153 designated existing provisions as par. (1) and added par. (2).

1993—Pub. L. 103-182 amended section generally, substituting present provisions for provisions relating to entry of merchandise and providing specifically for requirement and time, production of certified invoice, production of bill of lading, signing and contents of

entry, statistical enumeration, packages included, statement of cost of production, certification of owner by carrier, acceptance of duplicate bill of lading, and release of merchandise from customs custody.

1983—Subsec. (a)(1). Pub. L. 97-446, §201(d)(1)(A), substituted “one of the parties qualifying as ‘importer of record’ under paragraph (2)(C) of this subsection” for “the consignee of imported merchandise”, and “authorized by him” for “authorized by the consignee”.

Subsec. (a)(2)(C), (D). Pub. L. 97-446, §201(d)(1)(B), (C), added subpar. (C), redesignated former subpar. (C) as (D), and in subpar. (D) as so redesignated substituted “importers of record” for “consignees” after “treatment of all”.

Subsec. (c). Pub. L. 97-446, §201(d)(2), substituted “importer of record” for “consignee” before “shall produce”.

Subsec. (d). Pub. L. 97-446, §201(d)(2), substituted “importer of record” for “consignee” after “signed by the”.

Subsec. (h). Pub. L. 97-446, §201(d)(3), substituted provision relating to authority of carrier of merchandise bringing it into the port to certify any person to receive the merchandise if the carrier has actual knowledge of the accuracy of the certification, for provision that any person certified by the carrier bringing the merchandise to the port at which entry was to be made to be the owner or consignee of the merchandise, or an agent of such owner or consignee, might make entry thereof, either in person or by an authorized agent, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 1483 of this title.

Subsec. (i). Pub. L. 97-446, §201(d)(3), substituted provision authorizing appropriate customs officer to accept a duplicate bill of lading, for provision that any person might, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry was to be made, make entry for the merchandise in respect to which such bill of lading was issued, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 1483 of this title, except that such person was to make such entry in his own name.

1978—Subsec. (a). Pub. L. 95-410, §102(a)(1), incorporated first sentence in introductory text of par. designated (1), added subpars. (A) and (B) and par. (2), and struck out second sentence which required the entry to be made at the customhouse within five days, exclusive of Sundays and holidays, after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless the appropriate customs officer authorized in writing a longer time.

Subsec. (c)(3). Pub. L. 95-410, §102(a)(2), substituted “subsection” for “subdivision”.

Subsec. (j). Pub. L. 95-410, §102(a)(3), struck out “The custom officer shall return to the person making entry the bill of lading (if any is produced) with a notation thereon to the effect that entry for such merchandise has been made.”

1977—Subsec. (e). Pub. L. 95-106 substituted “production and programs for achieving international harmonization of trade statistics,” for “production,”.

1975—Subsec. (e). Pub. L. 93-618 substituted “United States International Trade Commission” for “United States Tariff Commission” and inserted references to an enumeration of articles exported from the United States and, in conjunction with statistical programs for domestic production, to the establishment of the comparability thereof with the enumeration of articles.

1970—Subsec. (a). Pub. L. 91-271, §301(i)(1), substituted reference to appropriate customs officer for reference to collector.

Subsec. (c). Pub. L. 91-271, §301(i)(2), (3), substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

Subsec. (g). Pub. L. 91-271, §301(i)(4), substituted reference to appropriate customs officer for reference to collector or appraiser.

Subsec. (j). Pub. L. 91-271, §301(i)(5), (6), substituted references to customs officer or such customs officer for references to collector wherever appearing.

1953—Subsec. (a). Act Aug. 8, 1953, §16(b), substituted “five days” for “forty-eight hours”.

Subsec. (b). Act Aug. 8, 1953, §16(c), granted the Secretary of the Treasury discretion to require certified invoices with respect to merchandise entered as he deems advisable and to establish terms under which merchandise may be imported without a certified invoice, in lieu of former provision that all such merchandise should be accompanied by an invoice certified by a United States consulate except in certain enumerated situations, and of the former provision that the Secretary might grant certain other exceptions.

Subsec. (f). Act Aug. 8, 1953, §3(b), inserted provision relating to acceptance at port of entry designated by consignee or his agent in cases of articles not subject to a quantitative or tariff-rate quota.

1938—Subsec. (f). Act June 25, 1938, inserted provision relating to authorization by the Secretary for inclusion of portions of merchandise in separate entries under such rules and regulations as he may prescribe.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by 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.

Pub. L. 106-200, title IV, §410(b), May 18, 2000, 114 Stat. 298, provided that: “The amendment made by this section [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [May 18, 2000].”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 201(g) of Pub. L. 97-446 provided that: “The amendments made by this section [amending the General headnotes of the Tariff Schedules, this section, and sections 1485, 1487, 1494, 1505, and 1557 of this title, and repealing section 1483 of this title] shall apply with respect to merchandise entered on and after the 30th day after the date of the enactment of this Act [Jan. 12, 1983].”

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 102(b) of Pub. L. 95-410 provided that: “The amendments made by this section [amending this section] shall take effect 60 days after the date of enactment of this Act [Oct. 3, 1978].”

#### EFFECTIVE DATE OF 1975 AMENDMENT

Section 608(e) of Pub. L. 93-618 provided that: “The amendment made by subsection (a) [amending this section] insofar as it related to export declarations shall take effect on January 1, 1976.”

#### 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.

## REGULATIONS

Pub. L. 106-476, title I, §1460(b), Nov. 9, 2000, 114 Stat. 2171, provided that: “Not later than 6 months after the date of the enactment of this Act [Nov. 9, 2000], the Secretary of the Treasury shall issue regulations to carry out section 484(j) of the Tariff Act of 1930 [19 U.S.C. 1484(j)], as added by subsection (a).”

## 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.

## REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE

Pub. L. 110-234, title XV, §15422, May 22, 2008, 122 Stat. 1547, and Pub. L. 110-246, §4(a), title XV, §15422, June 18, 2008, 122 Stat. 1664, 2309, provided that:

## “(a) REQUIREMENT ON IMPORTERS.—

“(1) IN GENERAL.—Pursuant to sections 484 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484 and 1485), the Commissioner responsible for U.S. Customs and Border Protection shall require each importer of merchandise to provide to U.S. Customs and Border Protection at the time of entry of the merchandise the information described in paragraph (2).

“(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) is a declaration as to whether the transaction value of the imported merchandise is determined on the basis of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

“(3) EFFECTIVE DATE.—The requirement to provide information under this subsection shall be effective for the 1-year period beginning 90 days after the date of the enactment of this Act [June 18, 2008].

## “(b) REPORT TO INTERNATIONAL TRADE COMMISSION.—

“(1) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection shall submit to the United States International Trade Commission on a monthly basis for the 1-year period specified in subsection (a)(3) a report on the information provided by importers under subsection (a)(2) during the preceding month. The report required under this paragraph shall be submitted in a form agreed upon between U.S. Customs and Border Protection and the United States International Trade Commission.

“(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

“(A) the number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2);

“(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States; and

“(C) the transaction value of such imported merchandise.

## “(c) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 90 days after the submission of the final report under subsection (b), the United States International Trade Commission shall submit to the appropriate congressional committees a report on the information contained in all reports submitted under subsection (b).

“(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

“(A) the aggregate number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2), including a description of the frequency of the use of such method;

“(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States on an aggregate basis, including an analysis of the tariff classification of such imported merchandise on a sectoral basis;

“(C) the aggregate transaction value of such imported merchandise, including an analysis of the transaction value of such imported merchandise on a sectoral basis; and

“(D) the aggregate transaction value of all merchandise imported into the United States during the 1-year period specified in subsection (a)(3).

## “(d) SENSE OF CONGRESS REGARDING PROHIBITION ON PROPOSED INTERPRETATION OF THE TERM ‘SOLD FOR EXPORTATION TO THE UNITED STATES’.—

“(1) IN GENERAL.—It is the sense of Congress that the Commissioner responsible for U.S. Customs and Border Protection should not implement a change to U.S. Customs and Border Protection’s interpretation (as such interpretation is in effect on the date of the enactment of this Act [June 18, 2008]) of the term ‘sold for exportation to the United States’, as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, before January 1, 2011.

“(2) EXCEPTION.—It is the sense of Congress that beginning on January 1, 2011, the Commissioner responsible for U.S. Customs and Border Protection may propose to change or change U.S. Customs and Border Protection’s interpretation of the term ‘sold for exportation to the United States’, as described in paragraph (1), only if U.S. Customs and Border Protection—

“(A) consults with, and provides notice to, the appropriate congressional committees—

“(i) not less than 180 days prior to proposing a change; and

“(ii) not less than 90 days prior to publishing a change;

“(B) consults with, provides notice to, and takes into consideration views expressed by, the Commercial Operations Advisory Committee—

“(i) not less than 120 days prior to proposing a change; and

“(ii) not less than 60 days prior to publishing a change; and

“(C) receives the explicit approval of the Secretary of the Treasury prior to publishing a change.

“(3) CONSIDERATION OF INTERNATIONAL TRADE COMMISSION REPORT.—It is the sense of Congress that prior to publishing a change to U.S. Customs and Border Protection’s interpretation (as such interpretation is in effect on the date of the enactment of this Act [June 18, 2008]) of the term ‘sold for exportation to the United States’, as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, the Commissioner responsible for U.S. Customs and Border Protection should take into consideration the matters included in the report prepared by the United States International Trade Commission under subsection (c).

## “(e) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means

the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

“(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term ‘Commercial Operations Advisory Committee’ means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100-203] (19 U.S.C. 2071 note) or any successor committee.

“(3) IMPORTER.—The term ‘importer’ means one of the parties qualifying as an ‘importer of record’ under section 484(a)(2)(B) in the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

“(4) TRANSACTION VALUE OF THE IMPORTED MERCHANDISE.—The term ‘transaction value of the imported merchandise’ has the meaning described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)).”

[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.]

#### DRUG PARAPHERNALIA

Pub. L. 101-382, title I, §137, Aug. 20, 1990, 104 Stat. 652, provided that:

“(a) STATISTICAL ANNOTATIONS.—The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission shall take actions under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) to implement the recommendations of the Commission regarding additional statistical annotations that were made in the report of the Commission on Investigation 332-277.

“(b) REPORT.—By no later than the date that is 1 year after the date of enactment of this Act [Aug. 20, 1990], the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the operational response of the United States Customs Service to the recommendations contained in the report of the United States Trade Commission described in subsection (a). The report submitted by the Commissioner of Customs under this subsection shall address the effectiveness of the United States Customs Service in monitoring and seizing drug paraphernalia, including crack bags, vials, and pipes.”

#### STUDY OF COMMODITY CLASSIFICATION SYSTEMS

Section 608(b) of Pub. L. 93-618 mandated a joint study by the Secretary of Commerce and the United States International Trade Commission with a view toward development of an enumeration of articles resulting in comparability of import, production, and export data, with the submission of a report to both Houses of Congress and to the President no later than Aug. 1, 1975.

#### INVESTIGATION BY UNITED STATES INTERNATIONAL TRADE COMMISSION; FORMULATION OF INTERNATIONAL COMMODITY CODE

Section 608(c) of Pub. L. 93-618 authorized an investigation by the United States International Trade Commission to provide the basis for the formulation of an international commodity code (with a report to be submitted to both Houses of Congress and to the President no later than June 1, 1975) and to provide the basis for full and immediate participation by the Trade Commission in the United States contribution to technical work of the Harmonized Systems Committee to assure recognition of the needs of the business community in the development of a harmonized code.

#### COOPERATION OF GOVERNMENTAL AGENCIES WITH SECRETARY OF COMMERCE AND UNITED STATES INTERNATIONAL TRADE COMMISSION IN STUDIES AND INVESTIGATIONS

Section 608(d) of Pub. L. 93-618 provided that: “The President is requested to direct the appropriate agencies to cooperate fully with the Secretary of Commerce

and the United States International Trade Commission in carrying out their responsibilities under subsections (a) [amending this section], (b), and (c) [see notes set out above].”

#### § 1484a. Articles returned from space not to be construed as importation

The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

- (A) wholly by United States persons, or
- (B) in substantial part by United States persons, or
- (C) by the United States;

(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section; and

(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process of manufacture or other means while in space.

(June 17, 1930, ch. 497, title IV, §484a, as added Pub. L. 98-573, title II, §209(a), Oct. 30, 1984, 98 Stat. 2976.)

#### EFFECTIVE DATE

Section applicable with respect to articles launched into space from the customs territory of the United States on or after Jan. 1, 1985, see section 214(c)(4) of Pub. L. 98-573, set out as an Effective Date of 1984 Amendment note under section 1304 of this title.

#### § 1484b. Deferral of duty on large yachts imported for sale at United States boat shows

##### (a) In general

Notwithstanding any other provision of law, any vessel meeting the definition of a large yacht as provided in subsection (b) of this section and which is otherwise dutiable may be imported without the payment of duty if imported with the intention to offer for sale at a boat show in the United States. Payment of duty shall be deferred, in accordance with this section, until such large yacht is sold.

##### (b) Definition

As used in this section, the term “large yacht” means a vessel that exceeds 79 feet in length, is used primarily for recreation or pleasure, and has been previously sold by a manufacturer or dealer to a retail consumer.

##### (c) Deferral of duty

At the time of importation of any large yacht, if such large yacht is imported for sale at a boat show in the United States and is otherwise dutiable, duties shall not be assessed and collected if the importer of record—

(1) certifies to the Customs Service that the large yacht is imported pursuant to this section for sale at a boat show in the United States; and

(2) posts a bond, which shall have a duration of 6 months after the date of importation, in an amount equal to twice the amount of duty on the large yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States.

**(d) Procedures upon sale**

**(1)<sup>1</sup> Deposit of duty**

If any large yacht (which has been imported for sale at a boat show in the United States with the deferral of duties as provided in this section) is sold within the 6-month period after importation—

(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

(B) the bond posted as required by subsection (c)(2) of this section shall be returned to the importer.

**(e) Procedures upon expiration of bond period**

**(1) In general**

If the large yacht entered with deferral of duties is neither sold nor exported within the 6-month period after importation—

(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

(B) the bond posted as required by subsection (c)(2) of this section shall be returned to the importer.

**(2) Additional requirements**

No extensions of the bond period shall be allowed. Any large yacht exported in compliance with the bond period may not be reentered for purposes of sale at a boat show in the United States (in order to receive duty deferral benefits) for a period of 3 months after such exportation.

**(f) Regulations**

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 IV, §484b, as added Pub. L. 106-36, title II, §2406(a), June 25, 1999, 113 Stat. 170.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsecs. (c)(2), (d)(1)(A), and (e)(1)(A), is

<sup>1</sup> So in original. No par. (2) has been enacted.

not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

EFFECTIVE DATE

Pub. L. 106-36, title II, §2406(b), June 25, 1999, 113 Stat. 171, provided that: “The amendment made by subsection (a) [enacting this section] shall apply with respect to any large yacht imported into the United States after the date that is 15 days after the date of the enactment of this Act [June 25, 1999].”

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.

**§ 1485. Declaration**

**(a) Requirement; form and contents**

Every importer of record making an entry under the provisions of section 1484 of this title shall make and file or transmit electronically therewith, in a form and manner to be prescribed by the Secretary of the Treasury, a declaration under oath, stating—

(1) Whether the merchandise is imported in pursuance of a purchase or an agreement to purchase, or whether it is imported otherwise than in pursuance of a purchase or agreement to purchase;

(2) That the prices set forth in the invoice are true, in the case of merchandise purchased or agreed to be purchased; or in the case of merchandise secured otherwise than by purchase or agreement to purchase, that the statements in such invoice as to value or price are true to the best of his knowledge and belief;

(3) That all other statements in the invoice or other documents filed with the entry, or in the entry itself, are true and correct; and

(4) That he will produce at once to the appropriate customs officer any invoice, paper, letter, document, or information received showing that any such prices or statements are not true or correct.

**(b) Books and periodicals**

The Secretary of the Treasury is authorized to prescribe regulations for one declaration in the case of books, magazines, newspapers, and periodicals published and imported in successive parts, numbers, or volumes, and entitled to free entry.

**(c) Agents**

In the event that an entry is made by an agent under the provisions of section 1484 of this title and such agent is not in possession of such declaration of the importer of record, such agent shall give a bond to produce such declaration.

**(d) Liability of importer of record for increased duties**

An importer of record shall not be liable for any additional or increased duties if (1) he de-

clares at the time of entry that he is not the actual owner of the merchandise, (2) he furnishes the name and address of such owner, and (3) within ninety days from the date of entry he produces a declaration of such owner conditioned that he will pay all additional and increased duties, under such regulations as the Secretary of the Treasury may prescribe. Such owner shall possess all the rights of an importer of record.

**(e) Separate forms for purchase and nonpurchase importations**

The Secretary of the Treasury shall prescribe separate forms for the declaration in the case of merchandise which is imported in pursuance of a purchase or agreement to purchase and merchandise which is imported otherwise than in pursuance of a purchase or agreement to purchase.

**(f) Deceased or insolvent persons; partnerships and corporations**

Whenever such merchandise is consigned to a deceased person, or to an insolvent person who has assigned the same for the benefit of his creditors, the executor or administrator, or the assignee of such person or trustee in a case under title 11, shall be considered as the importer of record; when consigned to a partnership the declaration of one of the partners only shall be required, and when consigned to a corporation such declaration may be made by any officer of such corporation. Whether the importer of record is an individual, a partnership, or a corporation, the declaration may be made by any person who has knowledge of the facts and who is specifically authorized by such individual, a member of such partnership, or an officer of such corporation to make such declaration.

**(g) Exported merchandise returned as undeliverable**

With respect to any importation of merchandise to which General Headnote 4(e) of the Harmonized Tariff Schedule of the United States applies, any person who gained any benefit from, or met any obligation to, the United States as a result of the prior exportation of such merchandise shall, in accordance with regulations prescribed by the Secretary, within a reasonable time inform the Customs Service of the return of the merchandise.

(June 17, 1930, ch. 497, title IV, § 485, 46 Stat. 724; June 25, 1938, ch. 679, § 13, 52 Stat. 1083; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 95-598, title III, § 315, Nov. 6, 1978, 92 Stat. 2678; Pub. L. 97-446, title II, § 201(e), Jan. 12, 1983, 96 Stat. 2350; Pub. L. 103-182, title VI, § 657, Dec. 8, 1993, 107 Stat. 2212.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (g), 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 Sept. 21, 1922, ch. 356, title IV, § 485, 42 Stat. 961. That section was superseded by section 485 of

act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions for a declaration to be filed when merchandise was entered by invoice, were contained in the Customs Administrative Act of June 10, 1890, ch. 407, § 5, 26 Stat. 132, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 95, and by act Oct. 3, 1913, ch. 16, § III, F, 38 Stat. 182. The sections of the acts of 1890 and 1913, referred to, were repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

R.S. § 2786, requiring entries to be verified by oath, was superseded by the Customs Administrative Act of June 10, 1890, ch. 407, §§ 4, 5, 22, 26 Stat. 131, 132, 140, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 92, 102, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, § III, E, F, and section IV, S, of that act, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 2841 prescribed the forms of oaths of which one, according to the nature of the case, was required to be administered by the collector at the time of the entry of merchandise by invoice. It was modified by act May 1, 1876, ch. 89, § 2, 19 Stat. 49, and repealed by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141, amended and reenacted by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 104, and declarations in lieu of oaths were required to accompany the invoice by section 5 of the Customs Administrative Act, amended by the Payne-Aldrich Act and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, § III, F. All oaths administered by officers of the customs, except as provided in the Customs Administrative Act, were abolished by section 22 thereof amended by section 28 of the Payne-Aldrich Act.

The provisions for the abolition of fees and oaths on entry of goods, made by the Customs Administrative Act of June 10, 1890, ch. 407, § 22, 26 Stat. 140, as amended by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 102, were superseded by a proviso annexed to section IV, S, of the Underwood Tariff Act of Oct. 3, 1913, which provided that "nothing in this act shall be construed to permit any oaths to be demanded or fees to be charged except as provided in this act," etc.

Act May 1, 1876, ch. 89, § 2, 19 Stat. 49, modifying the form of oath prescribed by R.S. § 2841, was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

R.S. § 2849, relative to oaths when merchandise belonged in part to a resident of the United States and in part to a non-resident was superseded in part by the Customs Administrative Act of June 10, 1890, ch. 407, §§ 5, 22, 29, 26 Stat. 132, 140, 141, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 92, 102, 104, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, § III, B-J, and was repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

Prior provisions requiring a bond to be taken when entry was made by an agent, factor, or person other than the owner or ultimate consignee, and prescribing the conditions, etc., of the bond, and the circumstances under which it might be canceled with a proviso authorizing the taking of a general penal bond, were contained in R.S. § 2787, as amended by act Mar. 2, 1905, ch. 1306, 33 Stat. 826, which was repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

Provisions concerning the statement to be presented to the collector when merchandise entered for customs duty had been consigned for sale to a person, agent, partner, or consignee, were contained in act Oct. 3, 1913, ch. 16, § III, J, 38 Stat. 185, which reenacted the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, and the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 96, and which was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

A prior provision relative to oaths to invoices when merchandise belonged to estates of deceased persons or of persons insolvent was contained in R.S. § 2846, which was superseded, in part, by the abolition of all oaths administered by officers of the customs, except as provided therein, by the Customs Administrative Act of

June 10, 1890, ch. 407, §22, 26 Stat. 140, and by the repeal, by section 29 of that act, 26 Stat. 141, of R.S. §§2841, 2843, 2845, which required oaths to accompany invoices on entry of merchandise, and the substitution of declarations for such oaths, by sections 3-5 of said act, 26 Stat. 131, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 102, and further amended by the Underwood Tariff Act of Oct. 3, 1913, ch. 16, §III, D, F, and §IV, S, 38 Stat. 181.

#### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-182, §657(1), in introductory provisions, inserted “or transmit electronically” after “file” and “and manner” after “form”.

Subsec. (d). Pub. L. 103-182, §657(2), substituted “An importer” for “A importer” and “an importer” for “a importer”.

Subsec. (g). Pub. L. 103-182, §657(3), added subsec. (g). 1983—Subsec. (a). Pub. L. 97-446 substituted “importer of record” for “consignee” before “making an entry”.

Subsec. (c). Pub. L. 97-446 substituted “importer of record” for “consignee” after “declaration of the”.

Subsecs. (d), (f). Pub. L. 97-446 substituted “importer of record” for “consignee” wherever appearing.

1978—Subsec. (f). Pub. L. 95-598 substituted “trustee in a case under title 11” for “receiver or trustee in bankruptcy”.

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

1938—Subsec. (f). Act June 25, 1938, changed the comma to a period after “such declaration may be made by any officer of such corporation”, struck out “or by any other person specifically authorized by any officer of such corporation to make the same” after said comma, and inserted in lieu thereof a new sentence providing that whether the consignee is an individual, a partnership, or a corporation, the declaration may be made by any person having knowledge of the facts and authorized to make such declaration.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

#### 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 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(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.

### § 1486. Administration of oaths

#### (a) Customs officers

The following officers and employees may administer any oaths required or authorized by

law or regulations promulgated thereunder in respect of any matter coming before such officers or employees in the performance of their official duties: (1) Any customs officer appointed by the President; (2) the chief assistant of any such officer, or any officer or employee of the customs field service designated for the purpose by such officer or by the Secretary of the Treasury; and (3) any officer or employee of the United States Customs Service designated for the purpose by the Secretary of the Treasury.

#### (b) Postmasters

The postmaster or assistant postmaster of the United States at any post office where customs officers are not stationed, is authorized to administer any oaths required to be made to statements in customs documents by importers of merchandise, not exceeding \$100 in value, through the mails.

#### (c) No compensation

No compensation or fee shall be demanded or accepted for administering any oath under the provisions of this section.

#### (d) Verification in lieu of oath

The Secretary of the Treasury may by regulation prescribe that any document required by any law administered by the Customs Service to be under oath may be verified by a written declaration in such form as he shall prescribe, such declaration to be in lieu of the oath otherwise required.

(June 17, 1930, ch. 497, title IV, §486, 46 Stat. 725; Aug. 8, 1953, ch. 397, §17, 67 Stat. 517.)

#### AMENDMENTS

1953—Subsec. (d). Act Aug. 8, 1953, added subsec. (d).

#### CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

#### EFFECTIVE DATE OF 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.

#### 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.

**§ 1487. Value in entry; amendment**

The importer of record or his agent may, under such regulations as the Secretary of the Treasury may prescribe, at the time entry is made, make in the entry such additions to or deductions from the cost or value given in the invoice as, in his opinion, may raise or lower the same to the value of such merchandise.

(June 17, 1930, ch. 497, title IV, § 487, 46 Stat. 725; Aug. 8, 1953, ch. 397, § 18(a), 67 Stat. 517; Pub. L. 97-446, title II, § 201(e), Jan. 12, 1983, 96 Stat. 2350.)

## PRIOR PROVISIONS

Provisions somewhat similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § III, I, 38 Stat. 184, which were substituted for provisions made by the Customs Administrative Act of June 10, 1890, ch. 407, § 7, 26 Stat. 134, as amended by act July 24, 1897, ch. 11, § 32, 30 Stat. 211, and as further amended by the Payne-Adrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 95. Section III of the act of 1913 was superseded by act Sept. 21, 1922, ch. 356, title IV, § 487, 42 Stat. 962, and was repealed by section 643 thereof. Section 487 of the 1922 act was superseded by section 487 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for addition to the invoice values made by R.S. § 2900, were repealed by section 29 of the Customs Administrative Act.

## AMENDMENTS

1983—Pub. L. 97-446 substituted “importer of record” for “consignee” before “or his agent”.

1953—Act Aug. 8, 1953, struck out “or at any time before the invoice or the merchandise has come under the observation of the appraiser for the purpose of appraisal,” after “at the time entry is made.”.

## EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 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.

**§ 1488. Repealed. Pub. L. 91-271, title II, § 204(b), June 2, 1970, 84 Stat. 283**

Section, act June 17, 1930, ch. 497, title IV, § 488, 46 Stat. 725, authorized a collector to cause the appraisal of entered merchandise.

## EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 203 of Pub. L. 91-271, set out as an Effective Date of 1970 Amendment note under section 1500 of this title.

**§ 1489. Repealed. Pub. L. 87-456, title III, § 301(a), May 24, 1962, 76 Stat. 75**

Section, acts June 17, 1930, ch. 497, title IV, § 489, 46 Stat. 725; Aug. 8, 1953, ch. 397, § 18(b), 67 Stat. 517, related to entry of antique furniture at designated ports.

## EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 501(a) of Pub. L. 87-456, set out as an Effective Date of Tariff Classification Act of 1962 note preceding section 1202 of this title.

**§ 1490. General orders****(a) Incomplete entry**

(1) Whenever—

(A) the entry of any imported merchandise is not made within the time provided by law or by regulation prescribed by the Secretary;

(B) the entry of imported merchandise is incomplete because of failure to pay the estimated duties, fees, or interest;

(C) in the opinion of the Customs Service, the entry of imported merchandise cannot be made for want of proper documents or other cause; or

(D) the Customs Service believes that any merchandise is not correctly and legally invoiced;

the carrier (unless subject to subsection (c) of this section) shall notify the bonded warehouse of such unentered merchandise.

(2) After notification under paragraph (1), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until—

(A) entry is made or completed and the proper documents are produced;

(B) the information and data necessary for entry are transmitted to the Customs Service pursuant to an authorized electronic data interchange system; or

(C) a bond is given for the production of documents or the transmittal of data.

**(b) Request for possession by Customs**

At the request of the consignee of any merchandise, or of the owner or master of the vessel or the person in charge of the vehicle in which the same is imported, any merchandise may be taken possession of by the Customs Service after the expiration of one day after the entry of the vessel or report of the vehicle and may be unladen and held at the risk and expense of the consignee until entry thereof is made.

**(c) Government merchandise**

Any imported merchandise that—

(1) is described in any of subparagraphs (A) through (D) of subsection (a)(1) of this section; and

(2) is consigned to, or owned by, the United States Government;

shall be stored and disposed of in accordance with such rules and procedures as the Secretary shall by regulation prescribe.

(June 17, 1930, ch. 497, title IV, § 490, 46 Stat. 726; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 658, Dec. 8, 1993, 107 Stat. 2212; Pub. L. 104-295, § 21(e)(9), Oct. 11, 1996, 110 Stat. 3531.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 490, 42 Stat. 963. That section was superseded by section 490 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions authorizing the collector to take possession of, or store merchandise were contained in the following sections, all of which were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989:

R.S. §2789, authorizing the collector, when an entry was imperfect, to take the merchandise into his custody until the quantity, quality, or value could be ascertained;

R.S. §2840, providing that when the collector should suspect that merchandise was not invoiced at a sum equal to that for which it had usually been sold, he should take possession and retain the same until its value had been ascertained and the duties paid or secured;

R.S. §2926, providing that merchandise of which incomplete entry had been made, or entry without specification of particulars, should be conveyed to some warehouse or designated by the collector to remain until the particulars, cost or value should have been ascertained, and the duties paid or secured, and a permit for delivery granted;

R.S. §2963, providing that when merchandise had not been entered it should be deposited in a public warehouse, and there remain until an invoice was produced, but that it should not be construed to prohibit sales of merchandise to discharge duties and charges;

R.S. §2964, authorizing the collector to take possession of merchandise, and deposit it in public stores, or other stores to be agreed on, in case of failure or neglect to pay duties, or when the owner, etc., should make entry for warehousing;

R.S. §2965, providing for the storage in a public warehouse, or private bonded warehouse, of unclaimed merchandise required to be taken possession of by collectors, and making provision for payment of charges and expenses;

R.S. §2966, as amended by act June 26, 1884, ch. 121, §24, 23 Stat. 58, providing for the deposit in a bonded warehouse of merchandise imported in vessels, when it should appear by the bills of lading that it was to be delivered immediately after entry of the vessel, or on request, when it did not so appear.

A prior provision authorizing the collector to require a bond for the production of proof to enable the collector to ascertain the class or description of manufacture, or rate of duty to which merchandise was liable, was contained in R.S. §2925, which was also repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

#### AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104-295 substituted “subparagraphs (A) through (D) of subsection (a)(1)” for “paragraphs (1) through (4) of subsection (a)”.

1993—Subsec. (a). Pub. L. 103-182, §658(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Whenever entry of any imported merchandise is not made within the time provided by law or the regulations prescribed by the Secretary of the Treasury, or whenever entry of such merchandise is incomplete because of failure to pay the estimated duties, or whenever, in the opinion of the appropriate customs officer, entry of such merchandise can not be made for want of proper documents or other cause, or whenever the appropriate customs officer believes that any merchandise is not correctly and legally invoiced, he shall take the merchandise into his custody and send it to a bonded warehouse or public store, to be held at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production.”

Subsec. (b). Pub. L. 103-182, §658(2), substituted heading for one which read “At request of consignee” and in text substituted “Customs Service” for “appropriate customs officer”.

Subsec. (c). Pub. L. 103-182, §658(3), added subsec. (c).  
1970—Pub. L. 91-271 substituted references to appropriate customs officer for references to collector wherever appearing.

#### 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.

#### § 1491. Unclaimed merchandise; disposition of forfeited distilled spirits, wines and malt liquor

##### (a) Appraisal and sale of unclaimed merchandise

Any entered or unentered merchandise (except merchandise entered under section 1557 of this title, but including merchandise entered for transportation in bond or for exportation) which shall remain in a bonded warehouse pursuant to section 1490 of this title for 6 months from the date of importation thereof, without all estimated duties, taxes, fees, interest, storage, or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government and shall be appraised and sold by the Customs Service at public auction under such regulations as the Secretary of the Treasury shall prescribe. All gunpowder and other explosive substances and merchandise liable to depreciation in value by damage, leakage, or other cause to such extent that the proceeds of sale thereof may be insufficient to pay the duties, taxes, fees, interest, storage, and other charges, if permitted to remain in<sup>1</sup> pursuant to section 1490 of this title in a bonded warehouse for 6 months, may be sold forthwith, under such regulations as the Secretary of the Treasury may prescribe. Merchandise subject to sale hereunder or under section 1559 of this title may be entered or withdrawn for consumption at any time prior to such sale upon payment of all duties, taxes, fees, interest, storage, and other charges, and expenses that may have accrued thereon, but such merchandise after becoming subject to sale may not be exported prior to sale without the payment of such duties, taxes, fees, interest, charges, and expenses nor may it be entered for warehouse. The computation of duties, taxes, interest, and fees for the purposes of this section and sections 1493 and 1559 of this title shall be at the rate or rates applicable at the time the merchandise becomes subject to sale.

##### (b) Notice of title vesting in United States

At the end of the 6-month period referred to in subsection (a) of this section, the Customs Service may, in lieu of sale of the merchandise, provide notice to all known interested parties that the title to such merchandise shall be considered to vest in the United States free and clear of any liens or encumbrances, on the 30th day after the date of the notice unless, before such 30th day—

(1) the subject merchandise is entered or withdrawn for consumption; and

(2) payment is made of all duties, taxes, fees, transfer and storage charges, and other expenses that may have accrued thereon.

<sup>1</sup> So in original. The word “in” probably should not appear.

**(c) Retention, transfer, destruction, or other disposition**

If title to any merchandise vests in the United States by operation of subsection (b) of this section, such merchandise may be retained by the Customs Service for official use, transferred to any other Federal agency or to any State or local agency, destroyed, or otherwise disposed of in accordance with such regulations as the Secretary shall prescribe. All transfer and storage charges or expenses accruing on retained or transferred merchandise shall be paid by the receiving agency.

**(d) Petition**

Whenever any party, having lost a substantial interest in merchandise by virtue of title vesting in the United States under subsection (b) of this section, can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the United States under subsection (b) of this section, or can establish to the satisfaction of the Secretary that the party did not receive notice under subsection (b) of this section, the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Treasury of the United States the amount the Secretary believes the party would have received under section 1493 of this title had the merchandise been sold and a proper claim filed. The decision of the Secretary with respect to any such petition is final and conclusive on all parties.

**(e) Appraisal and sale or other disposition of forfeited distilled spirits, wines, and malt liquor**

All distilled spirits, wines, and malt liquor forfeited to the Government summarily or by order of court, under any provision of law administered by the United States Customs Service, shall be appraised and disposed of by—

(1) delivery to such Government agencies, as in the opinion of the Secretary have a need for such distilled spirits, wines, and malt liquor for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency;

(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines, and malt liquor for medical purposes;

(3) sale by Customs Service at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and malt liquor under paragraph (1) or (2); or

(4) destruction.

(June 17, 1930, ch. 497, title IV, § 491, 46 Stat. 726; June 25, 1938, ch. 679, § 14, 52 Stat. 1083; Pub. L. 91-271, title III, § 301(j), June 2, 1970, 84 Stat. 289; Pub. L. 95-410, title II, § 208, Oct. 3, 1978, 92 Stat. 901; Pub. L. 103-182, title VI, § 659, Dec. 8, 1993, 107 Stat. 2213; Pub. L. 104-295, § 21(e)(8), Oct. 11, 1996, 110 Stat. 3531.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §§ 2973, 2975 and 2976, all of which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 491, 42 Stat. 963, and repealed by section 642 thereof. Section 491 of the 1922 act was superseded by section 491 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

## AMENDMENTS

1996—Subsec. (a). Pub. L. 104-295 substituted “in a bonded warehouse pursuant to section 1490” for “in a bonded warehouse pursuant to section 1490” and “Customs Service” for “appropriate customs officer”.

1993—Subsec. (a). Pub. L. 103-182, § 659(1), substituted “in a bonded warehouse pursuant to section 1490 of this title for 6 months” for “customs custody for one year”, “estimated duties, taxes, fees, interest, storage,” for “estimated duties and storage”, “duties, taxes, fees, interest, storage, and other charges, if permitted” for “duties, storage, and other charges, if permitted”, “pursuant to section 1490 of this title in a bonded warehouse for 6 months” for “public store or bonded warehouse for a period of one year”, “duties, taxes, fees, interest, storage, and other charges” for “duties, storage, and other charges”, “duties, taxes, fees, interest, charges, and expenses” for “duties, charges, and expenses”, and “computation of duties, taxes, interest, and fees for the purposes” for “computation of duties for the purposes”.

Subsecs. (b) to (d). Pub. L. 103-182, § 659(2), added subsecs. (b) to (d). Former subsec. (b) redesignated (e).

Subsec. (e). Pub. L. 103-182, § 659(2), (3), redesignated subsec. (b) as (e) and substituted “Customs Service” for “appropriate customs officer” in par. (3).

1978—Pub. L. 95-410 amended section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector, and struck out reference to appraiser of merchandise.

1938—Act June 25, 1938, amended generally so much of this section as preceded “shall be considered unclaimed and abandoned”.

## 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 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(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.

## EXTENSION OF ONE-YEAR PERIOD

For extension of one year period prescribed in this section, see Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41, set out as a note under section 1318 of this title.

Proc. No. 2599, Nov. 6, 1943, 8 F.R. 15359, 57 Stat. 758, as amended by Proc. No. 2712, Dec. 4, 1946, 11 F.R. 14133, 61 Stat. 1947, was superseded by Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41.

### § 1492. Destruction of abandoned or forfeited merchandise

Except as provided in R.S. §3369 (relating to tobacco and snuff), and in section 901 of the Revenue Act of 1926 (relating to distilled spirits), any merchandise abandoned or forfeited to the Government under the preceding or any other provision of the customs laws, which is subject to internal revenue tax and which the Customs Service shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed, retained for official use, or otherwise disposed of under regulations to be prescribed by the Secretary of the Treasury, instead of being sold at auction.

(June 17, 1930, ch. 497, title IV, §492, 46 Stat. 727; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, §660, Dec. 8, 1993, 107 Stat. 2214.)

#### REFERENCES IN TEXT

R.S. §3369, referred to in text, is covered by sections 5723(a) and 5753 of Title 26, Internal Revenue Code.

Section 901 of Revenue Act of 1926, referred to in text, is covered by section 5243 of Title 26.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §492, 42 Stat. 963. That section was superseded by section 492 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior to its incorporation into the Code, this section read: "Except as provided in section 3369 of the Revised Statutes, as amended," etc. R.S. §3369, as amended by act Oct. 14, 1921, ch. 107, 42 Stat. 205, related in part to abandoned, condemned or forfeited tobacco, snuff, cigars, or cigarettes, which would not bring a price equal to the internal revenue tax thereon. So far as it related to tobacco and snuff, it was incorporated into the Code as sections 702(a)(1), 803(a)(1), (c), (d), and 890, of Title 26, Internal Revenue Code, and so far as it applied to cigars and cigarettes, it was incorporated into the Code as sections 812(d)(2) and 890, of Title 26.

#### AMENDMENTS

1993—Pub. L. 103-182 substituted "Customs Service" for "appropriate customs officer" and inserted ", retained for official use, or otherwise disposed of" after "destroyed".

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

#### 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.

### § 1493. Proceeds of sale

The surplus of the proceeds of sales under section 1491 of this title, after the payment of storage charges, expenses, duties, taxes, and fees,

and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited in the Treasury of the United States, if claim therefor shall not be filed with the Customs Service within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Treasury the amount of any surplus of the proceeds of sale.

(June 17, 1930, ch. 497, title IV, §493, 46 Stat. 727; Pub. L. 91-271, title III, §301(e), June 2, 1970, 84 Stat. 288; Pub. L. 103-182, title VI, §661, Dec. 8, 1993, 107 Stat. 2214.)

#### PRIOR PROVISIONS

Provisions substantially similar in most respects to those in this section, with further provisions concerning the documents to be forwarded by the collector to the Treasury Department, were contained in R.S. §2974, which was superseded and more nearly assimilated to the present section by act Sept. 21, 1922, ch. 356, title IV, §493, 42 Stat. 964, and repealed by section 642 thereof. Section 493 of the 1922 act was superseded by section 493 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

#### AMENDMENTS

1993—Pub. L. 103-182 inserted "taxes, and fees," after "duties," struck out "by the appropriate customs officer" after "shall be deposited", and substituted "the Customs Service" for "such customs officer".

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

#### 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.

#### APPROPRIATIONS

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title "Refunding proceeds of unclaimed merchandise (Customs) (2x326)" effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

### § 1494. Expense of weighing and measuring

In all cases in which the invoice or entry does not state the weight, quantity, or measure of the merchandise, the expense of ascertaining the same shall be collected from the importer of record before its release from customs custody.

(June 17, 1930, ch. 497, title IV, § 494, 46 Stat. 727; Pub. L. 97-446, title II, § 201(e), Jan. 12, 1983, 96 Stat. 2350.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 494, 42 Stat. 964. That section was superseded by section 494 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision requiring merchandise to be weighed, gauged or measured at the expense of the owner, agent or consignee, in cases in which the invoice or entry did not contain the weight, quantity or measure was contained in R.S. § 2920, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

#### AMENDMENTS

1983—Pub. L. 97-446 substituted “importer of record” for “consignee” after “collected from the”.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 of this title.

### § 1495. Partnership bond

When any bond is required by law or regulations to be executed by any partnership for any purpose connected with the transaction of business at any customhouse, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same.

(June 17, 1930, ch. 497, title IV, § 495, 46 Stat. 727.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 495, 42 Stat. 964. That section was superseded by section 495 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions substantially similar to those in this section, except that they applied to bonds for the payment of duties or for any other purpose connected with the general transaction of business at any customs house, were contained in act June 20, 1876, ch. 136, 19 Stat. 60, as amended by act Aug. 27, 1894, ch. 349, § 70, 28 Stat. 569, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

### § 1496. Examination of baggage

The appropriate customs officer may cause an examination to be made of the baggage of any person arriving in the United States in order to ascertain what articles are contained therein and whether subject to duty, free of duty, or prohibited notwithstanding a declaration and entry therefor has been made.

(June 17, 1930, ch. 497, title IV, § 496, 46 Stat. 727; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 496, 42 Stat. 964. That section was superseded by section 496 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

#### AMENDMENTS

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

#### 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.

### § 1496a. Clearance restrictions of individuals returning from abroad; special circumstances; “baggage and effects” defined

Except as otherwise provided by law, no individual returning to the United States from abroad shall be—

(1) entitled to the admission of his or her baggage and effects free of duty without entry; or

(2) entitled to expedited customs examination and clearance of his or her baggage and effects.

Paragraph (2) shall not apply to individuals in special circumstances (including being seriously ill or infirm, having been summoned by news of affliction or disaster, and accompanying the body of a deceased relative). For purposes of this section, the term “baggage and effects” means any article which was in the possession of the individual while abroad and is being imported in connection with his or her arrival and is intended for his or her bona fide personal or household use. Such term does not include any article imported as an accommodation to others or for sale or other commercial use.

(Pub. L. 95-410, title II, § 215, Oct. 3, 1978, 92 Stat. 904.)

#### CODIFICATION

Section was enacted as part of Customs Procedural Reform and Simplification Act of 1978, and not as part of Tariff Act of 1930 which comprises this chapter.

#### CLEARANCE PROCEDURES STUDY; REPORT TO CONGRESSIONAL COMMITTEES

Section 216 of Pub. L. 95-410 provided that the Comptroller General, in cooperation with the Customs Service of the Department of the Treasury and the Immigration and Naturalization Service of the Department of Justice, study clearance procedures for individuals entering or reentering the United States, and to report the results of his study and any recommendations for expediting the clearance process to specific committees of the United States Senate and the House of Representatives not later than Sept. 1, 1979.

### § 1497. Penalties for failure to declare

#### (a) In general

(1) Any article which—

(A) is not included in the declaration and entry as made or transmitted; and

(B) is not mentioned before examination of the baggage begins—

(i) in writing by such person, if written declaration and entry was required, or

(ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

(A) if the article is a controlled substance, either \$500 or an amount equal to 1,000 percent of the value of the article, whichever amount is greater; and

(B) if the article is not a controlled substance, the value of the article.

**(b) Value of controlled substances**

(1) Notwithstanding any other provision of this chapter, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.

(June 17, 1930, ch. 497, title IV, § 497, 46 Stat. 728; Pub. L. 99-570, title III, § 3116, Oct. 27, 1986, 100 Stat. 3207-83; Pub. L. 100-690, title VII, § 7367(a), Nov. 18, 1988, 102 Stat. 4479; Pub. L. 103-182, title VI, § 612, Dec. 8, 1993, 107 Stat. 2170.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 497, 42 Stat. 964. That section was superseded by section 497 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision for forfeiture of any article subject to duty found in baggage, and not mentioned to the collector before whom entry was made, and for a penalty of treble the value of the article, was contained in R.S. § 2802, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Subsec. (a)(1)(A). Pub. L. 103-182, § 612(1), inserted “or transmitted” after “made”.

Subsec. (a)(2)(A). Pub. L. 103-182, § 612(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “if the article is a controlled substance, 1,000 percent of the value of the article; and”.

1988—Subsec. (a)(2)(A). Pub. L. 100-690 substituted “1,000 percent” for “200 percent”.

1986—Pub. L. 99-570 amended section generally. Prior to amendment, section read as follows: “Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article.”

**§ 1498. Entry under regulations**

**(a) Authorized for certain merchandise**

The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

(1) Merchandise, when—

(A) the aggregate value of the shipment does not exceed an amount specified by the Secretary by regulation, but not more than \$2,500; or

(B) different commercial facilitation and risk considerations that may vary for different classes or kinds of merchandise or different classes of transactions may dictate;

(2) Products of the United States, when the aggregate value of the shipment does not exceed such amounts as the Secretary may prescribe and the products are imported.

(A) for the purposes of repair or alteration prior to reexportation, or

(B) after having been either rejected or returned by the foreign purchaser to the United States for credit;

(3) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

(4) Merchandise recovered from a wrecked or stranded vessel;

(5) Household effects used abroad and personal effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(6) Articles sent by persons in foreign countries as gifts to persons in the United States;

(7) Articles carried on the person or contained in the baggage of a person arriving in the United States;

(8) Tools of trade of a person arriving in the United States;

(9) Personal effects of citizens of the United States who have died in a foreign country;

(10) Merchandise within the provisions of sections 1465<sup>1</sup> and 1466 of this title (relating to supplies, repairs, and equipment on vessels and railway cars) at the first port of arrival;

(11) Merchandise when in the opinion of the Secretary of the Treasury the value thereof cannot be declared; and

(12) Merchandise within the provisions of paragraph 1631 of section 1201 of this title.

**(b) Application of general provisions**

The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 1484 or 1485 of this title (relating, respectively, to entry and to declaration of merchandise generally).

(June 17, 1930, ch. 497, title IV, § 498, 46 Stat. 728; Aug. 8, 1953, ch. 397, § 16(d), (e), 67 Stat. 517; Pub. L. 96-609, title II, § 202, Dec. 28, 1980, 94 Stat. 3561; Pub. L. 98-573, title II, § 206, Oct. 30, 1984, 98 Stat. 2975; Pub. L. 100-418, title I, § 1214(h)(5), Aug. 23, 1988, 102 Stat. 1157; Pub. L. 103-182, title VI, § 662, Dec. 8, 1993, 107 Stat. 2214.)

REFERENCES IN TEXT

Section 1465 of this title, referred to in subsec. (a)(10), was repealed by Pub. L. 103-182, title VI, § 690(b)(7), Dec. 8, 1993, 107 Stat. 2223.

Section 1201 of this title, referred to in subsec. (a)(12), which comprised the free list for articles imported into the United States, was repealed by Pub. L. 87-456, title I, § 101(a), May 24, 1962, 76 Stat. 72, which act also revised the Tariff Schedules of the United States. See notes under section 1202 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 498, 42 Stat. 964. That section was superseded by section 498 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provision for an entry, separate from that of other merchandise, of wearing apparel, personal baggage, and

<sup>1</sup> See References in Text note below.

tools and implements of a mechanical trade, was made by R.S. §2799, which also prescribed the contents of such entry, and of the accompanying oath. R.S. §2800 provided for a bond when the person making entry was not the owner. R.S. §2801 provided for a landing permit, and for an examination of baggage when deemed proper by the collector and naval officer, and for entry of articles not exempt from duty. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

#### AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-182, §662(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than \$1,250 as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions, except that this paragraph does not apply to articles valued in excess of \$250 classified in—

“(A) chapters 50 through 63;

“(B) chapters 39 through 43, 61 through 65, 67 and 95; and

“(C) subchapters III and IV of chapter 99; of the Harmonized Tariff Schedule of the United States, or to any other article for which formal entry is required without regard to value.”

Subsec. (a)(2). Pub. L. 103-182, §662(2), substituted “such amounts as the Secretary may prescribe” for “\$10,000” in introductory provisions.

1988—Subsec. (a)(1). Pub. L. 100-418, substituted “the Harmonized Tariff Schedule of the United States” for “the Tariff Schedules of the United States” in closing provisions, added subpars. (A) to (C), and struck out former subpars. (A) to (C) which read as follows:

“(A) schedule 3,

“(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

“(C) parts 2 and 3 of the Appendix.”

1984—Subsec. (a)(1). Pub. L. 98-573 substituted “\$1,250” for “\$250” and inserted provision that this paragraph does not apply to articles valued in excess of \$250 classified in schedule 3, parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and parts 2 and 3 of the Appendix, of the Tariff Schedules, or to any other article for which formal entry is required without regard to value.

1980—Subsec. (a). Pub. L. 96-609 added par. (2) and redesignated former pars. (2) to (11) as (3) to (12), respectively.

1953—Subsec. (a)(1). Act Aug. 8, 1953, §16(d), increased valuation figure with respect to informal entries from \$100 to \$250, and inserted provisions with respect to possible variation for different classes or kinds of merchandise and different classes of transactions.

Subsec. (a)(11). Act Aug. 8, 1953, §16(e), substituted “paragraph 1631 of section 1201 of this title” for “sections 472 to 574 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 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 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.

#### CUSTOMS DECLARATIONS; PROXIMITY OF LIVESTOCK

Pub. L. 108-90, title V, §513, 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 for the production of customs declarations that do not inquire whether the passenger had been in the proximity of livestock.”

## § 1499. Examination of merchandise

### (a) Entry examination

#### (1) In general

Imported merchandise that is required by law or regulation to be inspected, examined, or appraised shall not be delivered from customs custody (except under such bond or other security as may be prescribed by the Secretary to assure compliance with all applicable laws, regulations, and instructions which the Secretary or the Customs Service is authorized to enforce) until the merchandise has been inspected, appraised, or examined and is reported by the Customs Service to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States.

#### (2) Examination

The Customs Service—

(A) shall designate the packages or quantities of merchandise covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise;

(B) shall order such packages or quantities to be sent to such place as is designated by the Secretary by regulation for such purpose;

(C) may require such additional packages or quantities as the Secretary considers necessary for such purpose; and

(D) shall inspect a sufficient number of shipments, and shall examine a sufficient number of entries, to ensure compliance with the laws enforced by the Customs Service.

#### (3) Unspecified articles

If any package contains any article not specified in the invoice or entry and, in the opinion of the Customs Service, the article was omitted from the invoice or entry—

(A) with fraudulent intent on the part of the seller, shipper, owner, agent, importer of record, or entry filer, the contents of the entire package in which such article is found shall be subject to seizure; or

(B) without fraudulent intent, the value of the article shall be added to the entry and the duties, fees, and taxes thereon paid accordingly.

#### (4) Deficiency

If a deficiency is found in quantity, weight, or measure in the examination of any package, the person finding the deficiency shall make a report thereof to the Customs Service. The Customs Service shall make allowance for the deficiency in the liquidation of duties.

#### (5) Information required for release

If an examination is conducted, any information required for release shall be provided, either electronically or in paper form, to the Customs Service at the port of examination.

The absence of such information does not limit the authority of the Customs Service to conduct an examination.

**(b) Testing laboratories**

**(1) Accreditation of private testing laboratories**

The Customs Service shall establish and implement a procedure, under regulations promulgated by the Secretary, for accrediting private laboratories within the United States which may be used to perform tests (that would otherwise be performed by Customs Service laboratories) to establish the characteristics, quantities, or composition of imported merchandise. Such regulations—

(A) shall establish the conditions required for the laboratories to receive and maintain accreditation for purposes of this subsection;

(B) shall establish the conditions regarding the suspension and revocation of accreditation, which may include the imposition of a monetary penalty not to exceed \$100,000 and such penalty is in addition to the recovery, from a gauger or laboratory accredited under paragraph (1), of any loss of revenue that may have occurred, but the Customs Service—

(i) may seek to recover lost revenue only in cases where the gauger or laboratory intentionally falsified the analysis or gauging report in collusion with the importer; and

(ii) shall neither assess penalties nor seek to recover lost revenue because of a good faith difference of professional opinion; and

(C) may provide for the imposition of a reasonable charge for accreditation and periodic reaccreditation.

The collection of any charge for accreditation and reaccreditation under this section is not prohibited by section 58c(e)(6) of this title.

**(2) Appeal of adverse accreditation decisions**

A laboratory applying for accreditation, or that is accredited, under this section may contest any decision or order of the Customs Service denying, suspending, or revoking accreditation, or imposing a monetary penalty, by commencing an action in accordance with chapter 169 of title 28 in the Court of International Trade within 60 days after issuance of the decision or order.

**(3) Testing by accredited laboratories**

When requested by an importer of record of merchandise, the Customs Service shall authorize the release to the importer of a representative sample of the merchandise for testing, at the expense of the importer, by a laboratory accredited under paragraph (1). The testing results from a laboratory accredited under paragraph (1) that are submitted by an importer of record with respect to merchandise in an entry shall, in the absence of testing results obtained from a Customs Service laboratory, be accepted by the Customs Service if the importer of record certifies that the sample tested was taken from the merchandise in the entry. Nothing in this subsection shall be construed to limit in any way or preclude the

authority of the Customs Service to test or analyze any sample or merchandise independently.

**(4) Availability of testing procedure, methodologies, and information**

Testing procedures and methodologies used by the Customs Service, and information resulting from any testing conducted by the Customs Service, shall be made available as follows:

(A) Testing procedures and methodologies shall be made available upon request to any person unless the procedures or methodologies are—

(i) proprietary to the holder of a copyright or patent related to such procedures or methodologies, or

(ii) developed by the Customs Service for enforcement purposes.

(B) Information resulting from testing shall be made available upon request to the importer of record and any agent thereof unless the information reveals information which is—

(i) proprietary to the holder of a copyright or patent; or

(ii) developed by the Customs Service for enforcement purposes.

**(5) Miscellaneous provisions**

For purposes of this subsection—

(A) any reference to a private laboratory includes a reference to a private gauger; and

(B) accreditation of private laboratories extends only to the performance of functions by such laboratories that are within the scope of those responsibilities for determinations of the elements relating to admissibility, quantity, composition, or characteristics of imported merchandise that are vested in, or delegated to, the Customs Service.

**(c) Detentions**

Except in the case of merchandise with respect to which the determination of admissibility is vested in an agency other than the Customs Service, the following apply:

**(1) In general**

Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented for customs examination, the Customs Service shall decide whether to release or detain the merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise.

**(2) Notice of detention**

The Customs Service shall issue a notice to the importer or other party having an interest in detained merchandise no later than 5 days, excluding weekends and holidays, after the decision to detain the merchandise is made. The notice shall advise the importer or other interested party of—

(A) the initiation of the detention;

(B) the specific reason for the detention;

(C) the anticipated length of the detention;

(D) the nature of the tests or inquiries to be conducted; and

(E) the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

### (3) Testing results

Upon request by the importer or other party having an interest in detained merchandise, the Customs Service shall provide the party with copies of the results of any testing conducted by the Customs Service on the merchandise and a description of the testing procedures and methodologies (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by the Customs Service for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

### (4) Seizure and forfeiture

If otherwise provided by law, detained merchandise may be seized and forfeited.

### (5) Effect of failure to make determination

(A) The failure by the Customs Service to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for customs examination, or such longer period if specifically authorized by law, shall be treated as a decision of the Customs Service to exclude the merchandise for purposes of section 1514(a)(4) of this title.

(B) For purposes of section 1581 of title 28, a protest against the decision to exclude the merchandise which has not been allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day.

(C) Notwithstanding section 2639 of title 28, once an action respecting a detention is commenced, unless the Customs Service establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.

(June 17, 1930, ch. 497, title IV, § 499, 46 Stat. 728; June 25, 1938, ch. 679, §§ 15, 16(a), 52 Stat. 1084; Pub. L. 91-271, title III, § 301(k), June 2, 1970, 84 Stat. 289; Pub. L. 103-182, title VI, § 613(a), Dec. 8, 1993, 107 Stat. 2171.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 499, 42 Stat. 965. That section was superseded by section 499 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision prohibiting delivery of merchandise liable to be inspected or appraised, until it had been inspected or appraised, or until the packages sent to be inspected or appraised, should be found correctly invoiced, and be so reported, with a further provision as to the taking of bonds conditioned for delivery of the merchandise, and the forfeiture of such bonds, was contained in R.S. § 2899.

Provisions substantially similar to those in this section concerning the number of packages to be examined (not including the provision for designation of a less

number by the Secretary of the Treasury) and concerning packages found to contain articles not specified in the invoice, with a further provision for remission of the forfeiture, were contained in R.S. § 2901.

A prior provision, concerning deficiencies somewhat similar to that in this section, was contained in R.S. § 2921.

A special provision concerning the number of packages to be examined and appraised at the port of New York was contained in R.S. § 2939.

A provision concerning returns by weighers, gaugers, and measurers, was contained in R.S. § 2890.

All of the foregoing sections of the Revised Statutes were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

#### AMENDMENTS

1993—Pub. L. 103-182 amended section generally, substituting present provisions for provisions which required imported merchandise to be inspected, examined, appraised, and reported by appropriate customs officer to have been truly and correctly invoiced and found to comply with requirements of laws of the United States prior to release of such merchandise from customs custody.

1970—Pub. L. 91-271 substituted references to appropriate customs officer or such officer for references to collector or appraiser wherever appearing, and struck out references to duties of appraiser.

1938—Act June 25, 1938, amended section generally and among other changes inserted provision relating to invalidity of appraisements made after effective date of Customs Administrative Act of 1938.

#### 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 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(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.

#### EXISTING LABORATORIES

Section § 613(b) of Pub. L. 103-182 provided that: "Accreditation under section 499(b) of the Tariff Act of 1930 [19 U.S.C. 1499(b)] (as added by subsection (a)) is not required for any private laboratory (including any gauger) that was accredited or approved by the Customs Service as of the day before the date of the enactment of this Act [Dec. 8, 1993]; but any such laboratory is subject to reaccreditation under the provisions of such section and the regulations promulgated thereunder."

**§ 1500. Appraisal, classification, and liquidation procedure**

The Customs Service shall, under rules and regulations prescribed by the Secretary—

- (a) fix the final appraisal of merchandise by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, other document to the contrary notwithstanding;
- (b) fix the final classification and rate of duty applicable to such merchandise;
- (c) fix the final amount of duty to be paid on such merchandise and determine any increased or additional duties, taxes, and fees due or any excess of duties, taxes, and fees deposited;
- (d) liquidate the entry and reconciliation, if any, of such merchandise; and
- (e) give or transmit, pursuant to an electronic data interchange system, notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall by regulation prescribe.

(June 17, 1930, ch. 497, title IV, § 500, 46 Stat. 729; Aug. 2, 1956, ch. 887, § 4(b), 70 Stat. 948; Pub. L. 91-271, title II, § 204(a), June 2, 1970, 84 Stat. 283; Pub. L. 96-39, title II, § 202(a)(4), July 26, 1979, 93 Stat. 202; Pub. L. 103-182, title VI, § 638, Dec. 8, 1993, 107 Stat. 2203.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 500, 42 Stat. 965. That section was superseded by section 500 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions dealing with the subject matter of subdivision (a) of this section were contained in act Oct. 3, 1913, ch. 16, § III, K, 38 Stat. 185, reenacting without change the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, § 10, 26 Stat. 136, as reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 97. A provision somewhat similar to subdivision (a)(5) of this section was contained in section III, M, of the 1913 act, the provisions of which were substituted for provisions of the same nature contained in section 13 of the Customs Administrative Act of June 10, 1890, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 99. Said section III of the 1913 act was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

R.S. §§ 2609, 2610, relative to merchant appraisers, were superseded by the provisions relating to appraisers and appraisements in the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, and later acts, and were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 2902 prescribed the mode of appraisal of merchandise, prior to repeal by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

R.S. § 2911 required appraisers to adopt the value of the best article in a package containing articles wholly or in part of wool or cotton of similar kind but different quality, charged at an average price, and R.S. § 2912 related to appraisal of wool of different qualities when imported in the same bale, bag, or package, and of bales of different qualities when embraced in the same invoice, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 2945 imposed a penalty on any merchant chosen by the collector to make any appraisal required under any act respecting imports and tonnage, who should, after due notice, decline or neglect to assess at

such appraisal. This section was repealed by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141, and was again repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 2946 related to the ascertainment of value at ports where there were no appraisers, prior to repeal by section 642 of the act of Sept. 21, 1922, ch. 356.

A prior provision similar to subdivision (b) was contained in act Oct. 3, 1913, ch. 16, § III, M, 38 Stat. 186, the provisions of which were substitutes for those of the Customs Administrative Act of June 10, 1890, ch. 407, § 13, 26 Stat. 136, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 99. Section III, M, was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

An earlier provision on the subject was contained in R.S. § 2929, prior to repeal by Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

Somewhat similar to subdivision (d), R.S. § 2943 provided that one of the assistant appraisers at the port of New York should be detailed for the supervision of examination of merchandise damaged on the voyage of importation, and to make examinations and appraisals and to report, etc. It was repealed, with R.S. § 2927, which provided for appraisal of such goods, and other sections, by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141, reenacted and designated as section 28 by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 104.

**AMENDMENTS**

1993—Pub. L. 103-182, § 638(1), substituted “The Customs Service” for “The appropriate customs officer” in introductory provisions.

Subd. (a). Pub. L. 103-182, § 638(2), substituted “fix the final appraisal of” for “appraise”.

Subd. (b). Pub. L. 103-182, § 638(3), substituted “fix the final” for “ascertain the”.

Subd. (c). Pub. L. 103-182, § 638(4), inserted “final” after “fix the” and “, taxes, and fees” after “duties” in two places.

Subds. (d) and (e). Pub. L. 103-182, § 638(5), amended subs. (d) and (e) generally. Prior to amendment, subs. (d) and (e) read as follows:

“(d) liquidate the entry of such merchandise; and  
“(e) give notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in such regulations.”

1979—Subd. (a). Pub. L. 96-39 substituted “by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document” for “in the unit of quantity in which the merchandise is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document”.

1970—Pub. L. 91-271 struck out “(a)” preceding first sentence and, in such provisions, as so redesignated, substituted provisions which set forth the customs functions to be performed by the appropriate customs officer for provisions which set forth the customs functions to be performed by the appraiser, and struck out subs. (b) to (f), which allocated specific customs functions to appraisers, assistant and deputy appraisers, and examiners, and authorized the designation of acting appraisers where necessary.

1956—Subd. (f). Act Aug. 2, 1956, struck out “take the oath,” before “perform all the duties” in second sentence, and struck out comma after “perform all duties”.

**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 1970 AMENDMENT**

Section 203 of Pub. L. 91-271 provided that: “Titles II and III of this Act [see Short Title of 1970 Amendment

note set out under section 1654 of this title] shall take effect with respect to articles entered, or withdrawn, from warehouse for consumption, on or after October 1, 1970, and such other articles entered or withdrawn from warehouse for consumption prior to such date, the appraisal of which has not become final before October 1, 1970, and for which an appeal for reappraisal has not been timely filed with the Bureau of Customs [now the United States Customs Service] before October 1, 1970, or with respect to which a protest has not been disallowed in whole or in part before October 1, 1970.”

#### 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 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.

#### § 1501. Voluntary reliquidations by Customs Service

A liquidation made in accordance with section 1500 or 1504 of this title or any reliquidation thereof made in accordance with this section may be reliquidated in any respect by the Customs Service, notwithstanding the filing of a protest, within ninety days from the date on which notice of the original liquidation is given or transmitted to the importer, his consignee or agent. Notice of such reliquidation shall be given or transmitted in the manner prescribed with respect to original liquidations under section 1500(e) of this title.

(June 17, 1930, ch. 497, title IV, § 501, 46 Stat. 730; June 25, 1938, ch. 679, § 16(b), 52 Stat. 1084; June 25, 1948, ch. 646, §§ 25, 39, 62 Stat. 990, 992; Aug. 8, 1953, ch. 397, § 18(c), 67 Stat. 517; Pub. L. 91-271, title II, § 205, June 2, 1970, 84 Stat. 283; Pub. L. 103-182, title VI, § 639, Dec. 8, 1993, 107 Stat. 2203; Pub. L. 108-429, title II, § 2107, Dec. 3, 2004, 118 Stat. 2598.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 501, 42 Stat. 966. That section was superseded by section 501 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions for appeals to reappraisal and for a further appeal to be assigned to a board of general appraisers, with further provisions as to the fee to be paid, the proceedings on appeal, and the conclusiveness of decisions, were contained in act Oct. 3, 1913, ch. 16, § III, M, 38 Stat. 186, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

The provisions of section III, M, of the 1913 act, were substituted for provisions of the same nature made by the Customs Administrative Act of June 10, 1890, ch. 407, § 13, 26 Stat. 136, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 99.

Provisions similar to some extent to those in section 13 of the Customs Administrative Act of 1890 were contained in R.S. §§ 2929, 2930, prior to repeal by section 29 of that Act.

R.S. § 2950 provided that the certificate of the appraiser should be deemed to be the appraisal. It was superseded by the provisions relating to appraisers made by the Customs Administrative Act of June 10, 1890, ch. 407, § 13, amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, and the Underwood Tariff Act of Oct. 3, 1913, ch. 16, § III, M, 38 Stat. 186, and was repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

#### AMENDMENTS

2004—Pub. L. 108-429 inserted “or 1504” after “section 1500” in first sentence.

1993—Pub. L. 103-182 amended section catchline generally, substituting “Customs Service” for “appropriate customs officer; notice”, and in text substituted “the Customs Service” for “the appropriate customs officer on his own initiative” and inserted “or transmitted” after “given” in two places.

1970—Pub. L. 91-271 struck out “(a)” preceding first sentence and, in such provisions, as so redesignated, substituted provisions authorizing a reliquidation in any respect by the appropriate customs officer on his own initiative for a liquidation made in accordance with section 1500 of this title or any reliquidation thereof made in accordance with this section for provisions setting forth the procedure for an appeal for a reappraisal by the collector or the consignee.

1953—Subsec. (a). Act. Aug. 8, 1953, inserted cl. (3) and “including all determinations entering into the same,” in second sentence, and struck out third sentence which provided that “No such appeal filed by the consignee or his agent shall be deemed valid, unless he has complied with all the provisions of this chapter relating to the entry and appraisal of such merchandise”.

1948—Subsec. (a). Act June 25, 1948, struck out fourth sentence and substituted new fourth sentence, and repealed the fifth, sixth, seventh, and eighth sentences dealing with review by Customs Court of Reappraisements of this material. See section 1582 of Title 28, Judiciary and Judicial Procedure.

Subsecs. (b) and (c), relating to practice and procedure in Customs Court, were repealed by Act June 25, 1948. See sections 2631 to 2637 of Title 28, Judiciary and Judicial Procedure.

1938—Act June 25, 1938, designated paragraphs as subsecs. (a) and (b) and added subsec. (c).

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

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

#### EFFECTIVE DATE OF 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 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

#### EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise spe-

cially 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(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.

### § 1502. Regulations for appraisement and classification

#### (a) Powers of Secretary of the Treasury

The Secretary of the Treasury shall establish and promulgate such rules and regulations not inconsistent with the law (including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned), and may disseminate such information as may be necessary to secure a just, impartial, and uniform appraisement of imported merchandise and the classification and assessment of duties thereon at the various ports of entry. The Secretary may direct any customs officer to go from one port of entry to another for the purpose of appraising or classifying or assisting in appraising or classifying merchandise imported at any port, and may direct any customs officer at any port to review entries of merchandise filed at any other port.

#### (b) Duties of customs officers

It shall be the duty of all officers of the customs to execute and carry into effect all instructions of the Secretary of the Treasury relative to the execution of the revenue laws; and in case any difficulty arises as to the true construction or meaning of any part of the revenue laws, the decision of the Secretary shall be binding upon all officers of the customs.

(June 17, 1930, ch. 497, title IV, § 502, 46 Stat. 731; Pub. L. 91-271, title III, § 301(*l*), June 2, 1970, 84 Stat. 289; Pub. L. 96-417, title VI, § 601(3), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 100-449, title IV, § 403(a), Sept. 28, 1988, 102 Stat. 1884; Pub. L. 103-182, title IV, § 412(a), title VI, § 640, Dec. 8, 1993, 107 Stat. 2146, 2203.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 502, 42 Stat. 967. That section was superseded by section 502 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision, authorizing the Secretary of the Treasury to direct appraisers for any collection district, to attend in any other collection district, was contained in R.S. § 2947. Prior provisions requiring the Secretary to establish rules and regulations to secure a

just, faithful, and impartial appraisal, just and proper entries, and to report such rules and regulations to the next session of Congress, were contained in R.S. § 2949. Both of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

Provisions similar to those in subsec. (b) of this section, except that reversal or modification was permitted in concurrence with a judicial decision of a circuit or district court, instead of a final decision of the Board of General Appraisers, were contained in act Mar. 3, 1875, ch. 136, § 2, 18 Stat. 469, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

Provisions almost identical with those in subsec. (c) of this section were contained in R.S. § 2652, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

#### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-182, § 640(1), inserted “(including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned)” after “law”, substituted “ports of entry. The Secretary” for “ports of entry, and”, inserted “or classifying” after “appraising” in two places, and substituted “any port, and may direct any customs officer at any port to review entries of merchandise filed at any other port” for “such port”.

Subsec. (b). Pub. L. 103-182, § 640(2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “No ruling or decision once made by the Secretary of the Treasury, giving construction to any law imposing customs duties, shall be reversed or modified adversely to the United States, by the same or a succeeding Secretary, except in concurrence with an opinion of the Attorney General recommending the same, a final decision of the United States Court of International Trade, or a final decision of a binational panel pursuant to article 1904 of the United States-Canada Free-Trade Agreement.”

Pub. L. 103-182, § 412(a), which directed the insertion of “the North American Free Trade Agreement or” before “the United States-Canada Free-Trade Agreement”, could not be executed because the words “the United States-Canada Free-Trade Agreement” did not appear in subsec. (b) subsequent to amendment by Pub. L. 103-182, § 640(2), effective Dec. 8, 1993. See above.

Subsec. (c). Pub. L. 103-182, § 640(2), redesignated subsec. (c) as (b).

1988—Subsec. (b). Pub. L. 100-449 substituted “a final decision of the United States Court of International Trade, or a final decision of a binational panel pursuant to article 1904 of the United States-Canada Free-Trade Agreement” for “or a final decision of the United States Court of International Trade”.

1980—Subsec. (b). Pub. L. 96-417 redesignated the United States Customs Court as the United States Court of International Trade.

1970—Subsec. (a). Pub. L. 91-271 substituted “customs officer” for “appraiser, deputy appraiser, assistant appraiser, or examiner of merchandise”.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 412(a) 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], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of this title, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada or Mexico before such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or to any extraordinary challenge arising out of any such review, that was commenced before such date, see section 416 of Pub. L. 103-182, set out as an Effective Date note under section 3431 of this title.

Amendment by section 640 of Pub. L. 103-182 effective Dec. 8, 1993, see section 692 of Pub. L. 103-182, set out as a note under section 58c 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 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 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 Secretary of the Treasury under subsec. (a) of this section, insofar as subsec. (a) of this section provides authority to issue regulations and disseminate information and insofar as Secretary of the Treasury had responsibility under sections 1303 and 1671 et seq. of this title for functions transferred to Secretary of Commerce 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)(F), 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.

Functions of Secretary of the Treasury under subsec. (b) of this section, with respect to functions transferred to Secretary of Commerce in section 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 section 5(a)(1)(F) of Reorg. Plan No. 3 of 1979.

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.

## EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103-182, see section 3451 of this title.

## § 1503. Dutiable value

Except as provided in section 1520(c)<sup>1</sup> of this title (relating to reliquidations on the basis of authorized corrections of errors) or section 1562 of this title (relating to withdrawal from manipulating warehouses), the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty or rates based upon or regulated in any manner by the value of the merchandise, shall be the appraised value determined upon liquidation, in accordance with section 1500 of this title or any adjustment thereof made pursuant to section 1501 of this title. *Provided, however,* That if reliquidation is required pursuant to a final judgment or order of the United States Court of International Trade

which includes a reappraisal of imported merchandise, the basis for such assessment shall be the final appraised value determined by such court.

(June 17, 1930, ch. 497, title IV, § 503, 46 Stat. 731; Aug. 8, 1953, ch. 397, § 18(d), 67 Stat. 518; Pub. L. 91-271, title II, § 206, June 2, 1970, 84 Stat. 284; Pub. L. 96-417, title VI, § 601(4), Oct. 10, 1980, 94 Stat. 1744.)

## REFERENCES IN TEXT

Section 1520(c) of this title, referred to in text, was repealed by Pub. L. 108-429, title II, § 2105, Dec. 3, 2004, 118 Stat. 2598.

## PRIOR PROVISIONS

Provisions somewhat similar to those in subsecs. (a) and (b) were contained in act Sept. 21, 1922, ch. 356, title IV, § 503, 42 Stat. 967. Provisions similar to former subsec. (b) relating to entries pending reappraisal were contained in act Sept. 21, 1922, ch. 356, title IV, § 489, 42 Stat. 962. Both of the acts of 1922 were in part superseded by act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A provision for assessment of duty on merchandise of different values when invoiced at an average price, was contained in R.S. § 2910, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

## AMENDMENTS

1980—Pub. L. 96-417 redesignated the United States Customs Court as the United States Court of International Trade.

1970—Pub. L. 91-271 substituted provisions that, except as provided in section 1520(c) or 1562 of this title, the basis for the assessment of duties on imported merchandise be the appraised value determined upon liquidation, in accordance with section 1500 of this title or any adjustment thereof pursuant to section 1501 of this title, and be the final appraised value where reliquidation is required pursuant to a final judgment or order of the United States Customs Court, for provisions that, except as provided in section 1562 of this title, the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty be the final appraised value, and provisions that for the purpose of determining the rate of duty assessed upon any merchandise when the rate is based upon or regulated in any manner by the value of the merchandise, the final appraised value, except as provided in section 1562 of this title, be taken as the value of merchandise.

1953—Subsec. (a). Act Aug. 8, 1953, struck out “and in subdivision (b) of this section” after reference to section 1562 of this title, “the entered value or” after “shall be”, and “whichever is higher” at the end.

Subsecs. (b), (c). Act Aug. 8, 1953, redesignated subsec. (c) as (b). Former subsec. (b), which related to entries pending reappraisal, was repealed by act Aug. 8, 1953.

## 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 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 the thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

<sup>1</sup> See References in Text note below.

**§ 1503a. Repealed. Aug. 8, 1953, ch. 397, § 18(e), 67 Stat. 518**

Section, act July 12, 1932, ch. 473, 47 Stat. 657, related to the construction of former subsection (b) of section 1503 of this title, which was omitted by section 18(d) of act Aug. 8, 1953.

**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.

**§ 1504. Limitation on liquidation**

**(a) Liquidation**

**(1) Entries for consumption**

Unless an entry of merchandise for consumption is extended under subsection (b) of this section or suspended as required by statute or court order, except as provided in section 1675(a)(3) of this title, an entry of merchandise for consumption not liquidated within 1 year from—

- (A) the date of entry of such merchandise,
- (B) the date of the final withdrawal of all such merchandise covered by a warehouse entry,
- (C) the date of withdrawal from warehouse of such merchandise for consumption if, pursuant to regulations issued under section 1505(a) of this title, duties may be deposited after the filing of any entry or withdrawal from warehouse,
- (D) if a reconciliation is filed, or should have been filed, the date of the filing under section 1484 of this title or the date the reconciliation should have been filed, whichever is earlier; or
- (E)<sup>1</sup> if a reconfigured entry is filed under an import activity summary statement, the date the import activity summary statement is filed or should have been filed, whichever is earlier;

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer of record. Notwithstanding section 1500(e) of this title, notice of liquidation need not be given of an entry deemed liquidated.

**(2) Entries or claims for drawback**

**(A) In general**

Except as provided in subparagraph (B) or (C), unless an entry or claim for drawback is extended under subsection (b) of this section or suspended as required by statute or court order, an entry or claim for drawback not liquidated within 1 year from the date of entry or claim shall be deemed liquidated at the drawback amount asserted by the claimant or claim. Notwithstanding section 1500(e) of this title, notice of liquidation need not be given of an entry deemed liquidated.

**(B) Unliquidated imports**

An entry or claim for drawback whose designated or identified import entries have not been liquidated and become final within the

1-year period described in subparagraph (A), or within the 1-year period described in subparagraph (C), shall be deemed liquidated upon the deposit of estimated duties on the unliquidated imported merchandise, and upon the filing with the Customs Service of a written request for the liquidation of the drawback entry or claim. Such a request must include a waiver of any right to payment or refund under other provisions of law. The Secretary of the Treasury shall prescribe any necessary regulations for the purpose of administering this subparagraph.

**(C) Exception**

An entry or claim for drawback filed before December 3, 2004, the liquidation of which is not final as of December 3, 2004, shall be deemed liquidated on the date that is 1 year after December 3, 2004, at the drawback amount asserted by the claimant at the time of the entry or claim.

**(3) Payments or refunds**

Payment or refund of duties owed pursuant to paragraph (1) or (2) shall be made to the importer of record or drawback claimant, as the case may be, not later than 90 days after liquidation.

**(b) Extension**

The Secretary of the Treasury may extend the period in which to liquidate an entry if—

- (1) the information needed for the proper appraisal or classification of the imported or withdrawn merchandise, or for determining the correct drawback amount, or for ensuring compliance with applicable law, is not available to the Customs Service; or
- (2) the importer of record or drawback claimant, as the case may be, requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record or drawback claimant, as the case may be, and the surety of such importer of record or drawback claimant. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted by the importer of record, or the drawback amount asserted by the drawback claimant, at the expiration of 4 years from the applicable date specified in subsection (a) of this section.

**(c) Notice of suspension**

If the liquidation of any entry is suspended, the Secretary shall by regulation require that notice of the suspension be provided, in such manner as the Secretary considers appropriate, to the importer of record or drawback claimant, as the case may be, and to any authorized agent and surety of such importer of record or drawback claimant.

**(d) Removal of suspension**

Except as provided in section 1675(a)(3) of this title, when a suspension required by statute or court order is removed, the Customs Service

<sup>1</sup> See 2004 Amendment notes below.

shall liquidate the entry, unless liquidation is extended under subsection (b) of this section, within 6 months after receiving notice of the removal from the Department of Commerce, other agency, or a court with jurisdiction over the entry. Any entry (other than an entry with respect to which liquidation has been extended under subsection (b) of this section) not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted by the importer of record or (in the case of a drawback entry or claim) at the drawback amount asserted by the drawback claimant.

(June 17, 1930, ch. 497, title IV, §504, as added Pub. L. 95-410, title II, §209(a), Oct. 3, 1978, 92 Stat. 902; amended Pub. L. 98-573, title I, §191(d), Oct. 30, 1984, 98 Stat. 2971; Pub. L. 103-182, title VI, §641, Dec. 8, 1993, 107 Stat. 2204; Pub. L. 103-465, title II, §220(c), Dec. 8, 1994, 108 Stat. 4865; Pub. L. 104-295, §3(a)(7), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 108-429, title I, §1563(e), title II, §2102, Dec. 3, 2004, 118 Stat. 2585, 2597.)

#### PRIOR PROVISIONS

A prior section 1504, act June 17, 1930, ch. 497, title IV, §504, 46 Stat. 732, related to duties on coverings and containers, prior to repeal by Pub. L. 87-456, title III, §301(a), May 24, 1962, 76 Stat. 75, effective, pursuant to section 501(a) of Pub. L. 87-456, with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963.

#### AMENDMENTS

2004—Pub. L. 108-429, §2102(2), struck out “at the time of entry” after “duties asserted” in subsec. (a)(1) (concluding provisions), after “asserted by the claimant” in subsec. (a)(2)(A), and after “of duty asserted” and “drawback amount asserted” in subsecs. (b) (concluding provisions) and (d).

Subsec. (a). Pub. L. 108-429, §2102(1), which directed striking “or” at end of par. (3), substituting “filed, whichever is earlier; or” for “filed;” in par. (4), and adding par. (5) after par. (4), was executed by striking “or” at end of par. (1)(C), substituting “filed, whichever is earlier; or” for “filed;” in par. (1)(D), and adding the text of par. (5) after par. (1)(D) and editorially redesignating it as par. (1)(E). Pub. L. 108-429, §2102(1), was technically incapable of execution subsequent to the amendments by Pub. L. 108-429, §1563(e)(1). See below.

Pub. L. 108-429, §1563(e)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “Unless an entry is extended under subsection (b) of this section or suspended as required by statute or court order, except as provided in section 1675(a)(3) of this title, an entry of merchandise not liquidated within one year from:

“(1) the date of entry of such merchandise;

“(2) the date of the final withdrawal of all such merchandise covered by a warehouse entry;

“(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued under section 1505(a) of this title, duties may be deposited after the filing of an entry or withdrawal from warehouse; or

“(4) if a reconciliation is filed, or should have been filed, the date of the filing under section 1484 of this title or the date the reconciliation should have been filed;

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer of record. Notwithstanding section 1500(e) of this title, notice of liquidation need not be given of an entry deemed liquidated.”

Subsec. (b). Pub. L. 108-429, §1563(e)(1), added subsec. (b) and struck out heading and text of former subsec.

(b). Text read as follows: “The Secretary may extend the period in which to liquidate an entry if—

“(1) the information needed for the proper appraisal or classification of the merchandise, or for insuring compliance with applicable law, is not available to the Customs Service; or

“(2) the importer of record requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record and the surety of such importer of record. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record at the expiration of 4 years from the applicable date specified in subsection (a) of this section.”

Subsec. (c). Pub. L. 108-429, §1563(e)(2), inserted “or drawback claimant, as the case may be,” after “to the importer of record” and “or drawback claimant” after “of such importer of record”.

Subsec. (d). Pub. L. 108-429, §1563(e)(3), inserted “or (in the case of a drawback entry or claim) at the drawback amount asserted at the time of entry by the drawback claimant” before period at end.

1996—Subsec. (d). Pub. L. 104-295 inserted “, unless liquidation is extended under subsection (b) of this section,” after “shall liquidate the entry” in first sentence, and “(other than an entry with respect to which liquidation has been extended under subsection (b) of this section)” after “Any entry” in second sentence.

1994—Subsec. (a). Pub. L. 103-465, §220(c)(1), inserted “except as provided in section 1675(a)(3) of this title,” before “an entry of merchandise not liquidated” in introductory provisions.

Subsec. (d). Pub. L. 103-465, §220(c)(2), substituted “Except as provided in section 1675(a)(3) of this title, when a suspension” for “When a suspension”.

1993—Subsec. (a). Pub. L. 103-182, §641(1)(A), substituted “Unless an entry is extended under subsection (b) or suspended as required by statute or court order” for “Except as provided in subsection (b) of this section” in introductory provisions.

Subsec. (a)(4). Pub. L. 103-182, §641(1)(B)-(D), added par. (4).

Subsec. (b). Pub. L. 103-182, §641(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary may extend the period in which to liquidate an entry by giving notice of such extension to the importer of record in such form and manner as the Secretary shall prescribe in regulations, if—

“(1) information needed for the proper appraisal or classification of the merchandise is not available to the appropriate customs officer;

“(2) liquidation is suspended as required by statute or court order; or

“(3) the importer of record requests such extension and shows good cause therefor.”

Subsec. (c). Pub. L. 103-182, §641(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “If the liquidation of any entry is suspended, the Secretary shall, by regulation, require that notice of such suspension be provided to the importer of record concerned and to any authorized agent and surety of such importer of record.”

Subsec. (d). Pub. L. 103-182, §641(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) “Limitation” read as follows: “Any entry of merchandise not liquidated at the expiration of four years from the applicable date specified in subsection (a) of this section, shall be deemed liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record, unless liquidation continues to be suspended as required by statute or court order. When such a suspension of liquidation is removed, the entry shall be liquidated within 90 days therefrom.”

1984—Subsec. (a). Pub. L. 98-573, §191(d)(1), substituted “importer of record” for “importer, his consignee, or agent” in provisions following par. (3).

Subsec. (b). Pub. L. 98-573, §191(d)(2), substituted “importer of record” for “importer, his consignee, or agent” in provisions preceding par. (1), and substituted “importer of record” for “importer, consignee, or his agent” in par. (3).

Subsec. (c). Pub. L. 98-573, §191(d)(3), substituted “importer of record” for “importer or consignee” in two places.

Subsec. (d). Pub. L. 98-573, §191(d)(4), substituted “importer of record” for “importer, his consignee, or agent”.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title I, §1563(g)(2), Dec. 3, 2004, 118 Stat. 2587, provided that: “The amendments made by subsection (e) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to—

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

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

Amendment by section 2102 of Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2103 of Pub. L. 108-429, set out as a note under section 1401 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

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

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective, except as otherwise provided, on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], and applicable with respect to investigations, reviews, and inquiries initiated and petitions filed under specified provisions of this chapter after such date, see section 291 of Pub. L. 103-465, set out as a note under section 1671 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 applicable with respect to articles entered on or after 15th day after Oct. 30, 1984, see section 195(a) of Pub. L. 98-573, set out as a note under section 1322 of this title.

#### EFFECTIVE DATE

Section 209(b) of Pub. L. 95-410 provided that: “The amendment made by this section [enacting this section] applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act [Oct. 3, 1978].”

#### 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.

### § 1505. Payment of duties and fees

#### (a) Deposit of estimated duties and fees

Unless the entry is subject to a periodic payment referred to in this subsection or the mer-

chandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of entry, or at such later time as the Secretary may prescribe by regulation (but not later than 12 working days after entry or release) the amount of duties and fees estimated to be payable on such merchandise. As soon as a periodic payment module of the Automated Commercial Environment is developed, but no later than October 1, 2004, the Secretary shall promulgate regulations, after testing the module, permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.

#### (b) Collection or refund of duties, fees, and interest due upon liquidation or reliquidation

The Customs Service shall collect any increased or additional duties and fees due, together with interest thereon, or refund any excess moneys deposited, together with interest thereon, as determined on a liquidation or reliquidation. Duties, fees, and interest determined to be due upon liquidation or reliquidation are due 30 days after issuance of the bill for such payment. Refunds of excess moneys deposited, together with interest thereon, shall be paid within 30 days of liquidation or reliquidation.

#### (c) Interest

Interest assessed due to an underpayment of duties, fees, or interest shall accrue, at a rate determined by the Secretary, from the date the importer of record is required to deposit estimated duties, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation. Interest on excess moneys deposited shall accrue, at a rate determined by the Secretary, from the date the importer of record deposits estimated duties, fees, and interest or, in a case in which a claim is made under section 1520(d) of this title, from the date on which such claim is made, to the date of liquidation or reliquidation of the applicable entry or reconciliation. The Secretary may prescribe an alternative mid-point interest accounting methodology, which may be employed by the importer, based upon aggregate data in lieu of accounting for such interest from each deposit data provided in this subsection.

#### (d) Delinquency

If duties, fees, and interest determined to be due or refunded are not paid in full within the 30-day period specified in subsection (b) of this section, any unpaid balance shall be considered delinquent and bear interest by 30-day periods, at a rate determined by the Secretary, from the date of liquidation or reliquidation until the full balance is paid. No interest shall accrue during the 30-day period in which payment is actually made.

(June 17, 1930, ch. 497, title IV, §505, 46 Stat. 732; Pub. L. 91-271, title II, §204(c), June 2, 1970, 84 Stat. 283; Pub. L. 95-410, title I, §103, Oct. 3, 1978, 92 Stat. 889; Pub. L. 97-446, title II, §201(e), Jan.

12, 1983, 96 Stat. 2350; Pub. L. 98-573, title II, §210(a), Oct. 30, 1984, 98 Stat. 2977; Pub. L. 103-182, title VI, §642(a), Dec. 8, 1993, 107 Stat. 2205; Pub. L. 104-295, §2(a), Oct. 11, 1996, 110 Stat. 3515; Pub. L. 106-36, title II, §2418(e), June 25, 1999, 113 Stat. 177; Pub. L. 106-476, title I, §1451, Nov. 9, 2000, 114 Stat. 2167; Pub. L. 107-210, div. A, title III, §383, Aug. 6, 2002, 116 Stat. 992; Pub. L. 108-429, title II, §2004(c), Dec. 3, 2004, 118 Stat. 2592.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §504, 42 Stat. 967. That section was superseded by section 505 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision that the collector or person acting as such should ascertain, fix, and liquidate the rate and amount of duties, and the dutiable costs and charges, was contained in act Oct. 3, 1913, ch. 16, §III, M, 38 Stat. 186, the provisions of which were substituted for provisions of the same nature contained in the Customs Administrative Act of June 10, 1890, ch. 407, §13, 26 Stat. 136, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 99.

#### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-429, in first sentence, inserted “referred to in this subsection” after “subject to a periodic payment” and substituted “12 working days” for “10 working days” and, in second sentence, substituted “the Secretary shall promulgate regulations, after testing the module, permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first” for “a participating importer of record, or the importer’s filer, may deposit estimated duties and fees for entries of merchandise no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first”.

2002—Subsec. (a). Pub. L. 107-210 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Unless merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of making entry, or at such later time as the Secretary may prescribe by regulation, the amount of duties and fees estimated to be payable thereon. Such regulations may provide that estimated duties and fees shall be deposited before or at the time an import activity summary statement is filed. If an import activity summary statement is filed, the estimated duties and fees shall be deposited together with interest, at a rate determined by the Secretary, accruing from the first date of the month the statement is required to be filed until the date such statement is actually filed.”

2000—Subsec. (c). Pub. L. 106-476 substituted “The Secretary may prescribe” for “For the period beginning on October 1, 1998, and ending on the date on which the ‘Revised National Customs Automation Test Regarding Reconciliation’ of the Customs Service is terminated, or October 1, 2000, whichever occurs earlier, the Secretary may prescribe” in last sentence.

1999—Subsec. (c). Pub. L. 106-36 inserted at end “For the period beginning on October 1, 1998, and ending on the date on which the ‘Revised National Customs Automation Test Regarding Reconciliation’ of the Customs Service is terminated, or October 1, 2000, whichever occurs earlier, the Secretary may prescribe an alternative mid-point interest accounting methodology, which may be employed by the importer, based upon aggregate data in lieu of accounting for such interest from each deposit data provided in this subsection.”

1996—Subsec. (c). Pub. L. 104-295 inserted “or, in a case in which a claim is made under section 1520(d) of this title, from the date on which such claim is made,” after “deposits estimated duties, fees, and interest”.

1993—Pub. L. 103-182 amended section generally, substituting provisions relating to deposit, collection or refund of duties, fees, and interest for provisions relating to deposit, collection, or refund of duties and interest.

1984—Subsec. (c). Pub. L. 98-573 added subsec. (c).

1983—Subsec. (a). Pub. L. 97-446 substituted “importer of record” for “consignee” before “shall deposit”.

1978—Subsec. (a). Pub. L. 95-410 authorized deposit of estimated duties to be made as prescribed by regulations after time of making entry but not later than thirty days after date of entry.

1970—Pub. L. 91-271 reorganized existing provisions into subsecs. (a) and (b), and struck out provisions authorizing receipt by a collector of various reports and the performance of certain functions in connection with the liquidation of an entry.

#### 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 2000 AMENDMENT

Amendment by 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

Amendment by Pub. L. 106-36 effective 30 days after June 25, 1999, see section 2418(f) of Pub. L. 106-36, set out as a note under section 58c of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 2(b) of Pub. L. 104-295 provided that: “The amendment made by subsection (a) [amending this section] shall apply to claims made pursuant to section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) on or after June 7, 1996.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 30th day after Oct. 30, 1984, see section 214(c)(5)(A) of Pub. L. 98-573, set out as a note under section 1304 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

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

#### 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.

**§ 1506. Allowance for abandonment and damage**

Allowance shall be made in the estimation and liquidation of duties under regulations prescribed by the Secretary of the Treasury in the following cases:

**(1) Abandonment within thirty days**

Where the importer abandons to the United States, within thirty days after entry in the case of merchandise released without an examination, or within thirty days after the release in the case of merchandise sent to the Customs Service for examination, any imported merchandise representing 5 per centum or more of the total value of all the merchandise of the same class or kind entered in the invoice or entry in which the item appears, and delivers, within the applicable thirty-day period, the portion so abandoned to such place as the Customs Service directs unless the Customs Service is satisfied that the merchandise is so far destroyed as to be nondeliverable;

**(2) Perishable merchandise, condemned**

Where fruit or other perishable merchandise has been condemned at the port of entry, within ten days after landing, by the health officers or other legally constituted authorities, and the consignee, within five days after such condemnation, files, electronically or otherwise, with the Customs Service notice thereof, an invoiced description and the location thereof, and the name of the vessel or vehicle in which imported.

(June 17, 1930, ch. 497, title IV, § 506, 46 Stat. 732; Pub. L. 91-271, title III, § 301(m), June 2, 1970, 84 Stat. 289; Pub. L. 103-182, title VI, § 643, Dec. 8, 1993, 107 Stat. 2205.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § III, X, 38 Stat. 190, re-enacting the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, § 23, 26 Stat. 140, as amended by Act May 17, 1898, ch. 341, 30 Stat. 417, and further amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 103. Section III of the 1913 act was superseded by act Sept. 21, 1922, ch. 356, title IV, § 505, 42 Stat. 967, and repealed by section 643 thereof. Section 505 of the 1922 act was superseded by section 506 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

R.S. § 2927 provided for the appraisal of articles damaged during the voyage, and for the allowances for such damages in estimating duties, prior to repeal by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

R.S. § 2928, providing for appraisement of merchandise taken from any wreck and of damages sustained during the course of the voyage, was superseded by the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, § 23, 26 Stat. 140, and repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

## AMENDMENTS

1993—Par. (1). Pub. L. 103-182, § 643(1), (2), substituted “merchandise released without an examination” for “merchandise not sent to the appraiser’s stores for examination”, struck out “of the examination packages or quantities of merchandise” after “thirty days after the release”, substituted “merchandise sent to the Customs Service” for “merchandise sent to the appraiser’s stores”, inserted “or entry” after “invoice”, and substituted “such place as the Customs Service” for “such

place as the appropriate customs officer” and “unless the Customs Service” for “unless such customs officer”.

Par. (2). Pub. L. 103-182, § 643(1), (3), inserted “, electronically or otherwise,” after “files” and substituted “the Customs Service notice” for “the appropriate customs officer written notice”.

1970—Par. (1). Pub. L. 91-271, § 301(m)(1), substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

Par. (2). Pub. L. 91-271, § 301(m)(2), substituted reference to appropriate customs officer for reference to collector.

## 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.

**§ 1507. Tare and draft****(a) In general**

The Secretary of the Treasury is authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but (except as otherwise provided in this section) there shall not be any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise.

**(b) Crude oil and petroleum products**

In ascertaining tare on imports of crude oil, and on imports of petroleum products, allowance shall be made for all detectable moisture and impurities present in, or upon, the imported crude oil or petroleum products.

(June 17, 1930, ch. 497, title IV, § 507, 46 Stat. 732; Pub. L. 100-418, title I, § 1902(a), Aug. 23, 1988, 102 Stat. 1312.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 506, 42 Stat. 968. That section was superseded by section 507 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision relative to the allowance of tare, prohibiting any allowance for draught, was contained in R.S. § 2898, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

## AMENDMENTS

1988—Pub. L. 100-418 designated existing provision as subsec. (a), substituted “(except as otherwise provided in this section) there shall not be” for “in no case shall there be”, and added subsec. (b).

## EFFECTIVE DATE OF 1988 AMENDMENT

Section 1902(b) of Pub. L. 100-418, as amended by Pub. L. 100-647, title IX, § 9001(a)(18), Nov. 10, 1988, 102 Stat.

3808, provided that: “The amendment made by this section [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after October 1, 1988.”

### § 1508. Recordkeeping

#### (a) Requirements

Any—

(1) owner, importer, consignee, importer of record, entry filer, or other party who—

(A) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or

(B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

(2) agent of any party described in paragraph (1); or

(3) person whose activities require the filing of a declaration or entry, or both;

shall make, keep, and render for examination and inspection records (which for purposes of this section include, but are not limited to, statements, declarations, documents and electronically generated or machine readable data) which—

(A) pertain to any such activity, or to the information contained in the records required by this chapter in connection with any such activity; and

(B) are normally kept in the ordinary course of business.

#### (b) Exportations to NAFTA countries

##### (1) Definitions

As used in this subsection—

(A) The term “associated records” means, in regard to an exported good under paragraph (2), records associated with—

(i) the purchase of, cost of, value of, and payment for, the good;

(ii) the purchase of, cost of, value of, and payment for, all material, including indirect materials, used in the production of the good; and

(iii) the production of the good.

For purposes of this subparagraph, the terms “indirect material”, “material”, “preferential tariff treatment”, “used”, and “value” have the respective meanings given them in articles 415 and 514 of the North American Free Trade Agreement.

(B) The term “NAFTA Certificate of Origin” means the certification, established under article 501 of the North American Free Trade Agreement, that a good qualifies as an originating good under such Agreement.

##### (2) Exports to NAFTA countries

###### (A) In general

Any person who completes and signs a NAFTA Certificate of Origin for a good for which preferential treatment under the North American Free Trade Agreement is claimed shall make, keep, and render for examination and inspection all records relating to the origin of the good (including the

Certificate or copies thereof) and the associated records.

#### (B) Claims for certain waivers, reductions, or refunds of duties or for credit against bonds

##### (i) In general

Any person that claims with respect to an article—

(I) a waiver or reduction of duty under the eleventh paragraph of section 1311 of this title, section 1312(b)(1) or (4) of this title, section 1562(2) of this title, or the proviso preceding the last proviso to section 81c(a) of this title;

(II) a credit against a bond under section 1312(d) of this title; or

(III) a refund, waiver, or reduction of duty under section 1313(n)(2) or (o)(1) of this title;

must disclose to the Customs Service the information described in clause (ii).

##### (ii) Information required

Within 30 days after making a claim described in clause (i) with respect to an article, the person making the claim must disclose to the Customs Service whether that person has prepared, or has knowledge that another person has prepared, a NAFTA Certificate of Origin for the article. If after such 30-day period the person making the claim either—

(I) prepares a NAFTA Certificate of Origin for the article; or

(II) learns of the existence of such a Certificate for the article;

that person, within 30 days after the occurrence described in subclause (I) or (II), must disclose the occurrence to the Customs Service.

##### (iii) Action on claim

If the Customs Service determines that a NAFTA Certificate of Origin has been prepared with respect to an article for which a claim described in clause (i) is made, the Customs Service may make such adjustments regarding the previous customs treatment of the article as may be warranted.

#### (3) Exports under the Canadian agreement

Any person who exports, or who knowingly causes to be exported, any merchandise to Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to the exportations.

#### (c) Period of time

The records required by subsections (a) and (b) of this section shall be kept for such periods of time as the Secretary shall prescribe; except that—

(1) no period of time for the retention of the records required under subsection (a) or (b)(3)

of this section may exceed 5 years from the date of entry, filing of a reconciliation, or exportation, as appropriate;

(2) the period of time for the retention of the records required under subsection (b)(2) of this section shall be at least 5 years from the date of signature of the NAFTA Certificate of Origin; and

(3) records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.

**(d) Limitation**

For the purposes of this section and section 1509 of this title, a person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported unless—

(1) the terms and conditions of the importation are controlled by the person placing the order; or

(2) technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise.

**(e) Subsection (b) penalties**

**(1) Relating to NAFTA exports**

Any person who fails to retain records required by paragraph (2) of subsection (b) of this section or the regulations issued to implement that paragraph shall be liable for—

- (A) a civil penalty not to exceed \$10,000; or
- (B) the general recordkeeping penalty that applies under the customs laws;

whichever penalty is higher.

**(2) Relating to Canadian agreement exports**

Any person who fails to retain the records required by paragraph (3) of subsection (b) of this section or the regulations issued to implement that paragraph shall be liable for a civil penalty not to exceed \$10,000.

**(f) Certificates of Origin for goods exported under the United States-Chile Free Trade Agreement**

**(1) Definitions**

In this subsection:

**(A) Records and supporting documents**

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

- (i) the purchase, cost, and value of, and payment for, the good;
- (ii) if applicable, the purchase, cost, and value of, and payment for, all materials, including recovered goods, used in the production of the good; and
- (iii) if applicable, the production of the good in the form in which it was exported.

**(B) Chile FTA Certificate of Origin**

The term “Chile FTA Certificate of Origin” means the certification, established under article 4.13 of the United States-Chile Free Trade Agreement, that a good qualifies

as an originating good under such Agreement.

**(2) Exports to Chile**

Any person who completes and issues a Chile FTA Certificate of Origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the Certificate or copies thereof).

**(3) Retention period**

Records and supporting documents shall be kept by the person who issued a Chile FTA Certificate of Origin for at least 5 years after the date on which the certificate was issued.

**(g) Certifications of origin for goods exported under the Dominican Republic-Central America-United States Free Trade Agreement**

**(1) Definitions**

In this subsection:

**(A) Records and supporting documents**

The term “records and supporting documents” means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

- (i) the purchase, cost, and value of, and payment for, the good;
- (ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and
- (iii) the production of the good in the form in which it was exported.

**(B) CAFTA-DR certification of origin**

The term “CAFTA-DR certification of origin” means the certification established under article 4.16 of the Dominican Republic-Central America-United States Free Trade Agreement that a good qualifies as an originating good under such Agreement.

**(2) Exports to CAFTA-DR countries**

Any person who completes and issues a CAFTA-DR certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

**(3) Retention period**

Records and supporting documents shall be kept by the person who issued a CAFTA-DR certification of origin for at least 5 years after the date on which the certification was issued.

**(h) Certifications of origin for goods exported under the United States-Peru Trade Promotion Agreement**

**(1) Definitions**

In this subsection:

**(A) Records and supporting documents**

The term “records and supporting documents” means, with respect to an exported

good under paragraph (2), records and documents related to the origin of the good, including—

- (i) the purchase, cost, and value of, and payment for, the good;
- (ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and
- (iii) the production of the good in the form in which it was exported.

**(B) PTPA certification of origin**

The term “PTPA certification of origin” means the certification established under article 4.15 of the United States-Peru Trade Promotion Agreement that a good qualifies as an originating good under such Agreement.

**(2) Exports to Peru**

Any person who completes and issues a PTPA certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

**(3) Retention period**

The person who issues a PTPA certification of origin shall keep the records and supporting documents relating to that certification of origin for a period of at least 5 years after the date on which the certification is issued.

**(i) Penalties**

Any person who fails to retain records and supporting documents required by subsection (f), (g), or (h) of this section or the regulations issued to implement any such subsection shall be liable for the greater of—

- (1) a civil penalty not to exceed \$10,000; or
- (2) the general record keeping penalty that applies under the customs laws of the United States.

(June 17, 1930, ch. 497, title IV, § 508, as added Pub. L. 95-410, title I, § 104, Oct. 3, 1978, 92 Stat. 889; amended Pub. L. 100-449, title II, § 205(b), Sept. 28, 1988, 102 Stat. 1864; Pub. L. 103-182, title II, § 205(a), title VI, § 614, Dec. 8, 1993, 107 Stat. 2093, 2174; Pub. L. 104-295, § 3(a)(6)(B), Oct. 11, 1996, 110 Stat. 3515; Pub. L. 108-77, title II, §§ 207, 209, Sept. 3, 2003, 117 Stat. 931, 933; Pub. L. 109-53, title II, § 208, Aug. 2, 2005, 119 Stat. 485; Pub. L. 110-138, title II, § 207, Dec. 14, 2007, 121 Stat. 1476.)

AMENDMENT OF SECTION

*For termination of amendment by section 107(c) of Pub. L. 110-138, see Effective and Termination Dates of 2007 Amendment note below.*

*For termination of amendment by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates of 2005 Amendment note below.*

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

PRIOR PROVISIONS

A prior section 1508, acts June 17, 1930, ch. 497, title IV, § 508, 46 Stat. 732; Aug. 8, 1953, ch. 397, § 19, 67 Stat.

518, related to commingling of goods, prior to repeal by Pub. L. 87-456, title III, § 301(a), May 24, 1962, 76 Stat. 75, effective, pursuant to section 501(a) of Pub. L. 87-456, with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963.

AMENDMENTS

2007—Subsec. (h). Pub. L. 110-138, §§ 107(c), 207(2), temporarily added subsec. (h). Former subsec. (h) redesignated (i). See Effective and Termination Dates of 2007 Amendment note below.

Subsec. (i). Pub. L. 110-138, §§ 107(c), 207(1), (3), temporarily redesignated subsec. (h) as (i) and, in introductory provisions, substituted “(f), (g), or (h)” for “(f) or (g)” and “any such subsection” for “either such subsection”. See Effective and Termination Dates of 2007 Amendment note below.

2005—Subsec. (g). Pub. L. 109-53, §§ 107(d), 208(2), temporarily added subsec. (g). Former subsec. (g) redesignated (h). See Effective and Termination Dates of 2005 Amendment note below.

Subsec. (h). Pub. L. 109-53, §§ 107(d), 208(1), (3), temporarily redesignated subsec. (g) as (h) and, in introductory provisions, inserted “or (g)” after “(f)” and substituted “either such subsection” for “that subsection”. See Effective and Termination Dates of 2005 Amendment note below.

2003—Subsec. (b). Pub. L. 108-77, §§ 107(c), 207(1), temporarily substituted “Exportations to NAFTA countries” for “Exportations to free trade countries” in heading. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (b)(2)(B)(i)(I). Pub. L. 108-77, §§ 107(c), 209, temporarily substituted “the eleventh paragraph of section 1311 of this title” for “the last paragraph of section 1311 of this title” and “the proviso preceding the last proviso to section 81c(a) of this title” for “the last proviso to section 81c(a) of this title”. See Effective and Termination Dates of 2003 Amendment note below.

Subsecs. (f), (g). Pub. L. 108-77, §§ 107(c), 207(2), temporarily added subsecs. (f) and (g). See Effective and Termination Dates of 2003 Amendment note below.

1996—Subsec. (c)(1). Pub. L. 104-295 inserted “, filing of a reconciliation,” after “entry”.

1993—Subsec. (a). Pub. L. 103-182, § 614(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records (including statements, declarations, and other documents) which—

“(1) pertain to any such importation, or to the information contained in the documents required by this chapter in connection with the entry of merchandise; and

“(2) are normally kept in the ordinary course of business.”

Subsec. (b). Pub. L. 103-182, § 205(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Any person who exports, or who knowingly causes to be exported, any merchandise to Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to such exportations.”

Subsec. (c). Pub. L. 103-182, § 205(a)(2), amended generally subsec. (c), as amended by Pub. L. 103-182, § 614(2) (see below). Prior to amendment, subsec. (c) read as follows: “The records required by subsections (a) and (b) of this section shall be kept for such period of time, not to exceed 5 years from the date of entry or exportation, as appropriate, as the Secretary shall prescribe; except that records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.” See Construction of 1993 Amendment note below.

Pub. L. 103-182, § 614(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The records required by subsection (a) and (b) of this sec-

tion shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe." See Construction of 1993 Amendment note below.

Subsec. (e). Pub. L. 103-182, §205(a)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Any person who fails to retain records required by subsection (b) of this section or the regulations issued to implement that subsection shall be liable to a civil penalty not to exceed \$10,000."

1988—Subsecs. (b) to (e). Pub. L. 100-449 added subsec. (b), redesignated former subsec. (b) as (c) and inserted "and (b)" after "subsection (a)", redesignated former subsec. (c) as (d), and added subsec. (e).

#### EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110-138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

#### 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 1996 AMENDMENT

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

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 205(a) 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.

#### EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date 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.

#### CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 205(a) of Pub. L. 103-182 to be made after amendment by section 614 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.

### § 1509. Examination of books and witnesses

#### (a) Authority

In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

(1) examine, or cause to be examined, upon reasonable notice, any record (which for purposes of this section, includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry, except that—

(A) if such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry) it shall be provided to the Customs Service within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and

(B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under subsection (g) of this section;

(2) summon, upon reasonable notice—

(A) the person who—

(i) imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

(ii) exported merchandise, or knowingly caused merchandise to be exported, to a NAFTA country (as defined in section 3301(4) of this title) or to Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada,

(iii) transported or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage, or

(iv) filed a declaration, entry, or drawback claim with the Customs Service;

(B) any officer, employee, or agent of any person described in subparagraph (A);

(C) any person having possession, custody or care of records relating to the importation or other activity described in subparagraph (A); or

(D) any other person he may deem proper;

to appear before the appropriate customs officer at the time and place within the customs

territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce records, as defined in subsection (d)(1)(A) of this section, and to give such testimony, under oath, as may be relevant to such investigation or inquiry; and

(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant to such investigation or inquiry.

**(b) Regulatory audit procedures**

(1) In conducting a regulatory audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone), the Customs Service auditor shall provide the person being audited, in advance of the audit, with a reasonable estimate of the time to be required for the audit. If in the course of an audit it becomes apparent that additional time will be required, the Customs Service auditor shall immediately provide a further estimate of such additional time.

(2) Before commencing an audit, the Customs Service auditor shall inform the party to be audited of his right to an entry conference at which time the purpose will be explained and an estimated termination date set. Upon completion of on-site audit activities, the Customs Service auditor shall schedule a closing conference to explain the preliminary results of the audit.

(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Service auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the officer designated pursuant to regulations, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

(4) Except as provided in paragraph (5), the Customs Service auditor shall complete the formal written audit report within 90 days following the closing conference unless the officer designated pursuant to regulations provides written notice to the person being audited of the reason for any delay and the anticipated completion date. After application of any exemption contained in section 552 of title 5, a copy of the formal written audit report shall be sent to the person audited no later than 30 days following completion of the report.

(5) Paragraphs (3) and (4) shall not apply after the Customs Service commences a formal investigation with respect to the issue involved.

(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 1592 of this title, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or

underdeclarations also identified on finally liquidated entries, if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 1520 of this title.

**(c) Service of summons**

A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons is prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable specificity.

**(d) Special procedures for third-party summonses**

(1) For purposes of this subsection—

(A) The term “records” includes those—

(i) required to be kept under section 1508 of this title; or

(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.

(B) The term “summons” means any summons issued under subsection (a) of this section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

(C) The term “third-party recordkeeper” means—

(i) any customhouse broker, unless such customhouse broker is the importer of record on an entry;

(ii) any attorney; and

(iii) any accountant.

(2) If—

(A) any summons is served on any person who is a third-party recordkeeper; and

(B) the summons requires the production of, or the giving of testimony relating to, any portion of records made or kept of the transactions described in section 1508 of this title of any person (other than the person summoned) who is identified in the description of the records contained in such summons;

then notice of such summons shall be given to any persons so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accom-

panied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person.

(4) Paragraph (2) of this subsection shall not apply to any summons—

(A) served on the person with respect to whose liability for duties, fees, or taxes the summons is issued, or any officer or employee of such person; or

(B) to determine whether or not records of the transactions described in section 1508 of this title of an identified person have been made or kept.

(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right—

(A) to intervene in any proceeding with respect to the enforcement of such summons under section 1510 of this title; and

(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given—

(i) notice in writing is given to the person summoned not to comply with the summons; and

(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (2) of this subsection may be made—

(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or

(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

(7) The provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

**(e) List of records and information**

The Customs Service shall identify and publish a list of the records or entry information that is required to be maintained and produced under subsection (a)(1)(A) of this section.

**(f) Recordkeeping compliance program**

**(1) In general**

After consultation with the importing community, the Customs Service shall by regulation establish a recordkeeping compliance program which the parties listed in section 1508(a) of this title may participate in after being certified by the Customs Service under paragraph (2). Participation in the recordkeeping compliance program by recordkeepers is voluntary.

**(2) Certification**

A recordkeeper may be certified as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established under the program or after negotiating an alternative program suited to the needs of the recordkeeper and the Customs Service. Certification requirements shall take into account the size and nature of the importing business and the volume of imports. In order to be certified, the recordkeeper must be able to demonstrate that it—

(A) understands the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the time periods involved;

(B) has in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance, and production of required records;

(C) has in place procedures regarding the preparation and maintenance of required records, and the production of such records to the Customs Service;

(D) has designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program and whose duties include maintaining familiarity with the recordkeeping requirements of the Customs Service;

(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternative records or recordkeeping formats other than the original records; and

(F) has procedures for notifying the Customs Service of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or the negotiated alternative programs, and for taking corrective action when notified by the Customs Service of violations or problems regarding such program.

**(g) Penalties**

**(1) "Information" defined**

For purposes of this subsection, the term "information" means any record, statement, declaration, document, or electronically stored or transmitted information or data referred to in subsection (a)(1)(A) of this section.

**(2) Effects of failure to comply with demand**

Except as provided in paragraph (4), if a person fails to comply with a lawful demand for information under subsection (a)(1)(A) of this section the following provisions apply:

(A) If the failure to comply is a result of the willful failure of the person to maintain,

store, or retrieve the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed \$100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

(B) If the failure to comply is a result of the negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed \$10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

(C) In addition to any penalty imposed under subparagraph (A) or (B) regarding demanded information, if such information related to the eligibility of merchandise for a column 1 special rate of duty under title I, the entry of such merchandise—

(i) if unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

(ii) if liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in section 1514 or 1520 of this title, at the applicable column 1 general rate of duty;

except that any liquidation or reliquidation under clause (i) or (ii) shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

### (3) Avoidance of penalty

No penalty may be assessed under this subsection if the person can show—

(A) that the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

(B) on the basis of other evidence satisfactory to the Customs Service, that the demand was substantially complied with; or

(C) the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand.

### (4) Penalties not exclusive

Any penalty imposed under this subsection shall be in addition to any other penalty provided by law except for—

(A) a penalty imposed under section 1592 of this title for a material omission of the demanded information, or

(B) disciplinary action taken under section 1641 of this title.

### (5) Remission or mitigation

A penalty imposed under this section may be remitted or mitigated under section 1618 of this title.

### (6) Customs summons

Nothing in this subsection shall limit or preclude the Customs Service from issuing, or seeking the enforcement of, a customs summons.

### (7) Alternatives to penalties

#### (A) In general

When a recordkeeper who—

(i) has been certified as a participant in the recordkeeping compliance program under subsection (f) of this section; and

(ii) is generally in compliance with the appropriate procedures and requirements of the program;

does not produce a demanded record or information for a specific release or provide the information by acceptable alternative means, the Customs Service, in the absence of willfulness or repeated violations, shall issue a written notice of the violation to the recordkeeper in lieu of a monetary penalty. Repeated violations by the recordkeeper may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

#### (B) Contents of notice

A notice of violation issued under subparagraph (A) shall—

(i) state that the recordkeeper has violated the recordkeeping requirements;

(ii) indicate the record or information which was demanded; and

(iii) warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties.

#### (C) Response to notice

Within a reasonable time after receiving written notice under subparagraph (A), the recordkeeper shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

#### (D) Regulations

The Secretary shall promulgate regulations to implement this paragraph. Such regulations may specify the time periods for compliance with a demand for information and provide guidelines which define repeated violations for purposes of this paragraph. Any penalty issued for a recordkeeping violation shall take into account the degree of compliance compared to the total number of importations, the nature of the demanded records and the recordkeeper's cooperation.

(June 17, 1930, ch. 497, title IV, § 509, 46 Stat. 733; June 25, 1948, ch. 646, § 26, 62 Stat. 990; Pub. L. 91-271, title III, § 301(n), June 2, 1970, 84 Stat. 289; Pub. L. 95-410, title I, § 105, Oct. 3, 1978, 92 Stat. 889; Pub. L. 99-570, title III, § 3117, Oct. 27, 1986, 100 Stat. 3207-84; Pub. L. 103-182, title II, § 205(b), title VI, § 615, Dec. 8, 1993, 107 Stat. 2094, 2175; Pub. L. 104-295, § 3(a)(1), (10), Oct. 11, 1996, 110 Stat. 3515, 3516; Pub. L. 107-210, div. A, title III, § 382, Aug. 6, 2002, 116 Stat. 992.)

#### REFERENCES IN TEXT

Title I, referred to in subsec. (g)(2)(C), means title I of act June 17, 1930, ch. 497, as amended, which contains the Harmonized Tariff Schedule of the United States and which is not set out in the Code. See notes preceding section 1202 of this title and Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

#### PRIOR PROVISIONS

Provisions substantially the same, in most respects, as those in this section, were contained in act Oct. 3,

1913, ch. 16, § III, O, 38 Stat. 188, which substantially reenacted the provisions of Customs Administrative Act of June 10, 1890, ch. 407, § 16, 26 Stat. 138, as renumbered and reenacted without other change by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 100. Section III of the 1913 act was superseded and more closely assimilated to this section by act Sept. 21, 1922, ch. 356, title IV, § 508, 42 Stat. 968, and repealed by section 643 thereof. Section 508 of the 1922 act was superseded by section 509 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions similar to those in this section and section 1510 of this title were made by R.S. §§ 2922–2924, repealed by section 29 of the Customs Administrative Act of 1890, 26 Stat. 141.

#### AMENDMENTS

2002—Subsec. (b)(6). Pub. L. 107–210 added par. (6).

1996—Subsec. (a)(2). Pub. L. 104–295, § 3(a)(1), substituted “(d)(1)(A)” for “(c)(1)(A)” in concluding provisions.

Subsec. (b)(3), (4). Pub. L. 104–295, § 3(a)(10), substituted “officer designated pursuant to regulations” for “appropriate regional commissioner”.

1993—Subsec. (a). Pub. L. 103–182, § 615(1)(A), substituted “, fees and taxes” for “and taxes” in two places in introductory provisions.

Subsec. (a)(1). Pub. L. 103–182, § 615(1)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “examine, or cause to be examined, upon reasonable notice, any record, statement, declaration or other document, described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry;”.

Subsec. (a)(2)(A). Pub. L. 103–182, § 615(1)(C), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the person who imported, or knowingly caused to be imported, merchandise into the customs territory of the United States.”. See Construction of 1993 Amendment note below.

Subsec. (a)(2)(A)(ii). Pub. L. 103–182, § 205(b), amended generally cl. (ii), as amended by Pub. L. 103–182, § 615(1)(C). Prior to amendment, cl. (ii) read as follows: “exported merchandise, or knowingly caused merchandise to be exported, to Canada.”. See Construction of 1993 Amendment note below.

Subsec. (a)(2)(B), (C). Pub. L. 103–182, § 615(1)(C), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

“(B) any officer, employee, or agent of such person,  
“(C) any person having possession, custody, or care of records relating to such importation, or”.

Subsec. (a)(2)(D). Pub. L. 103–182, § 615(1)(D), substituted a semicolon for comma at end.

Subsecs. (b), (c). Pub. L. 103–182, § 615(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 103–182, § 615(2), redesignated subsec. (c) as (d).

Subsec. (d)(1)(A). Pub. L. 103–182, § 615(4)(A), substituted “those” for “statements, declarations, or documents” in introductory provisions.

Subsec. (d)(1)(C)(i). Pub. L. 103–182, § 615(4)(B), inserted “, unless such customhouse broker is the importer of record on an entry” after “broker”.

Subsec. (d)(2)(B). Pub. L. 103–182, § 615(4)(C), (D), substituted “the transactions described in section 1508 of this title” for “the import transactions”.

Subsec. (d)(4)(A). Pub. L. 103–182, § 615(4)(E), inserted “, fees,” after “duties”.

Subsec. (d)(4)(B). Pub. L. 103–182, § 615(4)(C), (D), substituted “the transactions described in section 1508 of this title” for “the import transactions”.

Subsecs. (e) to (g). Pub. L. 103–182, § 615(5), added subsecs. (e) to (g).

1986—Subsec. (a)(2). Pub. L. 99–570, § 3117(1), substituted “as defined in subsection (c)(1)(A) of this section” for “required to be kept under section 1508 of this title” in concluding provisions.

Subsec. (c)(1)(A). Pub. L. 99–570, § 3117(2), amended subpar. (A) generally. Prior to amendment, subpar. (A)

read as follows: “The term ‘records’ includes statements, declarations, or documents required to be kept under section 1508 of this title.”

1978—Pub. L. 95–410 substituted subsec. (a) to (c) provisions for examination of books and witnesses for prior provisions for examination of importer and others, which authorized appropriate customs officers to issue citations for examination under oath of any owner, importer, consignee, agent, or other person upon any material matter or thing respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty and to require production of any letters, accounts, contracts, invoices, or other documents relating to the merchandise, and the reduction of the testimony to writing, required the testimony to be filed and preserved under Customs Court rules, and authorized consideration of the evidence in subsequent proceedings relating to the merchandise.

1970—Pub. L. 91–271 substituted “Appropriate customs officer” for “Collectors and appraisers”.

1948—Act June 25, 1948, struck out “and judges and divisions of the United States Customs Court” after “Collectors and appraisers” in first sentence.

#### 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 1996 AMENDMENT

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

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 205(b) 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.

#### 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 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

#### CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 205(b) of Pub. L. 103–182 to be made after amendment by section 615 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.

## § 1510. Judicial enforcement

### (a) Order of court

If any person summoned under section 1509 of this title does not comply with the summons,

the district court of the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to comply with the summons. Failure to obey such order of the court may be punished by such court as a contempt thereof and such court may assess a monetary penalty.

**(b) Sanctions**

(1) For so long as any person, after being adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 1509 of this title and for refusing to obey the order of the court, remains in contempt, the Secretary may—

(A) prohibit that person from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and

(B) instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by that person or for his account.

(2) If any person remains in contempt for more than one year after the date on which the Secretary issues instructions under paragraph (1)(B) with respect to that person, the appropriate customs officers shall cause all merchandise held in customs custody pursuant to such instructions to be sold at public auction or otherwise disposed of under the customs laws.

(3) The sanctions which may be imposed under paragraphs (1) and (2) are in addition to any punishment which may be imposed by the court for contempt.

(June 17, 1930, ch. 497, title IV, §510, 46 Stat. 733; Pub. L. 91-271, title III, §301(o), June 2, 1970, 84 Stat. 290; Pub. L. 95-410, title I, §106, Oct. 3, 1978, 92 Stat. 891; Pub. L. 103-182, title VI, §616, Dec. 8, 1993, 107 Stat. 2179.)

PRIOR PROVISIONS

Provisions substantially the same as those in this section were contained in act Oct. 3, 1913, ch. 16, §III, P, 38 Stat. 188, which substantially reenacted the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, §17, 26 Stat. 139, as renumbered and reenacted without other change by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §23, 36 Stat. 100. Section III, P, of the 1913 act was superseded by act Sept. 21, 1922, ch. 356, title IV, §509, 42 Stat. 968, and repealed by section 643 thereof. Section 509 of the 1922 act was superseded by section 510 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions similar to those in this section were contained in R.S. §§2923, 2924, prior to repeal by section 29 of the Customs Administrative Act of June 10, 1890, 26 Stat. 141.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-182 inserted before period at end “and such court may assess a monetary penalty”.

1978—Pub. L. 95-410 substituted judicial enforcement provisions covering court order for compliance with administrative summonses and imposition of specified sanctions for prior provisions covering imposition of penalties for refusal to give testimony, including provision for a penalty of not less than \$20 nor more than \$500 for refusing to appear or to produce documents or to subscribe his name to a deposition or refusing to an-

swer interrogatories; deeming the last made appraisal of the merchandise as final where an owner, importer, or consignee failed to comply with the examination provisions; deeming the person falsely swearing on an examination guilty of perjury; and forfeiture of the merchandise where the person was an owner, importer, or consignee, or the recovery of its value from him.

1970—Pub. L. 91-271 substituted references to appropriate customs officer for references to collector or appraiser wherever appearing, and struck out references to divisions of United States Customs Court.

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.

**§ 1511. Repealed. Pub. L. 95-410, title I, § 107, Oct. 3, 1978, 92 Stat. 892**

Section, acts June 17, 1930, ch. 497, title IV, §511, 46 Stat. 733; June 2, 1970, Pub. L. 91-271, title III, §301(p), 84 Stat. 290, provided for inspection of importer's books. See sections 1508-1510 of this title.

Provisions similar to those in this section were contained in act May 27, 1921, ch. 14, §405, 42 Stat. 18, which was superseded by act Sept. 21, 1922, ch. 356, title IV, §511, 42 Stat. 969. Section 511 of the 1922 act was superseded by section 511 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Earlier provisions for assessment of additional duty for failure or refusal of persons importing merchandise or dealing in imported merchandise to submit their books, records, etc., to inspection, were contained in act Oct. 3, 1913, ch. 16, §III, V, 38 Stat. 190, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989.

**§ 1512. Deposit of duty receipts**

All moneys paid to any customs officer for unascertained duties or for duties paid under protest against the rate or amount of duties charged shall be deposited to the credit of the Treasurer of the United States and shall not be held by the customs officers to await any ascertainment of duties or the result of any litigation in relation to the rate or amount of duties legally chargeable and collectible in any case where money is so paid.

(June 17, 1930, ch. 497, title IV, §512, 46 Stat. 734; Pub. L. 91-271, title III, §301(q), June 2, 1970, 84 Stat. 290.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §3010, which was superseded by act Sept. 21, 1922, ch. 356, title IV, §512, 42 Stat. 969, and was repealed by section 642 thereof. Section 512 of the 1922 act was superseded by section 512 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91-271 substituted references to customs officers for references to collectors wherever appearing.

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.

**§ 1513. Customs officer's immunity**

No customs officer shall be liable in any way to any person for or on account of—

(1) any ruling or decision regarding the appraisal or the classification of any im-

ported merchandise or regarding the duties, fees, and taxes charged thereon,

(2) the collection of any dues, charges, duties, fees, and taxes on or on account of any imported merchandise, or

(3) any other matter or thing as to which any person might under this chapter be entitled to protest or appeal from the decision of such officer.

(June 17, 1930, ch. 497, title IV, §513, 46 Stat. 734; Pub. L. 91-271, title III, §301(r), June 2, 1970, 84 Stat. 290; Pub. L. 103-182, title VI, §644, Dec. 8, 1993, 107 Stat. 2206.)

#### PRIOR PROVISIONS

Provisions substantially the same as those in this section, except that they did not specifically refer to rulings or decisions as to appraisement, were contained in act Oct. 3, 1913, ch. 16, §III, Z, 38 Stat. 191, which reenacted without change the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, §25, 26 Stat. 141, as reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 103. Section III, Z, of the 1913 act was superseded and more closely assimilated to this section by act Sept. 21, 1922, ch. 356, title IV, §513, 42 Stat. 969, and repealed by section 643 thereof. Section 513 of the 1922 act was superseded by section 513 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

#### AMENDMENTS

1993—Pub. L. 103-182 amended section generally. Prior to amendment, section read as follows: “No customs officer shall be in any way liable to any owner, importer, consignee, or agent or any other person for or on account of any rulings or decisions as to the appraisement or the classification of any imported merchandise or the duties charged thereon, or the collection of any dues, charges, or duties on or on account of said merchandise, or any other matter or thing as to which said owner, importer, consignee, or agent might under this chapter be entitled to protest or appeal from the decision of such officer.”

1970—Pub. L. 91-271 substituted “customs officer” for “collector or other customs officer” and “such officer” for “such collector or other officer”.

#### 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.

### § 1514. Protest against decisions of Customs Service

#### (a) Finality of decisions; return of papers

Except as provided in subsection (b) of this section, section 1501 of this title (relating to voluntary reliquidations), section 1516 of this title (relating to petitions by domestic interested parties), section 1520 of this title (relating to refunds), and section 6501 of title 26 (but only with respect to taxes imposed under chapters 51 and 52 of such title), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and, decisions of the Customs Service, including the legality of all orders and findings entering into the same, as to—

- (1) the appraised value of merchandise;
- (2) the classification and rate and amount of duties chargeable;

(3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;

(4) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody under any provision of the customs laws, except a determination appealable under section 1337 of this title;

(5) the liquidation or reliquidation of an entry, or reconciliation as to the issues contained therein, or any modification thereof, including the liquidation of an entry, pursuant to either section 1500 of this title or section 1504 of this title;

(6) the refusal to pay a claim for drawback;

or

(7) the refusal to reliquidate an entry under subsection (d) of section 1520 of this title;

shall be final and conclusive upon all persons (including the United States and any officer thereof) unless a protest is filed in accordance with this section, or unless a civil action contesting the denial of a protest, in whole or in part, is commenced in the United States Court of International Trade in accordance with chapter 169 of title 28 within the time prescribed by section 2636 of that title. When a judgment or order of the United States Court of International Trade has become final, the papers transmitted shall be returned, together with a copy of the judgment or order to the Customs Service, which shall take action accordingly.

#### (b) Finality of determinations

With respect to determinations made under section 1303<sup>1</sup> of this title or subtitle IV of this chapter which are reviewable under section 1516a of this title, determinations of the Customs Service are final and conclusive upon all persons (including the United States and any officer thereof) unless a civil action contesting a determination listed in section 1516a of this title is commenced in the United States Court of International Trade, or review by a binational panel of a determination to which section 1516a(g)(2) of this title applies is commenced pursuant to section 1516a(g) of this title and article 1904 of the North American Free Trade Agreement or the United States-Canada Free-Trade Agreement.

#### (c) Form, number, and amendment of protest; filing of protest

(1) A protest of a decision made under subsection (a) of this section shall be filed in writing, or transmitted electronically pursuant to an electronic data interchange system, in accordance with regulations prescribed by the Secretary. A protest must set forth distinctly and specifically—

(A) each decision described in subsection (a) of this section as to which protest is made;

(B) each category of merchandise affected by each decision set forth under paragraph (1);

(C) the nature of each objection and the reasons therefor; and

(D) any other matter required by the Secretary by regulation.

Only one protest may be filed for each entry of merchandise, except that where the entry covers

<sup>1</sup> See References in Text note below.

merchandise of different categories, a separate protest may be filed for each category. In addition, separate protests filed by different authorized persons with respect to any one category of merchandise, or with respect to a determination of origin under section 3332 of this title, that is the subject of a protest are deemed to be part of a single protest. Unless a request for accelerated disposition is filed under section 1515(b) of this title, a protest may be amended, under regulations prescribed by the Secretary, to set forth objections as to a decision or decisions described in subsection (a) of this section which were not the subject of the original protest, in the form and manner prescribed for a protest, any time prior to the expiration of the time in which such protest could have been filed under this section. New grounds in support of objections raised by a valid protest or amendment thereto may be presented for consideration in connection with the review of such protest pursuant to section 1515 of this title at any time prior to the disposition of the protest in accordance with that section.

(2) Except as provided in sections 1485(d) and 1557(b) of this title, protests may be filed with respect to merchandise which is the subject of a decision specified in subsection (a) of this section by—

(A) the importers or consignees shown on the entry papers, or their sureties;

(B) any person paying any charge or exaction;

(C) any person seeking entry or delivery;

(D) any person filing a claim for drawback;

(E) with respect to a determination of origin under section 3332 of this title, any exporter or producer of the merchandise subject to that determination, if the exporter or producer completed and signed a NAFTA Certificate of Origin covering the merchandise; or

(F) any authorized agent of any of the persons described in clauses (A) through (E).

(3) A protest of a decision, order, or finding described in subsection (a) of this section shall be filed with the Customs Service within 180 days after but not before—

(A) date of liquidation or reliquidation, or

(B) in circumstances where subparagraph (A) is inapplicable, the date of the decision as to which protest is made.

A protest by a surety which has an unsatisfied legal claim under its bond may be filed within 180 days from the date of mailing of notice of demand for payment against its bond. If another party has not filed a timely protest, the surety's protest shall certify that it is not being filed collusively to extend another authorized person's time to protest as specified in this subsection.

**(d) Limitation on protest of reliquidation**

The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the Customs Service upon any question not involved in such reliquidation.

**(e) Advance notice of certain determinations**

Except as provided in subsection (f) of this section, an exporter or producer referred to in subsection (c)(2)(E) of this section shall be provided notice in advance of an adverse determination of

origin under section 3332 of this title. The Secretary may, by regulations, prescribe the time period in which such advance notice shall be issued and authorize the Customs Service to provide in the notice the entry number and any other entry information considered necessary to allow the exporter or producer to exercise the rights provided by this section.

**(f) Denial of preferential treatment**

If the Customs Service finds indications of a pattern of conduct by an exporter or producer of false or unsupported representations that goods qualify under the rules of origin set out in section 3332 of this title—

(1) the Customs Service, in accordance with regulations issued by the Secretary, may deny preferential tariff treatment to entries of identical goods exported or produced by that person; and

(2) the advance notice requirement in subsection (e) of this section shall not apply to that person;

until the person establishes to the satisfaction of the Customs Service that its representations are in conformity with section 3332 of this title.

**(g) Denial of preferential tariff treatment under United States-Chile Free Trade Agreement**

If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds indications of a pattern of conduct by an importer of false or unsupported representations that goods qualify under the rules of origin set out in section 202 of the United States-Chile Free Trade Agreement Implementation Act, the Bureau of Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may deny preferential tariff treatment under the United States-Chile Free Trade Agreement to entries of identical goods imported by that person until the person establishes to the satisfaction of the Bureau of Customs and Border Protection that representations of that person are in conformity with such section 202.

**(h) Denial of preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement**

If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin set out in section 4033 of this title, the Bureau of Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until the Bureau of Customs and Border Protection determines that representations of that person are in conformity with such section 4033 of this title.

**(i) Denial of preferential tariff treatment under the United States-Peru Trade Promotion Agreement**

If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the

Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the United States-Peru Trade Promotion Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 203.

(June 17, 1930, ch. 497, title IV, § 514, 46 Stat. 734; Pub. L. 91-271, title II, § 207, June 2, 1970, 84 Stat. 284; Pub. L. 96-39, title X, § 1001(b)(3), July 26, 1979, 93 Stat. 305; Pub. L. 96-417, title VI, §§ 601(5), 605, Oct. 10, 1980, 94 Stat. 1744; Pub. L. 98-573, title VI, § 612(b)(1), Oct. 30, 1984, 98 Stat. 3034; Pub. L. 99-514, title XVIII, § 1888(4), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-449, title IV, § 403(b), Sept. 28, 1988, 102 Stat. 1884; Pub. L. 103-182, title II, § 208, title IV, § 412(a), title VI, § 645, Dec. 8, 1993, 107 Stat. 2097, 2146, 2206; Pub. L. 104-295, § 21(e)(7), Oct. 11, 1996, 110 Stat. 3531; Pub. L. 106-36, title II, § 2408(b), June 25, 1999, 113 Stat. 171; Pub. L. 108-77, title II, § 205(b), Sept. 3, 2003, 117 Stat. 931; Pub. L. 108-429, title II, § 2103, Dec. 3, 2004, 118 Stat. 2597; Pub. L. 109-53, title II, § 206(b), Aug. 2, 2005, 119 Stat. 484; Pub. L. 109-280, title XIV, § 1635(f)(7), Aug. 17, 2006, 120 Stat. 1171; Pub. L. 110-138, title II, § 205(b), Dec. 14, 2007, 121 Stat. 1476; Pub. L. 111-3, title VII, § 702(c)(1), Feb. 4, 2009, 123 Stat. 110.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 107(c) of Pub. L. 110-138, see Effective and Termination Dates of 2007 Amendment note below.*

*For termination of amendment by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates of 2005 Amendment note below.*

*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 1303 of this title, referred to in subsec. (b), is defined in section 1677(26) of this title to mean section 1303 as in effect on the day before Jan. 1, 1995.

Section 202 of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsec. (g), is section 202 of Pub. L. 108-77, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, referred to in subsec. (i), is section 203 of Pub. L. 110-138, which is set out in a note under section 3805 of this title.

#### CODIFICATION

Section was formerly classified to former section 579 of this title subsequent to its classification to section 784 of title 28 prior to the general revision and enactment of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 464, § 1, 62 Stat. 869.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 514, 42

Stat. 969. That section was superseded by section 514 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions that the decision of the collector as to duties, including dutiable costs and charges, and as to all fees and exactions, should be final and conclusive unless a protest was filed within 30 days after ascertainment and liquidation of duties, or within 15 days after payment of fees, charges and exactions, with further provisions as to fees, transmission of the papers to the Board of General Appraisers, etc., were contained in act Oct. 3, 1913, ch. 16, § III, N, 38 Stat. 187, the provisions of which were substituted for provisions of a similar nature in the Customs Administrative Act of June 10, 1890, ch. 407, § 14, 26 Stat. 137, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 100. Section III, N, of the 1913 act was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

Provisions relating to decisions of the collector, and appeals therefrom to the Secretary of the Treasury were contained in R.S. §§ 2931, 2932, prior to repeal by section 29 of the Customs Administrative Act, 26 Stat. 141.

#### AMENDMENTS

2009—Subsec. (a). Pub. L. 111-3, in introductory provisions, substituted “section 1520 of this title (relating to refunds), and section 6501 of title 26 (but only with respect to taxes imposed under chapters 51 and 52 of such title)” for “and section 1520 of this title (relating to refunds)”.

2007—Subsec. (i). Pub. L. 110-138, §§ 107(c), 205(b), temporarily added subsec. (i). See Effective and Termination Dates of 2007 Amendment note below.

2006—Subsec. (c)(3). Pub. L. 109-280 realigned margins of concluding provisions.

2005—Subsec. (h). Pub. L. 109-53, §§ 107(d), 206(b), temporarily added subsec. (h). See Effective and Termination Dates of 2005 Amendment note below.

2004—Subsec. (a). Pub. L. 108-429, § 2103(1)(A), substituted “(relating to refunds), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and” for “(relating to refunds and errors)” in introductory provisions.

Subsec. (a)(5). Pub. L. 108-429, § 2103(1)(B), inserted “, including the liquidation of an entry, pursuant to either section 1500 of this title or section 1504 of this title” after “thereof”.

Subsec. (a)(7). Pub. L. 108-429, § 2103(1)(C), struck out “(c) or” after “subsection”.

Subsec. (c)(1). Pub. L. 108-429, § 2103(2)(A), which directed substitution of “Unless a request for accelerated disposition is filed under section 1515(b) of this title, a protest may be amended,” for “A protest may be amended,” in the sixth sentence, was executed by making the substitution in the fifth sentence, to reflect the probable intent of Congress.

Subsec. (c)(3). Pub. L. 108-429, § 2103(2)(B)(i), (iii), substituted “180 days” for “ninety days” in introductory provisions and “180 days” for “90 days” in concluding provisions.

Subsec. (c)(3)(A). Pub. L. 108-429, § 2103(2)(B)(ii), substituted “date of” for “notice of”.

2003—Subsec. (g). Pub. L. 108-77, §§ 107(c), 205(b), temporarily added subsec. (g). See Effective and Termination Dates of 2003 Amendment note below.

1999—Subsec. (a)(7). Pub. L. 106-36 substituted “subsection (c) or (d) of section 1520” for “section 1520(c)”.

1996—Subsec. (a). Pub. L. 104-295 substituted “and section 1520 of this title (relating to refunds and errors)” for “section 1520 of this title (relating to refunds and errors), and section 1521 of this title (relating to reliquidations on account of fraud)”.

1993—Pub. L. 103-182, § 645(7), amended section catchline generally.

Subsec. (a). Pub. L. 103-182, § 645(1), in introductory provisions, substituted “Customs Service” for “appropriate customs officer”, in par. (5), inserted “or rec-

conciliation as to the issues contained therein,” after “entry,” in par. (6), substituted “or” for “and” at end, in par. (7), substituted a semicolon for the comma at end, and in concluding provisions, substituted “Customs Service, which” for “appropriate customs officer, who”.

Subsec. (b). Pub. L. 103-182, §645(2), substituted “Customs Service” for “appropriate customs officer”.

Pub. L. 103-182, §412(a), inserted “the North American Free Trade Agreement or” before “the United States-Canada Free-Trade Agreement”.

Subsec. (c)(1). Pub. L. 103-182, §208(1), inserted in fourth sentence “, or with respect to a determination of origin under section 3332 of this title,” after “with respect to any one category of merchandise”. See Construction of 1993 Amendment note below.

Pub. L. 103-182, §645(3), substituted first two sentences, including subpars. (A) to (D), for former first sentence which read as follows: “A protest of a decision under subsection (a) of this section shall be filed in writing with the appropriate customs officer designated in regulations prescribed by the Secretary, setting forth distinctly and specifically each decision described in subsection (a) of this section as to which protest is made; each category of merchandise affected by each such decision as to which protest is made; and the nature of each objection and reasons therefor.” See Construction of 1993 Amendment note below.

Subsec. (c)(2). Pub. L. 103-182, §208(2), added subpar. (E) and redesignated former subpar. (E) as (F) and substituted “clauses (A) through (E)” for “clauses (A) through (D)”. See Construction of 1993 Amendment note below.

Pub. L. 103-182, §645(5), designated last sentence of par. (1) as par. (2). Former par. (2) redesignated (3). See Construction of 1993 Amendment note below.

Subsec. (c)(3). Pub. L. 103-182, §645(4), redesignated par. (2) as (3) and substituted “the Customs Service” for “such customs officer” in introductory provisions.

Subsec. (d). Pub. L. 103-182, §645(6), substituted “Customs Service” for “customs officer”.

Subsecs. (e), (f). Pub. L. 103-182, §208(3), added subsecs. (e) and (f).

1988—Subsec. (b). Pub. L. 100-449 inserted “, or review by a binational panel of a determination to which section 1516a(g)(2) of this title applies is commenced pursuant to section 1516a(g) of this title and article 1904 of the United States-Canada Free-Trade Agreement” before period at end.

1986—Subsec. (a). Pub. L. 99-514 struck out “as defined in section 1677(9)(C), (D), (E), and (F) of this title” after “domestic interested parties”.

1984—Subsec. (a). Pub. L. 98-573 substituted “section 1677(9)(C), (D), (E), and (F) of this title” for “section 1677(9)(C), (D), and (E) of this title” in provisions preceding par. (1).

1980—Subsec. (a). Pub. L. 96-417, §§601(5), 605, redesignated the United States Customs Court as the United States Court of International Trade, inserted in item (4) provision for decisions as to a demand for redelivery to customs custody and the phrase “, except a determination appealable under section 1337 of this title” and substituted provision for contesting denial of a protest in accordance with chapter 169 of title 28 within the time prescribed by section 2636 of that title for provision for such contest in accordance with section 2632 of title 28 within the time prescribed by section 2631 of that title.

Subsec. (b). Pub. L. 96-417, §601(5), redesignated the United States Customs Court as the United States Court of International Trade.

1979—Subsec. (a). Pub. L. 96-39, §1001(b)(3)(A), (B), inserted reference to subsection (b) of this section and substituted “section 1516 of this title (relating to petitions by domestic interested parties as defined in section 1677(9)(C), (D), and (E) of this title)” for “section 1516 of this title (relating to petitions by American manufacturers, producers, and wholesalers)” in provisions preceding par. (1).

Subsec. (b). Pub. L. 96-39, §1001(b)(3)(D), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c)(1). Pub. L. 96-39, §1001(b)(3)(C), (E), redesignated former subsec. (b)(1) as (c)(1) and substituted provisions that, except as provided in sections 1485(d) and 1557(b) of this title, protests may be filed by importers or consignees or their sureties, persons paying a charge or exaction, persons seeking entry or delivery, persons filing a claim for drawback, and authorized agents of such persons for provisions that, except as otherwise provided in section 1557(b) of this title, protests could be filed only by importers, consignees, or the authorized agents of persons paying any charges, or exactions, persons filing claims for drawback, or persons seeking entry or delivery.

Subsec. (c)(2). Pub. L. 96-39, §1001(b)(3)(C), (F), redesignated former subsec. (b)(2) as (c)(2) and inserted provision that a protest by a surety which has an unsatisfied legal claim under its bond may be filed within 90 days from the date of mailing of notice of demand for payment against its bond and that, if another party has not filed a timely protest, the surety’s protest shall certify that it is not being filed collusively to extend another authorized person’s time to protest as specified in this subsection.

Subsec. (d). Pub. L. 96-39, §1001(b)(3)(C), redesignated former subsec. (c) as (d).

1970—Pub. L. 91-271 designated existing provisions as subsec. (a), expanded references to sections excepted from application of this section, substituted decisions of the appropriate customs officer for all decisions of the collector as deemed to be final and conclusive, reorganized the categories of decisions and findings subject to such finality and conclusiveness, and revised the procedures for filing of protests, and added subsecs. (b) and (c).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 3 of Pub. L. 111-3, set out as an Effective Date note under section 1396 of Title 42, The Public Health and Welfare.

Pub. L. 111-3, title VII, §702(c)(2), Feb. 4, 2009, 123 Stat. 110, provided that: “The amendment made by this subsection [amending this section] shall apply to articles imported after the date of the enactment of this Act [Feb. 4, 2009].”

#### EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110-138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

#### EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see

section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

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 1999 AMENDMENT

Pub. L. 106-36, title II, §2408(c), June 25, 1999, 113 Stat. 171, provided that: "The amendments made by this section [amending this section and section 1520 of this title] 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 [June 25, 1999]."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 208 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.

Amendment by section 412(a) 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], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of this title, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada or Mexico before such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or to any extraordinary challenge arising out of any such review, that was commenced before such date, see section 416 of Pub. L. 103-182, set out as an Effective Date note under section 3431 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 applicable with respect to investigations initiated by petition or by the administering authority under parts I and II of subtitle IV of this chapter, and to reviews begun under section 1675 of this title, on or after Oct. 30, 1984, see section 626(b)(1) of Pub. L. 98-573, as amended, set out as a note under section 1671 of this title.

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 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96-39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

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.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 208 of Pub. L. 103-182 to be made after amendment by section 645 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 Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(D), 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.

EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103-182, see section 3451 of this title.

INCONSISTENT DECISIONS OF CUSTOMS OFFICERS

Pub. L. 100-690, title VII, §7361(c), Nov. 18, 1988, 102 Stat. 4474, provided that:

"(1) The Secretary of the Treasury shall prescribe regulations that—

"(A) effect uniformity in—

"(i) decisions described in section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) that are made by customs officers with respect to the same, or substantially similar, merchandise, and

"(ii) decisions to conduct intensified inspections or examinations of merchandise at ports of entry, and

"(B) establish procedures that allow individuals described in section 514(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1514(c)(1)), any port authority, and any other interested party (within the meaning of section 516(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516(a)(2))) to petition the Secretary to obtain such uniformity in an expedited and timely fashion.

"(2) The Secretary of the Treasury shall publish in the Federal Register and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the proposed and final form of the regulations prescribed under paragraph (1) and shall receive and consider comments from the public regarding the proposed form of such regulations during the 60-day period beginning on the date the proposed form of such regulations are published in the Federal Register.

"(3) The regulations prescribed under paragraph (1) shall take effect by no later than April 1, 1989.

"(4) By no later than September 1, 1989, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the effectiveness of the regulations prescribed under paragraph (1) and recommendations for permanent legislation addressing uniformity."

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, set out as a note under section 401 of Title 26, Internal Revenue Code.

### § 1515. Review of protests

#### (a) Administrative review and modification of decisions

Unless a request for an accelerated disposition of a protest is filed in accordance with subsection (b) of this section the appropriate customs officer, within two years from the date a protest was filed in accordance with section 1514 of this title, shall review the protest and shall allow or deny such protest in whole or in part. Thereafter, any duties, charge, or exaction found to have been assessed or collected in excess shall be remitted or refunded and any drawback found due shall be paid. Upon the request of the protesting party, filed within the time allowed for the filing of a protest under section 1514 of this title, a protest may be subject to further review by another appropriate customs officer, under the circumstances and in the form and manner that may be prescribed by the Secretary in regulations, but subject to the two-year limitation prescribed in the first sentence of this subsection. Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary. Such notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of his right to file a civil action contesting the denial of a protest under section 1514 of this title.

#### (b) Request for accelerated disposition of protest

A request for accelerated disposition of a protest filed in accordance with section 1514 of this title may be mailed by certified or registered mail to the appropriate customs officer any time concurrent with or following the filing of such protest. For purposes of section 1581 of title 28, a protest which has not been allowed or denied in whole or in part within thirty days following the date of mailing by certified or registered mail of a request for accelerated disposition shall be deemed denied on the thirtieth day following mailing of such request.

#### (c) Request for set aside of denial of further review

If a protesting party believes that an application for further review was erroneously or improperly denied or was denied without authority for such action, it may file with the Commissioner of Customs a written request that the denial of the application for further review be set aside. Such request must be filed within 60 days after the date of the notice of the denial. The Commissioner of Customs may review such request and, based solely on the information before the Customs Service at the time the application for further review was denied, may set aside the denial of the application for further review and void the denial of protest, if appro-

priate. If the Commissioner of Customs fails to act within 60 days after the date of the request, the request shall be considered denied. All denials of protests are effective from the date of original denial for purposes of section 2636 of title 28. If an action is commenced in the Court of International Trade that arises out of a protest or an application for further review, all administrative action pertaining to such protest or application shall terminate and any administrative action taken subsequent to the commencement of the action is null and void.

#### (d) Voiding denial of protest

If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate port director within 90 days after the date of the protest denial, void the denial of the protest.

(June 17, 1930, ch. 497, title IV, §515, 46 Stat. 734; Pub. L. 91-271, title II, §208, June 2, 1970, 84 Stat. 285; Pub. L. 96-39, title X, §1001(b)(2), July 26, 1979, 93 Stat. 304; Pub. L. 96-417, title VI, §606, Oct. 10, 1980, 94 Stat. 1745; Pub. L. 103-182, title VI, §617, Dec. 8, 1993, 107 Stat. 2179; Pub. L. 104-295, §3(a)(11), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 106-36, title II, §2407, June 25, 1999, 113 Stat. 171; Pub. L. 108-429, title II, §2104, Dec. 3, 2004, 118 Stat. 2598.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §515, 42 Stat. 970. That section was superseded by section 515 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for transmission of the invoice, papers, and exhibits to the board of general appraisers in case of protest, and provisions concerning the conclusiveness of its determination, were contained in act Oct. 3, 1913, ch. 16, §III, N, 38 Stat. 187, the provisions of which were substituted for provisions of a similar nature in Customs Administrative Act of June 10, 1890, ch. 407, §14, 26 Stat. 137, as amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 100.

#### AMENDMENTS

2004—Subsec. (b). Pub. L. 108-429 substituted “concurrent with or” for “after ninety days” in first sentence.

1999—Subsec. (a). Pub. L. 106-36 inserted after third sentence “Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review.”

1996—Subsec. (d). Pub. L. 104-295 substituted “port director” for “district director”.

1993—Subsecs. (c) and (d). Pub. L. 103-182 added subsecs. (c) and (d).

1980—Subsec. (b). Pub. L. 96-417 substituted reference to section “1581” for “1582” of title 28.

1979—Subsec. (a). Pub. L. 96-39 required that notice of denial include a statement of reasons for denial, as well as a statement informing protesting party of his right to file a civil action contesting denial of a protest under section 1514 of this title.

1970—Pub. L. 91-271 designating existing provisions as subsec. (a), substituted provisions authorizing review by appropriate customs officer for provisions authorizing review by collector and revised such review procedures, and added subsec. (b).

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for con-

sumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

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

**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 1979 AMENDMENT**

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96-39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

**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 Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(D), 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.

**REVIEW OF PROTESTS IN IMPORT SURCHARGE CASES**

Pub. L. 93-618, title VI, §611, Jan. 3, 1975, 88 Stat. 2075, provided that: "Notwithstanding the provisions of section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515(a)), in the case of any protest under section 514 of such Act [section 1514 of this title] involving the imposition of an import surcharge in the form of a supplemental duty pursuant to Presidential Proclamation 4074, dated August 17, 1971 [set out as a note preceding section 1202 of this title], the time for review and allowing or denying the protest shall not expire until five years from the date the protest was filed in accordance with such section 514 [section 1514 of this title]."

**§ 1516. Petitions by domestic interested parties**

**(a) Request for classification and rate of duty; petition**

(1) The Secretary shall, upon written request by an interested party furnish the classification and the rate of duty imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by such interested party. If the interested party believes that the appraised value, the classification, or rate of duty is not correct, it may file a petition with the Secretary setting forth—

(A) a description of the merchandise,

(B) the appraised value, the classification, or the rate of duty that it believes proper, and  
(C) the reasons for its belief.

(2) As used in this section, the term "interested party" means a person who is—

(A) a manufacturer, producer, or wholesaler in the United States;

(B) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States; or

(C) a trade or business association a majority of whose members are manufacturers, producers, or wholesalers in the United States,

of goods of the same class or kind as the designated imported merchandise. Such term includes an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C).

(3) Any producer of a raw agricultural product who is considered under section 1677(4)(E) of this title to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.

**(b) Determination on petition**

If, after receipt and consideration of a petition filed by such an interested party, the Secretary determines that the appraised value, the classification, or rate of duty is not correct, he shall determine the proper appraised value, classification, or rate of duty and shall notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised, classified, or assessed as to the rate of duty in accordance with the Secretary's determination.

**(c) Contest by petitioner of appraised value, classification, or rate of duty**

If the Secretary determines that the appraised value, classification, or rate of duty with respect to which a petition was filed pursuant to subsection (a) of this section is correct, he shall notify the petitioner. If dissatisfied with the determination of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the notification, notice that it desires to contest the appraised value, classification, or rate of duty. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his determination as to the proper appraised value, classification, or rate of duty and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the determination of the Secretary, at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value, classification, or rate of duty imposed upon such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs

officer at such ports to immediately notify the petitioner by mail when the first of such entries is liquidated.

**(d) Appraisal, classification, and liquidation of entries of merchandise covered by published decisions of Secretary**

Notwithstanding the filing of an action pursuant to chapter 169 of title 28, merchandise of the character covered by the published decision of the Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.

**(e) Consignee or his agent as party in interest before the Court of International Trade**

The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Court of International Trade.

**(f) Appraisal, classification, and assessment of duty of merchandise covered by published decision of Secretary in accordance with final judicial decision of Court of International Trade or Court of Appeals for the Federal Circuit sustaining cause of action in whole or in part; suspension of liquidation of entries; publication**

If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, shall be subject to appraisal, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

**(g) Regulations implementing required procedures**

Regulations shall be prescribed by the Secretary to implement the procedures required under this section.

(June 17, 1930, ch. 497, title IV, § 516, 46 Stat. 735; June 25, 1938, ch. 679, § 17(a), 52 Stat. 1084; June 25, 1948, ch. 646, § 39, 62 Stat. 992; Pub. L. 91-271, title II, § 209, June 2, 1970, 84 Stat. 286; Pub. L. 93-618, title III, §§ 321(f)(1), 331(b), Jan. 3, 1975, 88 Stat. 2048, 2052; Pub. L. 96-39, title X, § 1001(b)(1),

July 26, 1979, 93 Stat. 303; Pub. L. 96-417, title VI, §§ 601(6), 607, Oct. 10, 1980, 94 Stat. 1744, 1745; Pub. L. 97-164, title I, § 163(a)(1), Apr. 2, 1982, 96 Stat. 49; Pub. L. 99-514, title XVIII, § 1888(5), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 100-418, title I, § 1326(d)(3), Aug. 23, 1988, 102 Stat. 1204.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 516, 42 Stat. 970. That section was superseded by section 516 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Application of subsection (b) of this section to complaints. Section 17(b) of act June 25, 1938, provided that: "(b) The provisions of subsection (b) of section 516 of the Tariff Act of 1930 [this section], as amended by this Act, shall apply only in the case of complaints filed after the effective date of this Act [see section 1653a of this title]. The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as in force prior to the effective date of this Act, shall continue in force with respect to any proceedings commenced by the filing of a complaint thereunder, except that upon the expiration of thirty days after the effective date of this Act, or upon the expiration of thirty days after the date of a decision of the Secretary adverse to the complainant, whichever is the later, any such proceedings in which a protest has not been duly filed shall be deemed to have been terminated unless the complainant shall have filed with the Secretary after the effective date of this Act a notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise."

AMENDMENTS

1988—Subsec. (a)(3). Pub. L. 100-418 added par. (3).

1986—Subsec. (a)(2). Pub. L. 99-514 inserted "Such term includes an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C)."

1982—Subsecs. (d), (f). Pub. L. 97-164 substituted "Court of Appeals for the Federal Circuit" for "Court of Customs and Patent Appeals".

1980—Subsec. (a). Pub. L. 96-417, § 607(a), designated existing provisions as par. (1), redesignated as subpars. (A), (B), and (C), former pars. (1), (2), and (3), struck out "(as defined in section 1677(9)(C), (D), and (E) of this title)" after "interested party", covered in par. (2), and added par. (2).

Subsec. (d). Pub. L. 96-417, §§ 601(6), 607(b), redesignated the United States Customs Court as the United States Court of International Trade and substituted reference to chapter 169 for section 2632 of title 28.

Subsecs. (e), (f). Pub. L. 96-417, § 601(6), redesignated the United States Customs Court as the United States Court of International Trade.

1979—Pub. L. 96-39 completely revised the section to provide an expedited process for judicial review of an appealable determination, expanded the size of the group of parties having standing to obtain review of an appealable determination, and, in the process, revised subsecs. (a), (b), and (c), redesignated former subsecs. (e), (f), (g), and (h) as (d), (e), (f), and (g), and struck out former subsec. (d) relating to the contest of the Secretary's determination that foreign merchandise was not being sold in the United States at less than fair value or that bounty or grant was not being paid.

1975—Subsec. (a). Pub. L. 93-618, § 331(b), inserted provisions relating to additional duty described in section 1303 of this title (to be known as "countervailing duties") and to special duty described in section 161 of this title (to be known as "antidumping duties").

Subsecs. (b), (c). Pub. L. 93-618, § 331(b), inserted provisions relating to countervailing duties and antidumping duties.

Subsecs. (d) to (h). Pub. L. 93-618, § 321(f)(1), added subsec. (d) and redesignated subsecs. (d) to (g) as (e) to (h), respectively.

1970—Subsec. (a). Pub. L. 91-271 substituted provisions requiring the Secretary to furnish to the American manufacturer, producer, or wholesaler the classification, and the rate of duty, if any, imposed upon designated imported merchandise, and provisions authorizing the American manufacturer, etc., to file a protest with the Secretary if the appraised value is too low, the classification is not correct, or the proper rate of duty is not being assessed, for provisions setting forth the procedure for the determination of a protest by an American manufacturer, producer, or wholesaler that the appraised value of any imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him is too low.

Subsec. (b). Pub. L. 91-271 substituted provisions authorizing the Secretary to determine the proper appraised value, classification, or rate of duty of the imported merchandise, and to notify the American manufacturer, producer, or wholesaler of his determination, for provision setting forth the procedure for the determination of a protest by an American manufacturer, producer, or wholesaler that the classification of, and the rate of duty, if any, is not proper.

Subsec. (c). Pub. L. 91-271 substituted provisions setting forth the procedure for the petitioner to contest the decisions of the Secretary with respect to a petition filed pursuant to subsec. (a) of this section, for provisions requiring the collector to mail to the consignee or his agent a copy of every appeal and every protest filed by an American manufacturer, producer, or wholesaler, and authorizing such consignee or his agent to appear and be heard as a party in interest before the Customs Court.

Subsecs. (d) to (g). Pub. L. 91-271 added subsecs. (d) to (g).

1948—Subsec. (b). Act June 25, 1948, repealed last sentence relating to procedure of proceeding over all other cases on Customs Court docket. See sections 2602 and 2638 of Title 28, Judiciary and Judicial Procedure.

Subsec. (c). Act June 25, 1948, repealed last sentence relating to finality of Customs Court's decision. See section 2637 of Title 28.

Subsec. (d). Act June 25, 1948, repealed subsec. (d) relating to inspection of documents. See section 2634 of Title 28.

1938—Subsec. (b). Act June 25, 1938, amended subsec. (b) generally.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable with respect to investigations initiated after Aug. 23, 1988, and to reviews initiated under section 1673e(c) or 1675 of this title after Aug. 23, 1988, see section 1337(b) of Pub. L. 100-418, set out as a note under section 1671 of this title.

#### 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 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 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96-39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Section 321(g)(3) of Pub. L. 93-618 provided that: "The amendment made by subsection (f) [amending this section and sections 2631 and 2632 of Title 28, Judiciary and

Judicial Procedure] shall apply with respect to determinations under section 201 of the Antidumping Act, 1921 [section 160 of this title], resulting from questions of dumping raised or presented on or after the date of the enactment of this Act [Jan. 3, 1975]."

Amendment by section 331(b) of Pub. L. 93-618 effective Jan. 3, 1975, see section 331(d)(1) of Pub. L. 93-618, set out as a note under section 1315 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

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

#### EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

#### 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

Functions of Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(D), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 11288, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

#### 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.

#### APPLICATION OF SUBSECTION (b) TO COMPLAINTS

Section 17(b), (c) of act of June 25, 1938, as amended by act June 16, 1951, ch. 141, §9(b), 65 Stat. 75, provided that:

"(b) The provisions of subsection (b) of section 516 of the Tariff Act of 1930 [this section], as amended by this act, shall apply only in the case of complaints filed after the effective date of this act [see Effective Date of 1938 Amendment note set out under section 1401 of this title]. The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as in force prior to the effective date of this act, shall continue in force with respect to any proceedings commenced by the filing of a complaint thereunder, except that upon the expiration of thirty days after the effective date of this act, or upon the expiration of thirty days after the date of a decision of the Secretary adverse to the complainant, whichever is the later, any such proceedings in which a protest has not been duly filed shall be deemed to have been terminated unless the complainant shall have filed with the Secretary after the effective date of this act a notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise.

"(c) [Repealed. June 16, 1951, ch. 141, §9(b), 65 Stat. 75.]"

**§ 1516a. Judicial review in countervailing duty and antidumping duty proceedings**

**(a) Review of determination**

**(1) Review of certain determinations**

Within 30 days after the date of publication in the Federal Register of—

(A) a determination by the administering authority, under 1671a(c)<sup>1</sup> or 1673a(c) of this title, not to initiate an investigation,

(B) a determination by the Commission, under section 1675(b) of this title, not to review a determination based upon changed circumstances,

(C) a negative determination by the Commission, under section 1671b(a) or 1673b(a) of this title, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, or

(D) a final determination by the administering authority or the Commission under section 1675(c)(3) of this title,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

**(2) Review of determinations on record**

**(A) In general**

Within thirty days after—

(i) the date of publication in the Federal Register of—

(I) notice of any determination described in clause (ii), (iii), (iv), (v), or (viii) of subparagraph (B),

(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

(III) notice of the implementation of any determination described in clause (vii) of subparagraph (B), or

(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

**(B) Reviewable determinations**

The determinations which may be contested under subparagraph (A) are as follows:

(i) Final affirmative determinations by the administering authority and by the

Commission under section 1671d or 1673d of this title, including any negative part of such a determination (other than a part referred to in clause (ii)).

(ii) A final negative determination by the administering authority or the Commission under section 1671d or 1673d of this title, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 1675 of this title.

(iv) A determination by the administering authority, under section 1671c or 1673c of this title, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net countervailable subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

(v) An injurious effect determination by the Commission under section 1671c(h) or 1673c(h) of this title.

(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.

(vii) A determination by the administering authority or the Commission under section 3538 of this title concerning a determination under subtitle IV of this chapter.

(viii) A determination by the Commission under section 1675b(a)(1) of this title.

**(3) Exception**

Notwithstanding the limitation imposed by paragraph (2)(A)(i)(II) of this subsection, a final affirmative determination by the administering authority under section 1671d or 1673d of this title may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 1671d or 1673d of this title.

**(4) Procedures and fees**

The procedures and fees set forth in chapter 169 of title 28 apply to an action under this section.

**(5) Time limits in cases involving merchandise from free trade area countries**

Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) of this section apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the day specified in whichever of the following subparagraphs applies:

<sup>1</sup> So in original. Probably should be preceded by "section".

(A) For a determination described in paragraph (1)(B) or clause (i), (ii) or (iii) of paragraph (2)(B), the 31st day after the date on which notice of the determination is published in the Federal Register.

(B) For a determination described in clause (vi) of paragraph (2)(B), the 31st day after the date on which the government of the relevant FTA country receives notice of the determination.

(C) For a determination with respect to which binational panel review has commenced in accordance with subsection (g)(8) of this section, the day after the date as of which—

(i) the binational panel has dismissed binational panel review of the determination for lack of jurisdiction, and

(ii) any interested party seeking review of the determination under paragraph (1), (2), or (3) of this subsection has provided timely notice under subsection (g)(3)(B) of this section.

If such an interested party files a summons and complaint under this subsection after dismissal by the binational panel, and if a request for an extraordinary challenge committee is made with respect to the decision by the binational panel to dismiss—

(I) judicial review under this subsection shall be stayed during consideration by the committee of the request, and

(II) the United States Court of International Trade shall dismiss the action if the committee vacates or remands the binational panel decision to dismiss.

(D) For a determination for which review by the United States Court of International Trade is provided for—

(i) under subsection (g)(12)(B) of this section, the day after the date of publication in the Federal Register of notice that article 1904 of the NAFTA has been suspended, or

(ii) under subsection (g)(12)(D) of this section, the day after the date that notice of settlement is published in the Federal Register.

(E) For a determination described in clause (vii) of paragraph (2)(B), the 31st day after the date on which notice of the implementation of the determination is published in the Federal Register.

**(b) Standards of review**

**(1) Remedy**

The court shall hold unlawful any determination, finding, or conclusion found—

(A) in an action brought under subparagraph (A), (B), or (C) of subsection (a)(1) of this section, to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

(B)(i) in an action brought under paragraph (2) of subsection (a) of this section, to be unsupported by substantial evidence on the record, or otherwise not in accordance with law, or

(ii) in an action brought under paragraph (1)(D) of subsection (a) of this section, to be

arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

**(2) Record for review**

**(A) In general**

For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 1677f(a)(3) of this title; and

(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

**(B) Confidential or privileged material**

The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

**(3) Effect of decisions by NAFTA or United States-Canada binational panels**

In making a decision in any action brought under subsection (a) of this section, a court of the United States is not bound by, but may take into consideration, a final decision of a binational panel or extraordinary challenge committee convened pursuant to article 1904 of the NAFTA or of the Agreement.

**(c) Liquidation of entries**

**(1) Liquidation in accordance with determination**

Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) of this section shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a notice of a decision of the United States Court of International Trade, or of the United States Court of Appeals for the Federal Circuit, not in harmony with that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

**(2) Injunctive relief**

In the case of a determination described in paragraph (2) of subsection (a) of this section by the Secretary, the administering authority, or the Commission, the United States Court of International Trade may enjoin the liquidation of some or all entries of merchandise cov-

ered by a determination of the Secretary, the administering authority, or the Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances.

**(3) Remand for final disposition**

If the final disposition of an action brought under this section is not in harmony with the published determination of the Secretary, the administering authority, or the Commission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

**(d) Standing**

Any interested party who was a party to the proceeding under section 1303<sup>2</sup> of this title or subtitle IV of this chapter shall have the right to appear and be heard as a party in interest before the United States Court of International Trade. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court.

**(e) Liquidation in accordance with final decision**

If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit—

(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, or withdrawn from warehouse, for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, and

(2) entries, the liquidation of which was enjoined under subsection (c)(2) of this section,

shall be liquidated in accordance with the final court decision in the action. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

**(f) Definitions**

For purposes of this section—

**(1) Administering authority**

The term “administering authority” means the administering authority described in section 1677(1) of this title.

**(2) Commission**

The term “Commission” means the United States International Trade Commission.

**(3) Interested party**

The term “interested party” means any person described in section 1677(9) of this title.

**(4) Secretary**

The term “Secretary” means the Secretary of the Treasury.

**(5) Agreement**

The term “Agreement” means the United States-Canada Free-Trade Agreement.

**(6) United States Secretary**

The term “United States Secretary” means—

(A) the secretary for the United States Section referred to in article 1908 of the NAFTA, and

(B) the secretary of the United States Section provided for in article 1909 of the Agreement.

**(7) Relevant FTA Secretary**

The term “relevant FTA Secretary” means the Secretary—

(A) referred to in article 1908 of the NAFTA, or

(B) provided for in paragraph 5 of article 1909 of the Agreement,

of the relevant FTA country.

**(8) NAFTA**

The term “NAFTA” means the North American Free Trade Agreement.

**(9) Relevant FTA country**

The term “relevant FTA country” means the free trade area country to which an antidumping or countervailing duty proceeding pertains.

**(10) Free trade area country**

The term “free trade area country” means the following:

(A) Canada for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Canada.

(B) Mexico for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Mexico.

(C) Canada for such time as—

(i) it is not a free trade area country under subparagraph (A); and

(ii) the Agreement is in force with respect to, and the United States applies the Agreement to, Canada.

**(g) Review of countervailing duty and antidumping duty determinations involving free trade area country merchandise**

**(1) “Determination” defined**

For purposes of this subsection, the term “determination” means a determination described in—

(A) paragraph (1)(B) of subsection (a) of this section, or

(B) clause (i), (ii), (iii), (vi), or (vii) of paragraph (2)(B) of subsection (a) of this section,

if made in connection with a proceeding regarding a class or kind of free trade area country merchandise, as determined by the administering authority.

**(2) Exclusive review of determination by binational panels**

If binational panel review of a determination is requested pursuant to article 1904 of the NAFTA or of the Agreement, then, except as provided in paragraphs (3) and (4)—

(A) the determination is not reviewable under subsection (a) of this section, and

(B) no court of the United States has power or jurisdiction to review the deter-

<sup>2</sup> See References in Text note below.

mination on any question of law or fact by an action in the nature of mandamus or otherwise.

**(3) Exception to exclusive binational panel review**

**(A) In general**

A determination is reviewable under subsection (a) of this section if the determination sought to be reviewed is—

(i) a determination as to which neither the United States nor the relevant FTA country requested review by a binational panel pursuant to article 1904 of the NAFTA or of the Agreement,

(ii) a revised determination issued as a direct result of judicial review, commenced pursuant to subsection (a) of this section, if neither the United States nor the relevant FTA country requested review of the original determination,

(iii) a determination issued as a direct result of judicial review that was commenced pursuant to subsection (a) of this section prior to the entry into force of the NAFTA or of the Agreement,

(iv) a determination which a binational panel has determined is not reviewable by the binational panel,

(v) a determination as to which binational panel review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA, or

(vi) a determination as to which extraordinary challenge committee review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA.

**(B) Special rule**

A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) of this section only if the party seeking to commence review has provided timely notice of its intent to commence such review to—

(i) the United States Secretary and the relevant FTA Secretary;

(ii) all interested parties who were parties to the proceeding in connection with which the matter arises; and

(iii) the administering authority or the Commission, as appropriate.

Such notice is timely provided if the notice is delivered no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) of this section that is applicable to such determination, except that, if the time for requesting binational panel review is suspended under paragraph (8)(A)(ii) of this subsection, any unexpired time for providing notice of intent to commence judicial review shall, during the pendency of any such suspension, also be suspended. Such notice shall contain such information, and be in such form, manner, and style, as the administering authority, in consultation with the Commission, shall prescribe by regulations.

**(4) Exception to exclusive binational panel review for constitutional issues**

**(A) Constitutionality of binational panel review system**

An action for declaratory judgment or injunctive relief, or both, regarding a determination on the grounds that any provision of, or amendment made by, the North American Free Trade Agreement Implementation Act implementing the binational dispute settlement system under chapter 19 of the NAFTA, or the United States-Canada Free-Trade Agreement Implementation Act of 1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement, violates the Constitution may be brought only in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of such action.

**(B) Other constitutional review**

Review is available under subsection (a) of this section with respect to a determination solely concerning a constitutional issue (other than an issue to which subparagraph (A) applies) arising under any law of the United States as enacted or applied. An action for review under this subparagraph shall be assigned to a 3-judge panel of the United States Court of International Trade.

**(C) Commencement of review**

Notwithstanding the time limits in subsection (a) of this section, within 30 days after the date of publication in the Federal Register of notice that binational panel review has been completed, an interested party who is a party to the proceeding in connection with which the matter arises may commence an action under subparagraph (A) or (B) by filing an action in accordance with the rules of the court.

**(D) Transfer of actions to appropriate court**

Whenever an action is filed in a court under subparagraph (A) or (B) and that court finds that the action should have been filed in the other court, the court in which the action was filed shall transfer the action to the other court and the action shall proceed as if it had been filed in the court to which it is transferred on the date upon which it was actually filed in the court from which it is transferred.

**(E) Frivolous claims**

Frivolous claims brought under subparagraph (A) or (B) are subject to dismissal and sanctions as provided under section 1927 of title 28 and the Federal Rules of Civil Procedure.

**(F) Security**

**(i) Subparagraph (A) actions**

The security requirements of rule 65(c) of the Federal Rules of Civil Procedure apply with respect to actions commenced under subparagraph (A).

**(ii) Subparagraph (B) actions**

No claim shall be heard, and no temporary restraining order or temporary or

permanent injunction shall be issued, under an action commenced under subparagraph (B), unless the party seeking review first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense parties affected for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction. If a court upholds the constitutionality of the determination in question in such action, the court shall award to a prevailing party fees and expenses, in addition to any costs incurred by that party, unless the court finds that the position of the other party was substantially justified or that special circumstances make an award unjust.

**(G) Panel record**

The record of proceedings before the binational panel shall not be considered part of the record for review pursuant to subparagraph (A) or (B).

**(H) Appeal to Supreme Court of court orders issued in subparagraph (A) actions**

Notwithstanding any other provision of law, any final judgment of the United States Court of Appeals for the District of Columbia Circuit which is issued pursuant to an action brought under subparagraph (A) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under subparagraph (A) may be issued by a single Justice of the Supreme Court.

**(5) Liquidation of entries**

**(A) Application**

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the rules provided in this paragraph shall apply, notwithstanding the provisions of subsection (c) of this section.

**(B) General rule**

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, entries of merchandise covered by such determination shall be liquidated in accordance with the determination of the administering authority or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the administering authority of notice of a final decision of a binational panel, or of an extraordinary challenge committee, not in harmony with that determination. Such notice of a decision shall be published within 10 days of the date of the issuance of the panel or committee decision.

**(C) Suspension of liquidation**

**(i) In general**

Notwithstanding the provisions of subparagraph (B), in the case of a determina-

tion described in clause (iii) or (vi) of subsection (a)(2)(B) of this section for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the administering authority, upon request of an interested party who was a party to the proceeding in connection with which the matter arises and who is a participant in the binational panel review, shall order the continued suspension of liquidation of those entries of merchandise covered by the determination that are involved in the review pending the final disposition of the review.

**(ii) Notice**

At the same time as the interested party makes its request to the administering authority under clause (i), that party shall serve a copy of its request on the United States Secretary, the relevant FTA Secretary, and all interested parties who were parties to the proceeding in connection with which the matter arises.

**(iii) Application of suspension**

If the interested party requesting continued suspension of liquidation under clause (i) is a foreign manufacturer, producer, or exporter, or a United States importer, the continued suspension of liquidation shall apply only to entries of merchandise manufactured, produced, exported, or imported by that particular manufacturer, producer, exporter, or importer. If the interested party requesting the continued suspension of liquidation under clause (i) is an interested party described in subparagraph (C), (D), (E), or (F) of section 1677(9) of this title, the continued suspension of liquidation shall apply only to entries which could be affected by a decision of the binational panel convened under chapter 19 of the NAFTA or of the Agreement.

**(iv) Judicial review**

Any action taken by the administering authority or the United States Customs Service under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

**(6) Injunctive relief**

Except for cases under paragraph (4)(B), in the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the provisions of subsection (c)(2) of this section shall not apply.

**(7) Implementation of international obligations under article 1904 of the NAFTA or the Agreement**

**(A) Action upon remand**

If a determination is referred to a binational panel or extraordinary challenge committee under the NAFTA or the Agreement and the panel or committee makes a deci-

sion remanding the determination to the administering authority or the Commission, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with the decision of the panel or committee. Any action taken by the administering authority or the Commission under this paragraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

**(B) Application if subparagraph (A) held unconstitutional**

In the event that the provisions of subparagraph (A) are held unconstitutional under the provisions of subparagraphs (A) and (H) of paragraph (4), the provisions of this subparagraph shall take effect. In such event, the President is authorized on behalf of the United States to accept, as a whole, the decision of a binational panel or extraordinary challenge committee remanding the determination to the administering authority or the Commission within the period specified by the panel or committee. Upon acceptance by the President of such a decision, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with such decision. Any action taken by the President, the administering authority, or the Commission under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

**(8) Requests for binational panel review**

**(A) Interested party requests for binational panel review**

**(i) General rule**

An interested party who was a party to the proceeding in which a determination is made may request binational panel review of such determination by filing a request with the United States Secretary by no later than the date that is 30 days after the date described in subparagraph (A), (B), or (E) of subsection (a)(5) of this section that is applicable to such determination. Receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the NAFTA or of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority, in consultation with the Commission, shall prescribe by regulations.

**(ii) Suspension of time to request binational panel review under the NAFTA**

Notwithstanding clause (i), the time for requesting binational panel review shall be

suspended during the pendency of any stay of binational panel review that is issued pursuant to paragraph 11(a) of article 1905 of the NAFTA.

**(B) Service of request for binational panel review**

**(i) Service by interested party**

If a request for binational panel review of a determination is filed under subparagraph (A), the party making the request shall serve a copy, by mail or personal service, on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

**(ii) Service by United States Secretary**

If an interested party to the proceeding requests binational panel review of a determination by filing a request with the relevant FTA Secretary, the United States Secretary shall serve a copy of the request by mail on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

**(C) Limitation on request for binational panel review**

Absent a request by an interested party under subparagraph (A), the United States may not request binational panel review of a determination under article 1904 of the NAFTA or the Agreement.

**(9) Representation in panel proceedings**

In the case of binational panel proceedings convened under chapter 19 of the NAFTA or of the Agreement, the administering authority and the Commission shall be represented by attorneys who are employees of the administering authority or the Commission, respectively. Interested parties who were parties to the proceeding in connection with which the matter arises shall have the right to appear and be represented by counsel before the binational panel.

**(10) Notification of class or kind rulings**

In the case of a determination which is described in paragraph (2)(B)(vi) of subsection (a) of this section and which is subject to the provisions of paragraph (2), the administering authority, upon request, shall inform any interested person of the date on which the Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the NAFTA or the Agreement.

**(11) Suspension and termination of suspension of article 1904 of the NAFTA**

**(A) Suspension of article 1904**

If a special committee established under article 1905 of the NAFTA issues an affirmative finding, the Trade Representative may, in accordance with paragraph 8(a) or 9, as appropriate, of article 1905 of the NAFTA, suspend the operation of article 1904 of the NAFTA.

**(B) Termination of suspension of article 1904**

If a special committee is reconvened and makes an affirmative determination described in paragraph 10(b) of article 1905 of the NAFTA, any suspension of the operation of article 1904 of the NAFTA shall terminate.

**(12) Judicial review upon termination of binational panel or committee review under the NAFTA****(A) Notice of suspension or termination of suspension of article 1904**

(i) Upon notification by the Trade Representative or the Government of a country described in subsection (f)(10)(A) or (B) of this section that the operation of article 1904 of the NAFTA has been suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a notice of suspension of article 1904 of the NAFTA.

(ii) Upon notification by the Trade Representative or the Government of a country described in subsection (f)(10)(A) or (B) of this section that the suspension of the operation of article 1904 of the NAFTA is terminated in accordance with paragraph 10 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a notice of termination of suspension of article 1904 of the NAFTA.

**(B) Transfer of final determinations for judicial review upon suspension of article 1904**

If the operation of article 1904 of the NAFTA is suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA—

(i) upon the request of an authorized person described in subparagraph (C), any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a) of this section; or

(ii) in a case in which—

(I) a binational panel review was completed fewer than 30 days before the suspension, and

(II) extraordinary challenge committee review has not been requested,

upon the request of an authorized person described in subparagraph (C) which is made within 60 days after the completion of the binational panel review, the final determination that was the subject of the binational panel review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a) of this section.

**(C) Persons authorized to request transfer of final determinations for judicial review**

A request that a final determination be transferred to the Court of International Trade under subparagraph (B) may be made by—

(i) if the United States made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 8(a) of article 1905 of the NAFTA—

(I) the government of the relevant country described in subsection (f)(10)(A) or (B) of this section,

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired, or

(ii) if a country described in subsection (f)(10)(A) or (B) of this section made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 9 of article 1905 of the NAFTA—

(I) the government of that country,

(II) an interested party that is a person of that country and that was a party to the panel or committee review, or

(III) an interested party that is a person of that country and that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired.

**(D) Transfer for judicial review upon settlement**

(i) If the Trade Representative achieves a settlement with the government of a country described in subsection (f)(10)(A) or (B) of this section pursuant to paragraph 7 of article 1905 of the NAFTA, and referral for judicial review is among the terms of such settlement, any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall, upon a request described in clause (ii), be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a) of this section.

(ii) A request referred to in clause (i) is a request made by—

(I) the country referred to in clause (i),

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time for filing notices of appearance in the panel review has not expired.

(June 17, 1930, ch. 497, title IV, §516A, as added Pub. L. 96-39, title X, §1001(a), July 26, 1979, 93 Stat. 300; amended Pub. L. 96-417, title VI, §§601(7), 608, Oct. 10, 1980, 94 Stat. 1744, 1745; Pub. L. 96-542, §2, Dec. 17, 1980, 94 Stat. 3210; Pub. L. 97-164, title I, §163(a)(2), Apr. 2, 1982, 96 Stat. 49;

Pub. L. 98-573, title VI, §623(a), Oct. 30, 1984, 98 Stat. 3040; Pub. L. 99-514, title XVIII, §1888(6), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 100-449, title IV, §401, Sept. 28, 1988, 102 Stat. 1878; Pub. L. 101-382, title I, §134(a)(3), Aug. 20, 1990, 104 Stat. 649; Pub. L. 103-182, title IV, §411, Dec. 8, 1993, 107 Stat. 2140; Pub. L. 103-465, title I, §129(e), title II, §§220(b), 270(a)(1)(N), 271(b), Dec. 8, 1994, 108 Stat. 4838, 4864, 4917, 4921; Pub. L. 104-295, §§20(a)(1), 21(c)(3), 22, Oct. 11, 1996, 110 Stat. 3526, 3530, 3531; Pub. L. 109-432, div. D, title III, §3002, Dec. 20, 2006, 120 Stat. 3173.)

## REFERENCES IN TEXT

Section 1303 of this title, referred to in subsec. (d), is defined in section 1677(26) of this title to mean section 1330 as in effect on the day before Jan. 1, 1995.

The North American Free Trade Agreement Implementation Act, referred to in subsec. (g)(4)(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.

The United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsec. (g)(4)(A), is Pub. L. 100-449, Sept. 28, 1988, 102 Stat. 1851, which is set out as a note under section 2112 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (g)(4)(E), (F), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

## CODIFICATION

In the original, section 1001(a) of Pub. L. 96-39 directed that this section, designated as section 516A, be added to title V of the Tariff Act of 1930, however, since a title V of the Tariff Act of 1930 has not been enacted, this section was added to title IV of the Tariff Act of 1930 to reflect the probable intent of Congress.

## AMENDMENTS

2006—Subsec. (g)(1)(B). Pub. L. 109-432 substituted “(vi), or (vii)” for “or (vi)”.

1996—Subsec. (a)(2)(A)(i)(I). Pub. L. 104-295, §20(a)(1), inserted comma after “subparagraph (B)”.

Subsec. (g)(4)(A). Pub. L. 104-295, §22, substituted “Agreement Implementation Act of 1988” for “Implementation Agreement Act of 1988”.

Subsec. (g)(12)(D). Pub. L. 104-295, §21(c)(3), transferred designation “(i)” from heading to before sentence beginning “If the Trade Representative”.

1994—Subsec. (a)(1)(D). Pub. L. 103-465, §220(b)(1), added subpar. (D).

Subsec. (a)(2)(A)(i)(I). Pub. L. 103-465, §271(b)(1), substituted “(v), or (viii)” for “or (v)”.

Pub. L. 103-465, §129(e)(1)(A)(i), struck out “, or” after “(B)”.

Subsec. (a)(2)(A)(i)(III). Pub. L. 103-465, §129(e)(1)(A)(ii), added subcl. (III).

Subsec. (a)(2)(B)(iv). Pub. L. 103-465, §270(a)(1)(N), inserted “countervailable” before “subsidy”.

Subsec. (a)(2)(B)(vii). Pub. L. 103-465, §129(e)(1)(B), added cl. (vii).

Subsec. (a)(2)(B)(viii). Pub. L. 103-465, §271(b)(2), added cl. (viii).

Subsec. (a)(5)(E). Pub. L. 103-465, §129(e)(2), added subpar. (E).

Subsec. (b)(1)(A). Pub. L. 103-465, §220(b)(2)(A), substituted “under subparagraph (A), (B), or (C) of subsection (a)(1) of this section” for “under paragraph (1) of subsection (a) of this section”.

Subsec. (b)(1)(B). Pub. L. 103-465, §220(b)(2)(B), designated existing provisions as cl. (i), substituted “, or” for period at end, and added cl. (ii).

Subsec. (g)(8)(A)(i). Pub. L. 103-465, §129(e)(3), substituted “(A), (B), or (E)” for “(A) or (B)”.

1993—Subsec. (a)(5). Pub. L. 103-182, §411(1), amended par. (5) generally, substituting present provisions for

provisions relating to time limits for commencing review in cases involving Canadian merchandise.

Subsec. (b)(3). Pub. L. 103-182, §411(2), inserted “NAFTA or” after “decisions by” in heading and “of the NAFTA or” after “article 1904” in text.

Subsec. (f)(6), (7). Pub. L. 103-182, §411(3)(A), amended pars. (6) and (7) generally, substituting present provisions for provisions which, in par. (6) defined “United States Secretary” as the secretary provided for in paragraph 4 of article 1909 of the United States-Canada Free-Trade Agreement, and in par. (7), defined “Canadian Secretary” as the secretary provided for in paragraph 5 of article 1909 of the Agreement.

Subsec. (f)(8) to (10). Pub. L. 103-182, §411(3)(B), added pars. (8) to (10).

Subsec. (g). Pub. L. 103-182, §411(4)(A), substituted “free trade area country merchandise” for “Canadian merchandise” in heading.

Subsec. (g)(1). Pub. L. 103-182, §411(4)(B), substituted “free trade area country merchandise” for “Canadian merchandise” in concluding provisions.

Subsec. (g)(2). Pub. L. 103-182, §411(4)(C), inserted “of the NAFTA or” after “article 1904” in introductory provisions.

Subsec. (g)(3)(A). Pub. L. 103-182, §411(4)(D), in cl. (i), substituted “nor the relevant FTA country” for “nor Canada” and inserted “of the NAFTA or” before “of the Agreement”, in cl. (ii), substituted “nor the relevant FTA country” for “nor Canada”, in cl. (iii), inserted “of the NAFTA or” before “of the Agreement” and struck out “or” at end, in cl. (iv), struck out “under paragraph (2)(A)” before “is not reviewable” and substituted a comma for period at end, and added cls. (v) and (vi).

Subsec. (g)(3)(B). Pub. L. 103-182, §411(4)(E), substituted first two sentences for former sentences which read as follows: “A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) of this section only if the party seeking to commence review has provided timely notice of its intent to commence such review to the United States Secretary, the Canadian Secretary, all interested parties who were parties to the proceeding in connection with which the matter arises, and the administering authority or the Commission, as appropriate. Such notice is provided timely if the notice is delivered by no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) of this section that is applicable to such determination.”

Subsec. (g)(4)(A). Pub. L. 103-182, §411(4)(F), inserted “the North American Free Trade Agreement Implementation Act implementing the binational dispute settlement system under chapter 19 of the NAFTA, or” after “or amendment made by”, a comma before “violates”, “only” after “may be brought”, and “, which shall have jurisdiction of such action” after “Circuit” and struck out at end “Any action brought under this subparagraph shall be heard and determined by a 3-judge court in accordance with section 2284 of title 28.”

Subsec. (g)(5). Pub. L. 103-182, §411(4)(G), inserted “of the NAFTA or” after “article 1904” in subpars. (A), (B), and (C)(i), substituted “, the relevant FTA Secretary,” for “, the Canadian Secretary,” in subpar. (C)(ii), and inserted “of the NAFTA or” after “chapter 19” in subpar. (C)(iii).

Subsec. (g)(6). Pub. L. 103-182, §411(4)(H), inserted “of the NAFTA or” after “article 1904”.

Subsec. (g)(7). Pub. L. 103-182, §411(4)(I)(i), inserted “of the NAFTA or the Agreement” in heading.

Subsec. (g)(7)(A). Pub. L. 103-182, §411(4)(I)(ii), (iii), substituted heading for one which read “In general” and inserted “the NAFTA or” before “the Agreement”.

Subsec. (g)(8)(A). Pub. L. 103-182, §411(4)(J), designated existing provisions as cl. (i), inserted cl. heading, realigned margin, inserted “of the NAFTA or” after “article 1904(4)”, and added cl. (ii).

Subsec. (g)(8)(B)(ii). Pub. L. 103-182, §411(4)(K), substituted “relevant FTA Secretary” for “Canadian Secretary”.

Subsec. (g)(8)(C). Pub. L. 103-182, §411(4)(L), substituted “of a determination under article 1904 of the

NAFTA or the Agreement” for “under article 1904 of the Agreement of a determination”.

Subsec. (g)(9). Pub. L. 103-182, §411(4)(M), inserted “of the NAFTA or” after “chapter 19”.

Subsec. (g)(10). Pub. L. 103-182, §411(4)(N), substituted “Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the NAFTA or the Agreement” for “Government of Canada received notice of the determination under article 1904(4) of the Agreement”.

Subsec. (g)(11), (12). Pub. L. 103-182, §411(4)(O), added pars. (11) and (12).

1990—Subsec. (a)(5)(A). Pub. L. 101-382, §134(a)(3)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “the date of publication in the Federal Register of—

“(i) notice of any determination described in paragraph (1)(B) or a determination described in clause (ii) or (iii) of paragraph (2)(B), or

“(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of paragraph (2)(B), or”.

Subsec. (a)(5)(C). Pub. L. 101-382, §134(a)(3)(A)(ii), added subpar. (C).

Subsec. (g)(3)(A)(iv). Pub. L. 101-382, §134(a)(3)(B)(i), added cl. (iv).

Subsec. (g)(3)(B). Pub. L. 101-382, §134(a)(3)(B)(ii), inserted “or (iv)” after “subparagraph (A)(i)”.

1988—Subsec. (a)(5). Pub. L. 100-449, §401(a), added par. (5).

Subsec. (b)(3). Pub. L. 100-449, §401(d), added par. (3).  
Subsec. (f)(5) to (7). Pub. L. 100-449, §401(b), added pars. (5) to (7).

Subsec. (g). Pub. L. 100-449, §401(c), added subsec. (g).  
1986—Subsec. (a)(3). Pub. L. 99-514 substituted “(2)(A)(i)(II)” for “(2)(A)(ii)”.

1984—Subsec. (a)(1). Pub. L. 98-573, §623(a)(1), amended par. (1) generally, and thereby struck out the designation “(A)” before “Within 30 days”, redesignated former cls. (i) to (iii) as subpars. (A) to (C), respectively, in subpar. (A) as so redesignated struck out references to the Secretary and to section 1303(a)(3) of this title, in subpar. (B) as so redesignated struck out reference to the administering authority and to review of agreements based on changed circumstances, and struck out former subpar. (B), relating to a right of judicial review of certain determinations of the administering authority within 10 days after publication of notice of the determination in the Federal Register.

Subsec. (a)(2)(A). Pub. L. 98-573, §623(a)(2), inserted the designation “(i)” before “the date of publication in the Federal Register of”, redesignated cls. (i) and (ii) as subcls. (I) and (II), respectively, and added cl. (ii).

Subsec. (a)(2)(B)(i). Pub. L. 98-573, §623(a)(3), amended cl. (i) generally and thereby struck out provisions referring to final affirmative determinations by the Secretary and by the Commission under section 1303 of this title, and inserted reference to any negative part of decisions under section 1671d or 1673d of this title.

Subsec. (a)(2)(B)(ii). Pub. L. 98-573, §623(a)(3), amended cl. (ii) generally and thereby struck out references to the Secretary and to section 1303 of this title and inserted provision relating to any part of a final affirmative determination which specifically excludes any company or product.

Subsec. (a)(2)(B)(iii). Pub. L. 98-573, §623(a)(3), amended cl. (iii) generally and thereby substituted provisions relating to final determinations by the administering authority or the Commission for provisions relating to determinations by the Secretary, the administering authority, or the Commission.

Subsec. (a)(2)(B)(iv). Pub. L. 98-573, §623(a)(3), amended cl. (iv) generally and thereby inserted provision relating to any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

Subsec. (a)(2)(B)(vi). Pub. L. 98-573, §623(a)(3), added cl. (vi).

Subsec. (a)(3), (4). Pub. L. 98-573, §623(a)(4), added par. (3) and redesignated former par. (3) as (4).

1982—Subsecs. (c)(1), (e). Pub. L. 97-164 substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

1980—Subsec. (a)(1). Pub. L. 96-417, §608(a), inserted subpar. “(A) Thirty-day review” heading; redesignated as cls. (i), (ii), and (iii) of subpar. (A) provisions formerly designated as subpars. (A), (C), and (D) of par. (1); inserted subpar. “(B) Ten-day review” heading and its introductory text; redesignated as cls. (i) and (ii) of subpar. (B) provisions formerly designated as subpars. (B) and (E) of par. (1), thus substituting ten-day for thirty-day review for such clauses; enacted provision respecting commencement of action by an interested party following subpars. (A) and (B), formerly enacted following only par. (1); and redesignated the United States Customs Court as the United States Court of International Trade in the latter provisions.

Subsec. (a)(2)(A). Pub. L. 96-417, §601(7), redesignated the United States Customs Court as the United States Court of International Trade.

Subsec. (a)(3). Pub. L. 96-542 substituted “chapter 169 of title 28” for “subsections (b), (c), and (e) of chapter 169 of title 28”.

Pub. L. 96-417, §608(b), substituted “chapter 169 of title 28” for “section 2632 of title 28”.

Subsec. (c)(1), (2). Pub. L. 96-417, §§601(7), 608(c), redesignated in pars. (1) and (2) the United States Customs Court as the United States Court of International Trade and deleted from par. (2) the criteria to be considered in ruling on an injunction, namely, the party likely to prevail, irreparable harm, public interest, and greater harm.

Subsec. (d). Pub. L. 96-417, §§601(7), 608(d), redesignated the United States Customs Court as the United States Court of International Trade and substituted requirement for notification of “all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court” for prior notice requirement to “all interested parties of the filing of an action pursuant to this section”.

Subsec. (e). Pub. L. 96-417, §601(7), redesignated the United States Customs Court as the United States Court of International Trade.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 129(e) of Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 130 of Pub. L. 103-465, set out as an Effective Date note under section 3531 of this title.

Amendment by sections 220(b), 270(a)(1)(N), and 271(b) of Pub. L. 103-465 effective, except as otherwise provided, on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], and applicable with respect to investigations, reviews, and inquiries initiated and petitions filed under specified provisions of this chapter after such date, see section 291 of Pub. L. 103-465, set out as a note under section 1671 of this title.

#### 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], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of this title, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of this title, notice of which is received by the Government of Canada or Mexico before such date, or to any binational panel review under the United States-Canada Free-Trade Agreement, or to any extraordinary challenge arising out of any such review, that was commenced before such date, see section 416 of Pub. L. 103-182, set out as an Effective Date note under section 3431 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988  
AMENDMENT

Amendment by Pub. L. 100-449 effective on date 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 applicable with respect to civil actions pending on, or filed on or after, Oct. 30, 1984, see section 626(b)(2) of Pub. L. 98-573, set out as a note under section 1671 of this title.

## 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 AMENDMENTS

Section 3 of Pub. L. 96-542 provided that: "The amendments made by this Act [amending this section and provisions set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure] shall be effective as of November 1, 1980."

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.

## EFFECTIVE DATE; TRANSITIONAL RULES

Section 1002 of title X of Pub. L. 96-39 provided that: "(a) EFFECTIVE DATE.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall take effect on that date (hereinafter in this section referred to as the 'effective date') on which title VII of the Tariff Act of 1930 [subtitle IV of this chapter] (as added by title I of this Act) takes effect [Jan. 1, 1980]; and section 515(a) of such Act of 1930 [section 1515(a) of this title] (as amended by section 1001(b)(2)) shall apply with respect to any denial, in whole or in part, of a protest filed under section 514 of such Act of 1930 [section 1514 of this title] on or after the effective date.

"(b) TRANSITIONAL RULES.—

"(1) CERTAIN PROTESTS, PETITIONS, ACTIONS, ETC.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall not apply with respect to—

"(A) any protest, petition, or notice of desire to contest filed before the effective date [Jan. 1, 1980] under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930 [section 1514, 1516(a), or 1516(d) of this title];

"(B) any civil action commenced before the effective date [Jan. 1, 1980] under section 2632 of title 28 of the United States Code; or

"(C) any civil action commenced after the effective date [Jan. 1, 1980] under such section 2632 if the protest, petition, or notice of desire to contest (under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930) on which such action is based was filed before such effective date.

"(2) LAW TO BE APPLIED FOR PURPOSES OF SUCH ACTIONS.—Notwithstanding the repeal of the Antidumping Act, 1921 [sections 160 to 171 of this title], by section 106(a) of this Act, and the amendment of section 303 of the Tariff Act of 1930 [section 1303 of this title] by section 103 of this Act, the law in effect on the date of any finding or determination contested in a civil action described in subparagraph (A), (B), or (C)

of paragraph (1) shall be applied for purposes of that action.

"(3) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY ASSESSMENTS.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall apply with respect to the review of the assessment of, or failure to assess, any countervailing duty or antidumping duty on entries subject to a countervailing duty order or antidumping finding if the assessment is made after the effective date. If no assessment of such duty had been made before the effective date that could serve the party seeking review as the basis of a review of the underlying determination, made by the Secretary of the Treasury or the International Trade Commission before the effective date, on which such order, finding, or lack thereof is based, then the underlying determination shall be subject to review in accordance with the law in effect on the day before the effective date.

"(4) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY DETERMINATIONS.—With respect to any preliminary determination or final determination of the Secretary of the Treasury under section 303 of the Tariff Act of 1930 [section 1303 of this title] or the Antidumping Act, 1921 [sections 160 to 171 of this title], which is treated under section 102 of this Act [set out as a note under section 1671 of this title] as if made under section 703(b), 705(a), 733(b), or 735(a) of the Tariff Act of 1930 [section 1671b(b), 1671d(a), 1673b(b), or 1673d(a) of this title] (as added by title I of this Act) such determinations shall be subject to judicial review in the same manner and to the same extent as if made on the day before the effective date."

## 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.

## EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103-182, see section 3451 of this title.

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.

ACCEPTANCE BY PRESIDENT OF PANEL AND COMMITTEE  
DECISIONS

For acceptance by President of decisions of binational panels and extraordinary challenge committees in event that subsec. (b)(7)(B) of this section takes effect, see section 2 of Ex. Ord. No. 12889, Dec. 27, 1993, 58 F.R. 69681, set out as a note under section 3311 of this title.

For provision that in the event that subsec. (g)(7)(B) of this section takes effect, the President accepts, as a whole, all decisions of binational panels and extraordinary challenge committees, see section 3 of Ex. Ord. No. 12662, Dec. 31, 1988, 54 F.R. 785, set out as a note under section 2112 of this title.

**§§ 1517 to 1519. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948**

Section 1517, act June 17, 1930, ch. 497, title IV, § 517, 46 Stat. 737, related to frivolous protest or appeal. See section 2641 of Title 28, Judiciary and Judicial Procedure.

Section 1518, acts June 10, 1890, ch. 407, § 12, 26 Stat. 136; May 27, 1908, ch. 205, § 3, 35 Stat. 406; Aug. 5, 1909, ch. 6, § 28, 36 Stat. 98; May 28, 1926, ch. 411, § 1, 44 Stat. 669; June 17, 1930, ch. 497, title IV, § 518, 46 Stat. 737, related to the judges of the United States Customs Court: their appointment, salary, retirement, vacancies, and powers; the control of the fiscal affairs and of the clerical force of the court; and the division of the court. See sections 251 to 254, 456, 1581, 2071, 2639, and 2640 of Title 28, Judiciary and Judicial Procedure. Last sentence of section, relating to the transfer of unexpended appropriations for salaries to be available for expenditures for the same purposes, was omitted as executed.

Section 1519, act June 17, 1930, ch. 497, title IV, § 519, 46 Stat. 739, related to publication of Customs Court's decisions. See section 255 of Title 28, Judiciary and Judicial Procedure.

**§ 1520. Refunds and errors**

**(a) Cases in which refunds authorized**

The Secretary of the Treasury is authorized to refund duties or other receipts in the following cases:

(1) *Excess deposits.*—Whenever it is ascertained on liquidation or reliquidation of an entry or reconciliation that more money has been deposited or paid as duties than was required by law to be so deposited or paid.

(2) *Fees, charges, and exactions.*—Whenever it is determined in the manner required by law that any fees, charges, or exactions, other than duties and taxes, have been erroneously or excessively collected.

(3) *Fines, penalties, and forfeitures.*—Whenever money has been deposited in the Treasury on account of a fine, penalty, or forfeiture which did not accrue, or which is finally determined to have accrued in an amount less than that so deposited, or which is mitigated to an amount less than that so deposited or is remitted.

(4) *Prior to liquidation.*—Prior to the liquidation of an entry or reconciliation, whenever an importer of record declares or it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid.

**(b) Authorization of appropriations**

The necessary moneys to make such refunds are authorized to be appropriated annually from the general fund of the Treasury.

**(c) Repealed. Pub. L. 108-429, title II, § 2105, Dec. 3, 2004, 118 Stat. 2598**

**(d) Goods qualifying under free trade agreement rules of origin**

Notwithstanding the fact that a valid protest was not filed, the Customs Service may, in accordance with regulations prescribed by the Secretary, reliquidate an entry to refund any excess duties (including any merchandise processing fees) paid on a good qualifying under the rules of origin set out in section 3332 of this title, section 202 of the United States-Chile Free Trade Agreement Implementation Act, section 4033 of this title, section 202 of the United States-Oman Free Trade Agreement Implementation Act, or

section 203 of the United States-Peru Trade Promotion Agreement Implementation Act for which no claim for preferential tariff treatment was made at the time of importation if the importer, within 1 year after the date of importation, files, in accordance with those regulations, a claim that includes—

(1) a written declaration that the good qualified under the applicable rules at the time of importation;

(2) copies of all applicable NAFTA Certificates of Origin (as defined in section 1508(b)(1) of this title), or other certificates or certifications of origin, as the case may be; and

(3) such other documentation and information relating to the importation of the goods as the Customs Service may require.

(June 17, 1930, ch. 497, title IV, § 520, 46 Stat. 739; June 26, 1934, ch. 756, § 2, 48 Stat. 1225; June 25, 1938, ch. 679, § 18, 52 Stat. 1086; Aug. 8, 1953, ch. 397, § 20, 67 Stat. 519; Pub. L. 91-271, title II, § 210, June 2, 1970, 84 Stat. 287; Pub. L. 95-410, title II, § 210, Oct. 3, 1978, 92 Stat. 903; Pub. L. 98-573, title II, §§ 210(b), 212(c)(B), formerly § 212(b)(7)(B), Oct. 30, 1984, 98 Stat. 2977, 2984, renumbered Pub. L. 99-514, title XVIII, § 1889(3), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 103-182, title II, § 206, title VI, §§ 642(b), 646, Dec. 8, 1993, 107 Stat. 2095, 2205, 2207; Pub. L. 106-36, title II, § 2408(a), June 25, 1999, 113 Stat. 171; Pub. L. 108-77, title II, § 206, Sept. 3, 2003, 117 Stat. 931; Pub. L. 108-429, title II, § 2105, Dec. 3, 2004, 118 Stat. 2598; Pub. L. 109-53, title II, § 207, Aug. 2, 2005, 119 Stat. 485; Pub. L. 109-280, title XIV, § 1635(b), Aug. 17, 2006, 120 Stat. 1170; Pub. L. 109-283, title II, § 205, Sept. 26, 2006, 120 Stat. 1203; Pub. L. 110-138, title II, § 206, Dec. 14, 2007, 121 Stat. 1476.)

AMENDMENT OF SECTION

*For termination of amendment by section 107(c) of Pub. L. 110-138, see Effective and Termination Dates of 2007 Amendment note below.*

*For termination of amendment by section 107(c) of Pub. L. 109-283, see Effective and Termination Dates of 2006 Amendment note below.*

*For termination of amendment by section 107(d) of Pub. L. 109-53, see Effective and Termination Dates of 2005 Amendment note below.*

*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 202 of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsec. (d), is section 202 of Pub. L. 108-77, which is set out in a note under section 3805 of this title.

Section 202 of the United States-Oman Free Trade Agreement Implementation Act, referred to in subsec. (d), is section 202 of Pub. L. 109-283, which is set out in a note under section 3805 of this title.

Section 203 of the United States-Peru Trade Promotion Agreement Implementation Act, referred to in subsec. (d), is section 203 of Pub. L. 110-138, which is set out in a note under section 3805 of this title.

CODIFICATION

Act June 26, 1934, effective July 1, 1935, provided for repeal of certain permanent appropriations authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury.

PRIOR PROVISIONS

This section, as originally enacted, contained a paragraph (b) making a permanent appropriation of the

moneys necessary to make refunds. Effective July 1, 1935, paragraph (b) was repealed by act June 26, 1934, ch. 756, § 2, 48 Stat. 1225, such act authorizing, in lieu thereof, an annual appropriation from the general fund of the Treasury.

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 520, 42 Stat. 973. That section was superseded by section 520 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions somewhat similar to those in subdivisions (1) and (3) of paragraph (a) for refund of moneys paid on account of unascertained or estimated duties or payments on appeal, and for correction of clerical errors within one year, with further provisions making an appropriation and requiring reports to Congress of moneys refunded, were contained in act Oct. 3, 1913, ch. 16, § III, Y, 38 Stat. 191, which reenacted the provisions of Customs Administrative Act June 10, 1890, ch. 407, § 24, 26 Stat. 140, as renumbered and reenacted by Payne-Aldrich Tariff Act of August 5, 1909, ch. 6, § 28, 36 Stat. 103. Said section III, Y, of the 1913 act was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

Provisions concerning the refund of moneys collected as duties in accordance with any decision, etc., of the Secretary of the Treasury, with provisos concerning reliquidations, correction of errors, household effects and other articles exempt from duty, were contained in act March 3, 1875, ch. 136, 18 Stat. 469, which was also repealed by section 643 of the act of Sept. 21, 1922.

R.S. § 3011 (as amended by act Feb. 27, 1877, ch. 69, § 1, 19 Stat. 247, and act Feb. 1, 1888, ch. 4, 25 Stat. 6) and section 3012, relative to actions to recover duties paid under protest, and sections 3012½ and 3013, relative to refunds, were repealed by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

Act June 7, 1924, ch. 357, 43 Stat. 660, authorizing the remission of unpaid customs duties on material belonging to the United States and theretofore imported by the War Department, was omitted from the Code as temporary.

#### AMENDMENTS

2007—Subsec. (d). Pub. L. 110-138, §§ 107(c), 206, in introductory provisions, temporarily struck out “or” before “section 202 of the United States-Oman” and substituted “, or section 203 of the United States-Peru Trade Promotion Agreement Implementation Act for which” for “for which”. See Effective and Termination Dates of 2007 Amendment note below.

2006—Subsec. (a). Pub. L. 109-280, in par. (1), substituted period for semicolon at end, in par. (2), substituted period for “; and” at end, and, in par. (4), inserted “an importer of record declares or” after “whenever” and struck out “by reason of clerical error” before period at end.

Subsec. (d). Pub. L. 109-283, §§ 107(c), 205(1), in introductory provisions, temporarily struck out “or” before “section 4033” and substituted “, or section 202 of the United States-Oman Free Trade Agreement Implementation Act for which” for “for which”. See Effective and Termination Dates of 2006 Amendment note below.

Subsec. (d)(3). Pub. L. 109-283, §§ 107(c), 205(2), temporarily inserted “and information” after “documentation”. See Effective and Termination Dates of 2006 Amendment note below.

2005—Subsec. (d). Pub. L. 109-53, §§ 107(d), 207, temporarily substituted “, section 202 of the United States-Chile Free Trade Agreement Implementation Act, or section 4033 of this title” for “or section 202 of the United States-Chile Free Trade Agreement Implementation Act” in introductory provisions and inserted “or certifications” after “other certificates” in par. (2). See Effective and Termination Dates of 2005 Amendment note below.

2004—Subsec. (c). Pub. L. 108-429 struck out subsec. (c) which related to reliquidation of entry or reconciliation.

2003—Subsec. (d). Pub. L. 108-77, §§ 107(c), 206(1), (2), temporarily inserted heading and inserted “or section

202 of the United States-Chile Free Trade Agreement Implementation Act” after “title” in introductory provisions. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (d)(1). Pub. L. 108-77, §§ 107(c), 206(3), temporarily substituted “the applicable” for “those”. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (d)(2). Pub. L. 108-77, §§ 107(c), 206(4), temporarily inserted “, or other certificates of origin, as the case may be” before semicolon. See Effective and Termination Dates of 2003 Amendment note below.

1999—Subsec. (d). Pub. L. 106-36 inserted “(including any merchandise processing fees)” after “excess duties” in introductory provisions.

1993—Subsec. (a)(1), (4). Pub. L. 103-182, § 646(1), inserted “or reconciliation” after “entry”.

Subsec. (c). Pub. L. 103-182, § 646(2)(A), (B), substituted “Customs Service” for “appropriate customs officer” and inserted “or reconciliation” after “entry” in introductory provisions.

Subsec. (c)(1). Pub. L. 103-182, § 646(2)(A), (C), inserted “, whether or not resulting from or contained in electronic transmission,” before “not amounting to”, and substituted “Customs Service” for “appropriate customs officer”.

Subsec. (d). Pub. L. 103-182, § 206, added subsec. (d). See Construction of 1993 Amendment note below.

Pub. L. 103-182, § 642(b), struck out subsec. (d) which read as follows: “If a determination is made to reliquidate an entry as a result of a protest filed under section 1514 of this title or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 1505(c) of this title at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, whichever occurs first.” See Construction of 1993 Amendment note below.

1984—Subsec. (a)(4). Pub. L. 98-573, § 212(b)(7)(B), added par. (4).

Subsec. (d). Pub. L. 98-573, § 210(b), added subsec. (d).

1978—Subsec. (c)(1). Pub. L. 95-410 substituted “appropriate customs officer within one year after the date of liquidation or exaction” for “customs service within one year after the date of entry, or transaction, or within ninety days after liquidation or exaction when the liquidation or exaction is made more than nine months after the date of the entry, or transaction”.

1970—Subsec. (c). Pub. L. 91-271 in introductory material substituted “the appropriate customs officer may, in accordance with regulations prescribed by the Secretary,” for “the Secretary of the Treasury may authorize a collector to”, and in par. (1) struck out “appraisalment” wherever appearing and substituted “ninety” and “nine” for “sixty” and “ten”, respectively.

1953—Subsec. (c)(1). Act Aug. 8, 1953, extended the relief provision to situations involving clerical errors, mistakes of fact, or any other inadvertence not amounting to an error in the construction of a law, in any entry, liquidation, appraisalment or other customs transaction, when such error, mistake or other inadvertence is adverse to the record or established by written evidence.

Subsec. (c)(2). Act Aug. 8, 1953, permitted correction of assessments of duty on household or personal effects which are subject to duty.

1938—Subsecs. (b), (c). Act June 25, 1938, added subsecs. (b) and (c).

#### EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110-138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force,

see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2006  
AMENDMENT

Amendment by Pub. L. 109-283 effective on the date on which the United States-Oman Free Trade Agreement enters into force (Jan. 1, 2009) and to cease to be effective on the date on which the Agreement terminates, see section 107(a), (c) of Pub. L. 109-283, set out in a note under section 3805 of this title.

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

EFFECTIVE AND TERMINATION DATES OF 2005  
AMENDMENT

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

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 1999 AMENDMENT

Amendment by Pub. L. 106-36 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after June 25, 1999, see section 2408(c) of Pub. L. 106-36, set out as a note under section 1514 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 206 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 210(b) of Pub. L. 98-573 applicable with respect to determinations made or ordered on or after Oct. 30, 1984, see section 214(c)(5)(B) of Pub. L. 98-573, set out as a note under section 1304 of this title.

Amendment by section 212 of Pub. L. 98-573 effective on close of 180th day after Oct. 30, 1984, see section 214(d) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 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.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 206 of Pub. L. 103-182 to be made after amendment by section 642(b) 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.

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.

AVAILABILITY OF TRANSPORTATION AND STORAGE  
FACILITIES FOR MILITARY PURPOSES

Act Sept. 29, 1942, ch. 567, 56 Stat. 761, authorized removal of merchandise in bond or customs custody from transportation and storage facilities needed for military purposes, prior to repeal by act July 25, 1947, ch. 327, §1, 61 Stat. 449.

**§ 1521. Repealed. Pub. L. 103-182, title VI, § 618,  
Dec. 8, 1993, 107 Stat. 2180**

Section, acts June 17, 1930, ch. 497, title IV, § 521, 46 Stat. 739; June 2, 1970, Pub. L. 91-271, title III, § 301(b), 84 Stat. 287, provided for reliquidation of entry on account of fraud.

**§ 1522. Omitted**

CODIFICATION

Section, act June 17, 1930, ch. 497, title IV, § 522, 46 Stat. 739, amended section 372 of former Title 31. See section 5151 of Title 31, Money and Finance.

**§ 1523. Examination of accounts**

The Secretary of the Treasury or such officer or employee as he shall designate, shall, under regulations and instructions prescribed by the Secretary—

(1) examine the customs officers' accounts of receipts and disbursements of money and receipts and disposition of merchandise; and

(2) verify, to such extent as the Secretary of the Treasury shall direct, assessments of duties and taxes and allowances of drawback.

(June 17, 1930, ch. 497, title IV, § 523, 46 Stat. 740; Aug. 8, 1953, ch. 397, § 2(d), 67 Stat. 508; Pub. L. 91-271, title III, § 301(s), June 2, 1970, 84 Stat. 290.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 523, 42 Stat. 974. That section was superseded by section 523 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

#### AMENDMENTS

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

1953—Act Aug. 8, 1953, amended section generally by eliminating the provision continuing “naval officers of customs” as “Comptrollers of Customs”; by substituting the reference to “The Secretary of the Treasury or such officer or employee as he shall designate” for references to the comptrollers of customs; and, among other changes, substituting the provision that the verification of assessments of duties and allowances of drawbacks should be to such extent as the Secretary of the Treasury directs, for the former provision requiring such verification in all cases.

#### 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.

### § 1524. Deposit of reimbursable charges

Receipts for any reimbursable charges or expenses which have been paid for out of any appropriation for collecting the revenue from customs shall be deposited as a refund to such appropriation instead of being covered into the Treasury as miscellaneous receipts, as provided by section 527 of this title.

(June 17, 1930, ch. 497, title IV, § 524, 46 Stat. 741; June 25, 1938, ch. 679, § 19(b), 52 Stat. 1087.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 524, 42 Stat. 975. That section was superseded by section 524 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

#### AMENDMENTS

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

#### 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.

### § 1525. Repealed. Pub. L. 89-762, § 2, Nov. 5, 1966, 80 Stat. 1312

Section, act June 17, 1930, ch. 497, title IV, § 525, 46 Stat. 741, authorized the Secretary of the Treasury to employ not more than ten persons in the District of Columbia who have been detailed from the field force of the Customs Service.

### § 1526. Merchandise bearing American trademark

#### (a) Importation prohibited

Except as provided in subsection (d) of this section, it shall be unlawful to import into the

United States any merchandise of foreign manufacture if such merchandise, or the label, sign, print, package, wrapper, or receptacle, bears a trademark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent and Trademark Office by a person domiciled in the United States, under the provisions of sections 81 to 109 of title 15, and if a copy of the certificate of registration of such trademark is filed with the Secretary of the Treasury, in the manner provided in section 106 of said title 15, unless written consent of the owner of such trademark is produced at the time of making entry.

#### (b) Seizure and forfeiture

Any such merchandise imported into the United States in violation of the provisions of this section shall be subject to seizure and forfeiture for violation of the customs laws.

#### (c) Injunction and damages

Any person dealing in any such merchandise may be enjoined from dealing therein within the United States or may be required to export or destroy such merchandise or to remove or obliterate such trademark and shall be liable for the same damages and profits provided for wrongful use of a trade-mark, under the provisions of sections 81 to 109 of title 15.

#### (d) Exemptions; publication in Federal Register; forfeitures; rules and regulations

(1) The trademark provisions of this section and section 1124 of title 15, do not apply to the importation of articles accompanying any person arriving in the United States when such articles are for his personal use and not for sale if (A) such articles are within the limits of types and quantities determined by the Secretary pursuant to paragraph (2) of this subsection, and (B) such person has not been granted an exemption under this subsection within thirty days immediately preceding his arrival.

(2) The Secretary shall determine and publish in the Federal Register lists of the types of articles and the quantities of each which shall be entitled to the exemption provided by this subsection. In determining such quantities of particular types of trade-marked articles, the Secretary shall give such consideration as he deems necessary to the numbers of such articles usually purchased at retail for personal use.

(3) If any article which has been exempted from the restrictions on importation of the trade-mark laws under this subsection is sold within one year after the date of importation, such article, or its value (to be recovered from the importer), is subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not subject to the provisions of this paragraph.

(4) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this subsection.

#### (e) Merchandise bearing counterfeit mark; seizure and forfeiture; disposition of seized goods

Any such merchandise bearing a counterfeit mark (within the meaning of section 1127 of title

15) imported into the United States in violation of the provisions of section 1124 of title 15, shall be seized and, in the absence of the written consent of the trademark owner, forfeited for violations of the customs laws. Upon seizure of such merchandise, the Secretary shall notify the owner of the trademark, and shall, after forfeiture, destroy the merchandise. Alternatively, if the merchandise is not unsafe or a hazard to health, and the Secretary has the consent of the trademark owner, the Secretary may obliterate the trademark where feasible and dispose of the goods seized—

(1) by delivery to such Federal, State, and local government agencies as in the opinion of the Secretary have a need for such merchandise,

(2) by gift to such eleemosynary institutions as in the opinion of the Secretary have a need for such merchandise, or

(3) more than 90 days after the date of forfeiture, by sale by the Customs Service at public auction under such regulations as the Secretary prescribes, except that before making any such sale the Secretary shall determine that no Federal, State, or local government agency or eleemosynary institution has established a need for such merchandise under paragraph (1) or (2).

**(f) Civil penalties**

(1) Any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized under subsection (e) of this section shall be subject to a civil fine.

(2) For the first such seizure, the fine shall be not more than the value that the merchandise would have had if it were genuine, according to the manufacturer's suggested retail price, determined under regulations promulgated by the Secretary.

(3) For the second seizure and thereafter, the fine shall be not more than twice the value that the merchandise would have had if it were genuine, as determined under regulations promulgated by the Secretary.

(4) The imposition of a fine under this subsection shall be within the discretion of the Customs Service, and shall be in addition to any other civil or criminal penalty or other remedy authorized by law.

(June 17, 1930, ch. 497, title IV, § 526, 46 Stat. 741; Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949; Pub. L. 95-410, title II, § 211(a), (c), Oct. 3, 1978, 92 Stat. 903; Pub. L. 103-182, title VI, § 663, Dec. 8, 1993, 107 Stat. 2214; Pub. L. 104-153, §§ 9, 10, July 2, 1996, 110 Stat. 1388.)

REFERENCES IN TEXT

Sections 81 to 109 of title 15, referred to in subsecs. (a) and (c), were repealed by act July 5, 1946, ch. 540, § 46(a), 61 Stat. 444. See sections 1051 to 1127, respectively, of Title 15, Commerce and Trade.

Section 106 of title 15, referred to in subsec. (a), was repealed by act July 15, 1946, ch. 540, § 46(a), 60 Stat. 444. See section 1124 of Title 15.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 526, 42 Stat. 975. That section was superseded by section 526 of

act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-153, § 9, inserted “destroy the merchandise. Alternatively, if the merchandise is not unsafe or a hazard to health, and the Secretary has the consent of the trademark owner, the Secretary may” after “shall, after forfeiture,” in second sentence, inserted “or” at end of par. (2), substituted period for “, or” at end of par. (3), and struck out par. (4) which read as follows: “if the merchandise is unsafe or a hazard to health, by destruction.”

Subsec. (f). Pub. L. 104-153, § 10, added subsec. (f).

1993—Subsec. (e)(3). Pub. L. 103-182 substituted “90 days” for “1 year” and “the Customs Service” for “appropriate customs officers”.

1978—Subsec. (a). Pub. L. 95-410, § 211(a)(1), substituted “Except as provided in subsection (d) of this section, it” for “It”.

Subsec. (d). Pub. L. 95-410, § 211(a)(2), added subsec. (d).

Subsec. (e). Pub. L. 95-410, § 211(c), added subsec. (e).

CHANGE OF NAME

“Patent and Trademark Office” substituted for “Patent Office” in subsec. (a) pursuant to Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

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, set out as a note under section 542 of Title 6.

**§ 1527. Importation of wild mammals and birds in violation of foreign law**

**(a) Importation prohibited**

If the laws or regulations of any country, dependency, province, or other subdivision of government restrict the taking, killing, possession, or exportation to the United States, of any wild mammal or bird, alive or dead, or restrict the exportation to the United States of any part or product of any wild mammal or bird, whether raw or manufactured, no such mammal or bird, or part or product thereof, shall, after the expiration of ninety days after June 17, 1930, be imported into the United States from such country, dependency, province, or other subdivision of government, directly or indirectly, unless accompanied by a certification of the United States consul, for the consular district in which is located the port or place from which such mammal or bird, or part or product thereof, was exported from such country, dependency, province, or other subdivision of government, that such mammal or bird, or part or product thereof, has not been acquired or exported in violation of the laws or regulations of such country, dependency, province, or other subdivision of government.

**(b) Forfeiture**

Any mammal or bird, alive or dead, or any part or product thereof, whether raw or manufactured, imported into the United States in violation of the provisions of the preceding subdivi-

sion shall be subject to seizure and forfeiture under the customs laws. Any such article so forfeited may, in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe, be placed with the departments or bureaus of the Federal or State Governments, or with societies or museums, for exhibition or scientific or educational purposes, or destroyed, or (except in the case of heads or horns of wild mammals) sold in the manner provided by law.

**(c) Section not to apply in certain cases**

The provisions of this section shall not apply in the case of—

**(1) Prohibited importations**

Articles the importation of which is prohibited under the provisions of this chapter, or of section 42(a) of title 18, or of any other law;

**(2) Scientific or educational purposes**

Wild mammals or birds, alive or dead, or parts or products thereof, whether raw or manufactured, imported for scientific or educational purposes;

**(3) Certain migratory game birds**

Migratory game birds (for which an open season is provided by the laws of the United States and any foreign country which is a party to a treaty with the United States, in effect on the date of importation, relating to the protection of such migratory game birds) brought into the United States by bona fide sportsmen returning from hunting trips in such country, if at the time of importation the possession of such birds is not prohibited by the laws of such country or of the United States.

(June 17, 1930, ch. 497, title IV, § 527, 46 Stat. 741.)

CODIFICATION

In subsec. (c)(1), “section 42(a) of title 18” substituted for “section 241 of the Criminal Code [18 U.S.C. 391]” on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

**§ 1528. Taxes not to be construed as duties**

No tax or other charge imposed by or pursuant to any law of the United States shall be construed to be a customs duty for the purpose of any statute relating to the customs revenue, unless the law imposing such tax or charge designates it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws. Nothing in this section shall be construed to limit or restrict the jurisdiction of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit.

(June 17, 1930, ch. 497, title IV, § 528, as added June 25, 1938, ch. 679, § 20, 52 Stat. 1087; amended Pub. L. 96-417, title VI, § 601(8), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 97-164, title I, § 163(a)(3), Apr. 2, 1982, 96 Stat. 49.)

AMENDMENTS

1982—Pub. L. 97-164 substituted “Court of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals”.

1980—Pub. L. 96-417 redesignated the United States Customs Court as the United States Court of International Trade.

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 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

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.

**§ 1529. Collection of fees on behalf of other agencies**

The Customs Service shall be reimbursed from the fees collected for the cost and expense, administrative and otherwise, incurred in collecting any fees on behalf of any government<sup>1</sup> agency for any reason.

(June 17, 1930, ch. 497, title IV, § 529, as added Pub. L. 103-182, title VI, § 669, Dec. 8, 1993, 107 Stat. 2216.)

TRANSFER OF FUNCTIONS

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

PART IV—TRANSPORTATION IN BOND AND WAREHOUSING OF MERCHANDISE

**§ 1551. Designation as carrier of bonded merchandise**

Under such regulations and subject to such terms and conditions as the Secretary of the Treasury shall prescribe—

(1) any common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route for the transportation of merchandise in the United States,

(2) any contract carrier authorized to operate as such by any agency of the United States, and

(3) any freight forwarder authorized to operate as such by any agency of the United States,

upon application, may, in the discretion of the Secretary, be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. A private carrier, upon application, may, in the discretion of the Secretary, be designated under the preceding sentence as a carrier of bonded merchandise, subject to such regulations and, in the case of each applicant, to such special terms

<sup>1</sup> So in original. Probably should be capitalized.