

§ 18.5

the container or road vehicle no longer meets the requirements of the applicable Convention.

(d) Containers or road vehicles which are not approved under the provisions of a Customs Convention may be accepted for transport under Customs seal only if the port director at the port of origin is satisfied that (1) the container or road vehicle can be effectively sealed and (2) no goods can be removed from or introduced into the container or road vehicle without obvious damage to it or without breaking the seal. A container or road vehicle so accepted shall not carry merchandise covered by a TIR carnet.

[T.D. 71-70, 36 FR 4486, Mar. 6, 1971, as amended by T.D. 89-1, 53 FR 51254, Dec. 21, 1988]

§ 18.5 Diversion.

(a) Merchandise forwarded under any class of transportation entry may be diverted to any port other than the port named in the entry at the option of the consignee or agent. Except as provided for in paragraphs (c), (d), (e), (f), and (g) of this section, prior application or approval of such diversion is not required.

(b) The director of the port to which merchandise is diverted may permit merchandise in transit under bond under any class of transportation entry to be entered at his port for consumption, warehouse, exportation, further transportation in bond, or under any provisions of the tariff laws.

(c) When merchandise which has been delivered to the director of the port of original destination or port of diversion under any class of transportation entry is to be forwarded to another port or returned to the port of origin, a new transportation entry shall be required. If the merchandise is moving under cover of a carnet, the carnet may be accepted as a transportation entry.

(d) If it is desired to split a shipment at a port of destination and to enter a portion for consumption or warehouse and forward the balance in bond, or to divert the entire shipment or a part thereof to more than one port, the director of the port where diversion takes place shall complete the original transaction and shall require the filing of a new transportation entry or entries for the portion or portions for-

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warded. In the case, however, of merchandise being transported under cover of a carnet, splitting up of a shipment shall not be permitted.

(e) The diversion of shipments in bond which are subject on importation to restriction or prohibition under quarantines and regulations of the Agricultural Research Service of the Department of Agriculture shall be allowed only upon written permission or under regulations issued by the agency concerned.

(f) The diversion of in-bond shipments, which contain textiles or textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), during the in-bond movement shall be allowed only upon the prior written permission of the director of the port of origin.

(g) For in-bond shipments which, at the time of transmission of the Importer Security Filing as required by § 149.2 of this chapter, are intended to be entered as an immediate exportation (IE) or transportation and exportation (T&E) shipment, permission to divert the in-bond movement to a port other than the listed port of destination or export or to change the in-bond entry into a consumption entry must be obtained from the port director of the port of origin. Such permission would only be granted upon receipt by Customs and Border Protection (CBP) of a complete Importer Security Filing as required by part 149 of this chapter.

[T.D. 71-70, 36 FR 4487, Mar. 6, 1971, as amended by T.D. 82-116, 47 FR 27261, June 24, 1982; T.D. 84-207, 49 FR 38247, Sept. 28, 1984; T.D. 85-38, 50 FR 8723, Mar. 5, 1985; CBP Dec. 08-46, 73 FR 71780, Nov. 25, 2008]

§ 18.6 Short shipments; shortages; entry and allowance.

(a) When there has been a short shipment and the short-shipped packages are subsequently received, they may be forwarded only under a new transportation entry referenced to the original entry.

(b) When there is a shortage of one or more packages, or nondelivery of an entire shipment, or delivery to unauthorized locations, or delivery to the consignee without the permission of

Customs, the port director may demand return of the merchandise to Customs custody. The demand shall be made no later than 30 days after the shortage, delivery, or nondelivery is discovered by Customs. The demand for the return of the merchandise to Customs custody shall be made on the bonded carrier, cartman, or lighterman identified on the Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit, Customs Form 7512, the Transit Air Cargo Manifest (TACM), or other appropriate document. The demand for the return of the merchandise shall be made on Customs Form 4647, Notice of Redelivery, or other appropriate form or by letter. A copy of the demand with the date of mailing or delivery noted thereon, shall be retained by the port director and made part of the in-bond entry record. Entry of the merchandise may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

(c) If the merchandise cannot be recovered intact, as specified above, entry shall be accepted in accordance with §141.4 of this chapter for the full manifested quantity unless a lesser amount is otherwise permitted in accordance with subpart A of part 158. Except as provided in paragraph (d) of this section, if the merchandise is not returned to Customs custody within 30 days of the date of mailing or date of delivery of the demand for redelivery, there shall be sent to the initial bonded carrier a demand for liquidated damages on Customs Form 5955-A, in the case of nondelivery of an entire shipment or on Customs Form 5931, in the case of a partial shortage.

(d) If merchandise covered by a carnet cannot be recovered intact, as specified in paragraph (b) of this section, entry shall not be accepted; there shall be sent to the appropriate guaranteeing association a demand for liquidated damages, duties, and taxes as prescribed in §18.8(e); and, if appropriate, there shall also be sent to the initial bonded carrier a demand for any excess, as provided in §114.22(d) of this

chapter. Demands shall be made on the forms specified in paragraph (c) of this section.

(e) An allowance in duty on merchandise reported short at destination, including merchandise found by the appraising officer to be damaged and worthless, and animals and birds found by the discharging officer to be dead on arrival at destination, shall be made in the liquidation of the entry.

(f) In the case of shipments arriving in the United States by rail or searail which are forwarded under Customs in-bond seals under the provisions of subpart D of part 123 of this chapter, and §18.11, or §18.20, a notation shall be made by the carrier or shipper on the in-bond manifest, Customs Form 7512, to show whether the shipment was transferred to the car designated in the manifest or whether it was laden in the car in the foreign country, which shall be named.

[T.D. 71-70, 36 FR 4487, Mar. 6, 1971, as amended by T.D. 82-116, 47 FR 27261, June 24, 1982; T.D. 82-158, 47 FR 37881, Aug. 27, 1982; T.D. 84-213, 49 FR 41168, Oct. 19, 1984; T.D. 85-180, 50 FR 42517, Oct. 21, 1985; T.D. 97-82, 62 FR 51770, Oct. 3, 1997]

§ 18.7 Lading for exportation, verification of.

(a) Promptly, but no more than 2 working days, after arrival of any portion of the in-bond shipment at the port of exportation, the delivering carrier shall surrender the in-bond manifest (the in-bond document and any related carnet) to the port director as notice of arrival of the merchandise. If the in-bond manifest is lost in transit, the in-bond carrier shall report the arrival of the merchandise within the prescribed period and shall be responsible for obtaining copies of the original in-bond manifest. Failure to surrender the in-bond manifest or report the arrival of bonded merchandise within the prescribed period shall constitute an irregular delivery and the initial bonded carrier shall be subject to applicable penalties (see §18.8).

(b) The port director shall require only such supervision of the lading for exportation of merchandise covered by an entry or withdrawal for exportation or for transportation and exportation as is reasonably necessary to satisfy