

entry has been cleaned, sorted, repacked, or otherwise changed in condition under section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), withdrawals shall be passed and the entry liquidated on the basis of the weight, gauge, or measure of such merchandise in its manipulated condition with an appropriate notation in the duty statement that the duties are assessed on the basis of the manipulated condition of the merchandise.

(b) *Alcoholic beverages.* Duties on certain alcoholic beverages are assessed only on the quantities entered or withdrawn for consumption (see § 159.4).

(c) *Cigars, cigarettes, and cigarette papers and tubes.* Although Customs duties on cigars, cigarettes, and cigarette papers and tubes are assessed on the quantities imported, the internal revenue taxes on such merchandise are assessed only on the quantities entered or withdrawn for consumption (see § 159.5).

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 80-142, 45 FR 36386, May 30, 1980]

§ 159.22 Net weights and tares.

(a) *Determination of net weight.* The net weight of merchandise dutiable by net weight, or upon a value dependent upon net weight, shall be determined insofar as possible by obtaining the actual weight, or by deducting the actual or schedule tare from the gross weight. Actual tare may be determined on the basis of tests when the tares of the packages in a shipment are reasonably uniform.

(b) *Invoice net weight or tare.* When the actual net weight or tare cannot reasonably be determined and no schedule tare is applicable, liquidation may be made on the basis of the invoice net weight or tare.

(c) *Schedule tare.* The following tares, which, from experience, have proved to be the average for certain classes of merchandise shall be known as schedule tares and shall be applied, except as provided in paragraph (d) of this section:

Apple boxes. 2.984 kilograms per box. This schedule tare includes the paper wrappers, if any, on the apples.

China clay in so-called half-ton casks: 26.856 kilograms per cask.

Figs in skeleton cases: Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

Fresh tomatoes: 113 grams per 100 paper wrappings.

Lemons and oranges: 283 grams per box and 142 grams per half box for paper wrappings, and actual tare for outer containers.

Ocher, dry, in casks: Eight percent of the gross weight.

Ocher, in oil, in casks: Twelve percent of the gross weight.

Pimientos in tins imported from Spain: The following schedule drained weight shall be used as the Customs dutiable weight in the liquidation of entries, the difference between the weight of the new contents of pimientos in tins and such drained weight being the allowance made in liquidation for tare for water:

Size can	Drained weight
3 kilo	13.6 kilograms-case of 6 tins.
794 grams	16.7 kilograms-case of 24 tins.
425 grams	8.0 kilograms-case of 24 tins.
198 grams	3.9 kilograms-case of 24 tins.
113 grams	2.4 kilograms-case of 24 tins.

Tobacco, leaf not stemmed: 5.9 kilograms per bale: Sumatra: actual tare for outside coverings, plus 1.9 kilograms for the inside matting and, if a certificate is attached to the invoice certifying that the bales contain paper wrapping and specifying whether light or heavy paper has been used, either 113 grams or 227 grams for the paper wrapping according to the thickness of paper used.

(d) *Actual tare.* In the following circumstances, the actual tare shall be ascertained and in so doing the weigher shall empty and weigh as many casks, boxes, and other coverings as he may deem necessary:

(1) If the importer is not satisfied with the invoice tare or with the schedule tare;

(2) If the port director is of the opinion that the invoice or schedule tare does not correctly represent the tare of the merchandise; or

(3) If the weigher has reason to believe that the invoice or schedule tare is greater than the real tare.

(e) *Estimated tare.* When it is impracticable to ascertain the actual tare, the weigher shall state in his report what, in his judgment, constitutes a fair tare allowance.

(f) *Weight for value purposes.* In determining the total dutiable value of merchandise which is subject to ad valorem duty and appraised on the basis of weight, liquidation shall be made on

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the same basis as appraisalment. For example, if appraisalment is made on the basis of gross weight, the unit value shall be multiplied by the total gross weight in computing the total value even though net weight may be used for other purposes in liquidation, such as in determining total specific duties.

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 89-1, 53 FR 51270, Dec. 21, 1988]

Subpart C—Conversion of Foreign Currency

§ 159.31 Rates to be used.

Except as otherwise specified in this subpart, no rate or rates of exchange shall be used to convert foreign currency for Customs purposes other than a proclaimed rate or certified rate or rates.

§ 159.32 Date of exportation.

The date of exportation for currency conversion shall be fixed in accordance with § 152.1(c) of this chapter.

§ 159.33 Proclaimed rate.

If a rate of exchange has been proclaimed by the Secretary of the Treasury in accordance with 31 U.S.C. 5151(b) for the currency involved, such proclaimed rate shall be used unless it varies by 5 percent or more from the certified daily rate for the date of exportation as set forth in § 159.35. In determining the percentage of variation between the proclaimed rate and the certified rate, the difference between the two rates shall be divided by the certified rate.

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 97-82, 62 FR 51771, Oct. 3, 1997]

§ 159.34 Certified quarterly rate.

(a) *Countries for which quarterly rate is certified.* For the currency of each of the following foreign countries, there will be published in the Customs Bulletin, for the quarter beginning January 1, and for each quarter thereafter, the rate or rates first certified by the Federal Reserve Bank of New York for such foreign currency for a day in that quarter:

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Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Hong Kong, India, Iran, Ireland, Italy, Japan, Malaysia, Mexico, Netherlands, New Zealand, Norway, People's Republic of China, Philippines, Portugal, Republic of South Africa, Singapore, Spain, Sri Lanka (Ceylon), Sweden, Switzerland, Thailand, United Kingdom, Venezuela.

(b) *When certified quarterly rate is used.* The certified quarterly rate established under paragraph (a) of this section shall be used for Customs purposes for any date of exportation within the quarter, except in the following cases:

(1) *Proclaimed rate.* If a rate has been proclaimed by the Secretary of the Treasury under § 159.33 which does not vary by 5 percent or more from the appropriate certified daily rate, notice of such variance shall be published in the Customs Bulletin and the proclaimed rate shall be used for Customs purposes in connection with merchandise exported on such date.

(2) *Certified daily rate.* If the certified daily rate for the date of exportation varies by 5 percent or more from the certified quarterly rate, notice of such variation and the rate or rates certified for such day shall be published in the Customs Bulletin, and such certified daily rate shall be used for Customs purposes in connection with merchandise exported on such day.

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 81-117, 46 FR 24944, May 4, 1981]

§ 159.35 Certified daily rate.

The daily buying rate of foreign currency which is determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury in accordance with 31 U.S.C. 5151(e) shall be used for the conversion of foreign currency whenever a proclaimed rate or certified quarterly rate is not applicable under the provisions of §§ 159.33 and 159.34. If the date of exportation is one on which banks are generally closed in New York City, then the certified daily rate for the last preceding business day shall be considered