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OF THE UNITED STATES 1934

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Washington, Thursday, August 26, 1937

TREASURY DEPARTMENT.

Accounts and Deposits.

[1937 Seventh Supplement Department Circular No. 92 (Revised)]

SPECIAL DEPOSITS OF PUBLIC MONEYS UNDER THE ACT OF CONGRESS APPROVED SEPTEMBER 24, 1917, AS AMENDED

AUGUST 21, 1937.

To Federal Reserve Banks and Other Banks and Trust Companies Incorporated Under the Laws of the United States or of Any State:

Treasury Department Circular No. 92, dated February 23, 1932, as amended, is hereby further amended to include Mutual Mortgage Insurance Fund Debentures issued under the National Housing Act, and Series B Commodity Credit Corporation Collateral Trust Notes. Paragraph 11, therefore, under the caption "Collateral Security" will read as follows:

11. *Federal land bank bonds, bonds issued under the Federal Farm Mortgage Corporation Act, obligations of the Reconstruction Finance Corporation, obligations of Federal home loan banks, Home Owners' Loan Corporation bonds, mutual mortgage insurance fund debentures issued under the National Housing Act, and series B Commodity Credit Corporation collateral trust notes.*—Bonds of the Federal Land Banks, bonds issued under the Federal Farm Mortgage Corporation Act, obligations of the Reconstruction Finance Corporation, obligations of the Federal Home Loan Banks, bonds of the Home Owners' Loan Corporation, Mutual Mortgage Insurance Fund debentures issued under the provisions of Title II of the National Housing Act, approved June 27, 1934, including interim certificates issued therefor, and Series B Commodity Credit Corporation collateral trust notes; all at face value.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 37-2619; Filed, August 25, 1937; 11:03 a. m.]

Bureau of Customs.

CUSTOMS REGULATIONS OF THE UNITED STATES, 1937

[*Note: Chapters I–VIII, inclusive, appeared in the Federal Register for Wednesday, August 25, 1937; Chapters 16–29, inclusive, will appear in the issue for Friday, August 27, 1937.*]

CHAPTER IX

PACKING, STAMPING, AND MARKING; TRADE-MARKS; COPYRIGHTS; DISTILLED SPIRITS, WINE, ETC.

PACKING AND STAMPING

DISTILLED SPIRITS, WINE, ETC.

MARKING

TRADE-MARKS AND TRADE NAMES

COPYRIGHTS

PACKING AND STAMPING

ART. 514. *Cigars, cheroots, and cigarettes.*—(*a*) All cigars, cheroots, and cigarettes, except when arriving by mail, shall, on importation, be placed in the public stores or in a designated bonded warehouse, to remain until inspected, weighed, and stamped, or repacked, if necessary, under customs and internal-revenue laws.

(*b*) After the cigars or cheroots have been examined, weighed, and appraised by the appraising officer, and before release, the inspecting officer shall affix a customs stamp to each box of cigars or cheroots, which stamp shall be canceled by the said officer by placing thereon his name, that of the port of entry, the name of the importing vessel, and the serial number which must be applied to each importation made by individual importers or firms and not to each box. The inspecting officer must see that the required internal-revenue stamps are placed upon all boxes of cigars or cheroots, and canceled by the importer. The inspecting officer must also see that the classification label prescribed by Internal Revenue Regulations No. 8 is affixed to each box of cigars weighing more than 3 pounds per thousand.

(*c*) Customs and internal-revenue stamps must be affixed to all packages of imported cigarettes, and be canceled by the importer in accordance with Internal Revenue Regulations No. 8.

(*d*) No cigars or cheroots weighing more than 3 pounds per 1,000 shall be imported unless packed in boxes of 3, 5, 7, 10, 12, 13, 20, 25, 50, 100, 200, 250, or 500; nor cigarettes or small cigars weighing not more than 3 pounds per 1,000,

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unless in packages containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80, or 100. Cigars, cheroots, and cigarettes not contained in such packages at the time of importation may be repacked therein under customs supervision at the expense of the importer.

(*e*) The inspector will affix customs stamps to all domestic cigars, cheroots, and cigarettes returned, and write across the face of the stamp in red ink, "American goods returned" and his initials. They must be packed in the same manner as other imported cigars, cheroots, or cigarettes.

(*f*) Any customs officer who permits imported cigars or cigarettes to leave customs custody, or any person who sells or offers for sale any such merchandise, without the required stamps having been affixed, is subject to a fine and imprisonment.

(*g*) Instructions for weighing imported cigars, cheroots, and cigarettes will be found in article 1363.

(*h*) See article 420 for instructions relative to stamping tobacco products brought in passengers' baggage, article 376 relative to stamping tobacco products imported by mail, and article 264 for stamping tobacco products from the Philippine Islands.

ART. 515. *Tobacco and snuff.*—(*a*) All smoking tobacco, snuff, fine-cut chewing tobacco, all cut and granulated tobacco, all shorts, the refuse of fine-cut chewing tobacco, which has passed through a riddle of 36 meshes per square inch, and all refuse scraps, clippings, cuttings, and sweepings of tobacco, and all other kinds of tobacco not otherwise provided for must be packed in packages containing ⅛, ⅜, ½, ⅝, ¾, ⅞, 1, 1⅛, 1¼, 1⅜, 1½, 1⅝, 1¾, 1⅞, 2, 2¼, 2½, 2¾ 3, 3¼, 3½, 3¾, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, or 16 ounces, except snuff in bladders or jars, which may contain not exceeding 20 pounds, and cavendish plug and twist tobacco, which may be put up in packages not exceeding 200 pounds net weight.

(*b*) The foregoing requirement applies to imported tobacco and snuff, and therefore no importations thereof may be delivered from customs custody unless properly packed and internal-revenue stamps showing payment of taxes have been affixed and canceled by the importer. Such merchandise is subject to the internal-revenue tax in addition to customs duties. Customs inspection stamps are not required on imported manufactured tobacco or snuff, but in the case of returned American manufactured tobacco or snuff the packages shall be marked or stamped, preferably over the internal-revenue stamp, with the inscription "American goods returned."

(*c*) Any customs officer who permits imported manufactured tobacco to leave customs custody without the required stamps having been affixed is subject to a fine and imprisonment.

(*d*) Manufactured tobacco or snuff imported in packages of sizes other than those required by law may be repacked in customs custody at the expense of the owner or importer. If necessary the collector may cause such tobacco or snuff to be transferred to a bonded warehouse, to be designated by him, for the purpose of repacking and stamping.

ART. 516. *Cigarette papers and tubes.*—(*a*) The procedure for the collection of internal-revenue tax on such articles is prescribed in article 188 of Internal Revenue Regulations No. 8, revised April 1928.

(*b*) Importers of cigarette tubes must affix to each package of tubes the internal-revenue stamps prescribed in paragraph (*d*) of the said article and cancel the same before release from customs custody.

ART. 517. *Playing cards.*—(*a*) Imported playing cards shall not be permitted to pass out of customs custody until the required internal-revenue stamps have been affixed thereto and canceled by the importer in accordance with Internal Revenue Regulations No. 66.

(*b*) Customs inspection stamps denoting the payment of duty equal to the internal-revenue tax must be affixed to reimported playing cards which were exported without the payment of tax, but no internal-revenue stamps are required.

ART. 518. *Oleomargarine — Detention — Reports.*—(*a*) All imported oleomargarine, and imported articles suspected of being oleomargarine, will be detained by the collector, and the facts reported to the Bureau and to the collector of internal revenue of the district, to whom such samples shall be furnished as may be requested.

(*b*) Imported oleomargarine must be put up in wooden packages of not less than 10 pounds each.

(*c*) No imported oleomargarine shall be delivered by the collector for consumption until the proper internal-revenue stamps have been affixed and canceled by the importer as required by Internal Revenue Regulations No. 9. Any collector of customs who permits oleomargarine to pass out of his custody before it is properly packed and stamped is liable to a penalty of not less than $1,000 nor more than $5,000 and to imprisonment for not less than 6 months nor more than 3 years.

(*d*) Every person who sells or offers for sale any imported oleomargarine, or oleomargarine purporting or claimed to have been imported, not put up in packages and stamped as provided by law, is subject to a fine of not less than $500 nor more than $5,000 and imprisonment for not less than 6 months nor more than 2 years.

ART. 519. *Purchase of internal-revenue stamps.*—Internal-revenue stamps for imported tobacco products, cigarette tubes, playing cards, and oleomargarine will be sold to the owner or consignee of the merchandise by the collector of internal revenue of the district in which is located the office of the collector of customs where the customs entry is filed, but only upon requisition therefor on internal-revenue Form 923, duly executed by an authorized customs officer.

DISTILLED SPIRITS, WINE, ETC.

ART. 520. *Marking and stamping of spirits, wines, malt liquors, and alcoholic fruit juices in casks and similar containers.*—(*a*) United States Code, title 19, section 467, and Tariff Act of 1930, paragraph 804:

SEC. 467. All distilled spirits, wines, and malt liquors, imported in pipes, hogsheads, tierces, barrels, casks, or other similar packages, shall be first placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected, marked, and branded by a United States customs-gauger, and a stamp affixed to each package, indicating the date and particulars of such inspection; and the Secretary of the Treasury is authorized to prescribe the form of, and provide, the requisite stamps, and to make all regulations which he may deem necessary and proper for carrying the foregoing requirements into effect. Any pipe, hogshead, tierce, barrel, cask, or other package withdrawn from public store or bonded warehouse purporting to contain imported liquor, found without having thereon the stamp hereby required, shall be, with its contents, forfeited to the United States; * * * (Mar. 1, 1879, c. 125, sec. 11, 20 Stat. 342.)

PAR. 804. Still wines, including ginger wine or ginger cordial, vermouth, and rice wine or sake, and similar beverages * * * *Provided*, That any of the foregoing articles specified in this paragraph when imported containing more than 24 per centum of alcohol shall be classed as spirits * * *.

(*b*) The provision in section 467 above that distilled spirits, wines, and malt liquors shall be first placed in public store or bonded warehouse is construed as directory only and such merchandise, unless otherwise required to be sent to the public store, may in the discretion of the collector, be inspected, gauged, marked, and stamped at the place of unlading, or at another suitable place if, in the opinion of the collector, such inspection, etc., can be done there with equal facility and effectiveness.

(*c*) On requisition therefor a moderate supply of customs stamps for liquors in casks or similar containers will be furnished by the Department to such ports as have actual use for them. The stamps are of three kinds and colors, viz: those printed in black for imported distilled spirits, those printed in green for reimported domestic distilled spirits, and those printed in brown for wines and malt liquors. The brown stamps will also be used for fruit juices containing alcohol or distilled spirits when imported in casks or similar containers.

(*d*) When the stamps are affixed to the containers they shall be filled in to show the date when issued, the name of the importer, the place from which shipped, the name of the vessel or the car number and initials, the date of arrival, the commercial name of the liquor in the container, the port of entry, the entry number, the name of the gauger, the number of wine gallons, and, in the case of distilled spirits, the number of proof gallons.

(*e*) Immediately after any distilled spirits, wines, malt liquors, or alcoholic fruit juices imported in casks or similar containers have been entered for consumption or warehouse or before such goods are sent under general order each container, when gauged by the rod method, shall be carefully gauged without reference to any marks or brands already on the container and shall be marked with the serial number of the customs stamp which shall be scored or branded on the head of the container. (See art. 1371 (f) for procedure to be followed when gauging is done by the weight method.)

(*f*) The appropriate stamp properly filled in shall, immediately after gauging, be securely affixed to the head of each container over the spigot hole, if any. In the case of wooden containers the stamp shall be tacked with at least six tacks. After having been affixed the stamps shall be immediately canceled with a stencil plate having five parallel waved lines long enough to extend 1 inch beyond each end of the stamp. A coating of transparent varnish or other suitable substance should then be applied over the stamp to protect and preserve it. If alcoholic liquors stamped as herein provided are withdrawn from customs custody for exportation the customs stamp on the container so withdrawn shall be effectively obliterated before release from such custody.

(*g*) The collector, or at New York, the surveyor, shall keep a record of customs stamps issued showing the officer to whom issued, stamp number, and date of issue, and as stamps are used he shall note on the same record the numbers used and the entry number. When all the stamps in a book have been used, the book of stubs shall be checked against the record and an appropriate certificate signed by the checking officer shall be attached to the book of stubs which shall be filed in the collector's office.

(NOTE.—For additional marking requirements re containers see art. 662.)

ART. 521. *Strip stamps—Distilled spirits imported in bottles.*—(*a*) United States Code, title 26, section 1152a:

No person shall (except as provided in sec. 1152b) transport, possess, buy, sell, or transfer any distilled spirits, unless the immediate container thereof has affixed thereto a stamp denoting the quantity of distilled spirits contained therein and evidencing payment of all internal-revenue taxes imposed on such spirits. The provisions of this section and sections 1152b to 1152g shall not apply to—

(a) Distilled spirits placed in a container for immediate consumption on the premises or for preparation for such consumption;

(b) Distilled spirits in bond or in customs custody;

(c) Distilled spirits in immediate containers required to be stamped under existing law;

(d) Distilled spirits in actual process of rectification, blending, or bottling, or in actual use in processes of manufacture;

(e) Distilled spirits on which no internal-revenue tax is required to be paid;

(f) Distilled spirits not intended for sale or for use in the manufacture or production of any article intended for sale; or

(g) Any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier. (Jan. 11, 1934, c. 1, title II, sec. 201, 48 Stat. 316.)

(*b*) All applications for the purchase of red strip stamps, internal-revenue Form 428, "Order for Stamps—Distilled Spirits Bottle Strips", will be filed in triplicate. The collector of customs who approves the internal-revenue Form 428 will, after approval, retain one copy and return the original and one copy to the applicant for submission to the appropriate collector of internal revenue. The following conditions must be observed:

1. Collectors of customs will be permitted to approve internal-revenue Form 428, "Order for Stamps", only when presented by holders of Federal Alcohol Administration permits authorizing the importation of distilled spirits.

2. An importer must present and file (if he has not already done so) with collectors of customs a certified or photostatic copy of his Federal Alcohol Administration permit at the time he presents his next internal-revenue Form 428 for approval.

3. Where an importer has given a broker or another agent power of attorney to sign internal-revenue Form 428 the importer's name

must be given, followed by the signature of the person authorized and the words "Attorney in Fact." A copy of the power of attorney must be filed with the collectors of customs.

4. Collectors of customs will see that the local address of the importer or his agent is given on internal-revenue Form 428 before they approve it.

(*c*) Strip stamps will be attached to bottles of distilled spirits for importation only as follows: (1) under supervision of a customs officer in the bonded warehouse, as prescribed by paragraph (*h*) of this article; (2) under the supervision of an officer abroad, assigned by the collector of customs, as prescribed by paragraph (*i*) of this article; or (3) by the producer or exporter in the foreign country, as prescribed by paragraph (*j*) of this article.

(*d*) Stamps prescribed by these regulations will be in the following denominations:

1 gallon.	1 pint.
½ gallon.	⅘ pint.
1 quart.	¾ pint.
⅘ quart.	½ pint.
¾ quart.	Less than ½ pint.

The price is 1 cent for each stamp, except that in the case of stamps for bottles of less than one-half pint, the price is one-quarter of 1 cent for each stamp.

(*e*) The importer shall have indelibly overprinted in plain and legible letters the figures on each of the strip stamps, at his expense, the name and address of the importer and the brand and kind of distilled spirits contained in the bottles, which shall, for example, be as follows: "John Doe & Co., Baltimore, Md., Gold Medal Irish Whiskey." Thereafter the importer shall submit the strip stamps to the collector of customs who will verify the overprinting, make an endorsement showing the verification on the copy of internal-revenue Form 428 attached to the entry, and return the strip stamps to the importer. The distilled spirits shall not be released from customs custody until such verification and endorsement have been made.

(*f*) The stamps must be affixed to the bottles with the use of strong adhesive glue or paste. The stamps must pass over the mouth of the bottle, extending an equal distance on two sides of the bottle. No part of the stamp shall be obscured or covered by any label or otherwise.

(*g*) Distilled spirits arriving in the United States, Hawaii, or Alaska from any territory or possession of the United States in which the internal-revenue laws of the United States are not in effect shall be subject to the provisions of sections 1152a to 1152g, title 26, United States Code, and regulations issued pursuant thereto, and shall, for the purposes of obtaining and affixing stamps, be treated as an importation.

(*h*) *Strip stamps affixed in customs bonded warehouse.*—(1) No distilled spirits imported in bottles shall be released from customs custody until there has been affixed to each bottle, under the supervision of a customs officer in a bonded warehouse, the strip stamp required by sections 1152a to 1152g, title 26, United States Code. At ports where there is no bonded warehouse, no distilled spirits imported in bottles shall be released until the strip stamps have been affixed to the bottles under the supervision of a customs officer.

(NOTE.—Shipments of distilled spirits in bonded warehouse on July 1, 1936, or covered by invoices certified prior to Aug. 1, 1936, may be withdrawn and strip stamps sent by the importer or subsequent vendor to the vendee as prescribed by I. R. T. D. 4473.)

(2) Expenses of cartage, storage, repacking, handling, or other labor connected with the opening of cases and affixing of stamps to the bottles shall be borne by the importer.

(3) There shall be indelibly stamped upon each case by the customs officer supervising the affixing of strip stamps to bottles the following legend:

PORT OF _____,
_____, 193__.
(Month) (Day)

This is to certify that on this date the strip stamps required by the Liquor Taxing Act of 1934 were affixed, under my supervision, to the bottles of distilled spirits contained herein, consisting of—

_____
(Number of bottles)
_____
(Size of bottles)
_____
(Name)
_____
(Official designation)

(4) Rubber stamps bearing the above legend will be furnished by the Bureau of Customs upon requisition therefor.

(*i*) *Conditions under which importers of distilled spirits will be permitted to purchase stamps to be attached to the containers by the distiller in the foreign country who exports the spirits to this country.*—(1) The importer will make requisition on internal-revenue Form 428 for stamps to be sent to the foreign exporter, and will attach to the internal-revenue Form 428 a statement setting forth the name and address of the foreign exporter and the port through which the spirits are to be imported. The internal-revenue Form 428, together with the statement, will be submitted to the collector of customs of the port through which the spirits are to be imported. The collector of customs will retain the statement in his files and will approve the internal-revenue Form 428 if he is satisfied that the stamps are required for the stamping of bottles to be imported. The importer will submit the approved internal-revenue Form 428 to the collector of internal revenue, who will sell the requisite stamps to the importer.

(2) The importer shall have indelibly overprinted in plain and legible letters and figures on each of the strip stamps, at his expense, the name and address of the importer and the brand and kind of distilled spirits contained in the bottles, which shall, for example, be as follows: "John Doe & Co., Baltimore, Md., Gold Medal Irish Whiskey." The importer shall submit the strip stamps to the collector of customs, who will verify the overprinting, and make an endorsement showing the verification on the statement submitted to him by the importer with the internal-revenue Form 428, and which was retained by the collector.

(3) The collector of customs to whom the stamps are delivered by the importer will assign an officer to the distillery in the foreign country to supervise the affixing of the stamps to the containers. The collector of customs will deliver the stamps to the officer assigned to the foreign distillery. The officer will retain the stamps in his custody, keeping them locked in a safe or other secure place provided by the distiller, the key to which shall at all times be in the possession of the officer.

(4) The officer will deliver to the distiller such stamps as may be required during bottling operations, and will personally assure himself that all stamps delivered to the distiller are affixed to the bottles filled with spirits for export to the United States.

(5) The officer supervising the affixing of the stamps to bottles at the foreign distillery will stamp the following legend upon each case:

_____, _____, _____, 193__.
(Place) (Month) (Day)

This is to certify that on this date the strip stamps required by the Liquor Taxing Act of 1934 were affixed, under my supervision, to the bottles of distilled spirits contained herein, consisting of—

_____
(Number of bottles)
_____
(Size of bottles)
_____
(Name)
_____
(Official designation)

This legend, when stamped on the case and filled in by the officer, may upon importation be accepted by customs officers

as evidence that the bottles contained therein bear strip stamps.

(6) The actual and necessary expenses of transportation and subsistence of the customs officer assigned under authority of this paragraph shall be collected from the importer by the collector of customs.

(7) Upon entry of distilled spirits bearing strip stamps affixed under supervision of a customs officer abroad, the procedure outlined in paragraph (*j*) (5), (6), (7), and (8), of this article will be followed.

(*j*) *Strip stamps to be affixed to bottles of distilled spirits by the producer or exporter in the foreign country.* At the option of the importer, the following procedure may be followed in lieu of that prescribed in paragraph (*h*) or (*i*) of this article (I. R. T. Ds. 4464, 4473, and 4496).

(1) The importer, or his duly authorized agent, will make requisition on internal-revenue Form 428, in triplicate, for strip stamps to be sent to the foreign producer or exporter, and will attach thereto a statement under oath in the following form:

Port of _____

I solemnly swear (or affirm) that the stamps requested on the internal-revenue Form 428 to which this statement is attached, are required, and will be used, for the quantities of the brands and kinds of distilled spirits listed below, which will be imported by _____, holder of I Permit No. _____
(Name and address of importer)
_____, issued by the Federal Alcohol Administration, from _____
_____
(Name and address of the foreign producer or exporter)
through the ports of _____
(Ports at which warehouse or consumption entries will be filed)
to supply existing orders and/or anticipated requirements within thirty days from this date.

No. of bottles	Size of bottles	Brands	Kinds

_____.

Subscribed and sworn to before me this _____ day of _____, 193__.

_____,
_____

The internal-revenue Form 428, in triplicate, together with the sworn statement, will be submitted to the collector of customs of the district in which the place of business of the importer, or his duly authorized agent, is located. The collector of customs will approve the internal-revenue Form 428 if he is satisfied that the importer is the holder of an I permit issued by the Federal Alcohol Administration, and that the stamps are required for distilled spirits to be imported to supply existing orders and/or anticipated requirements within 30 days from the date of requisition. The importer, or his duly authorized agent, will submit the original with one copy of the approved internal-revenue Form 428 to the collector of internal revenue, who will sell him the strip stamps applied for, and the collector of customs will attach the retained copy of internal-revenue Form 428 to the sworn statement to be retained in his files.

(2) The importer, or his duly authorized agent, shall have indelibly overprinted in plain and legible letters and figures on each of the strip stamps, at his expense, the name and address of the importer and the brand and kind of distilled spirits contained in the bottles, which shall, for example, be as follows: "John Doe & Co., Baltimore, Md., Gold Medal Irish Whiskey." The importer, or his duly authorized agent, shall submit the strip stamps to the collector of customs, who will verify the overprinting and make an endorsement showing the verification on the sworn statement submitted with internal-revenue Form 428. After verification and endorsement on the sworn statement, the collector of customs will deliver the strip stamps to the importer, or his duly authorized agent, for transmission to the producer or exporter abroad. The collector will transmit a copy of the sworn statement to the collector of customs at each of the ports at which warehouse or consumption entries will be filed.

(3) The foreign producer or exporter will plainly and legibly mark the following legend on each case containing bottles of spirits to which strip stamps are attached:

The stamps required by the United States Liquor Taxing Act of 1934 are affixed to the bottles contained in this case, consisting of _____ bottles, each containing _____
(Number) (Net contents of bottles)
_____
(Name of producer or exporter)

(4) Upon arrival of the distilled spirits in this country, warehouse entries and consumption entries shall have endorsed thereon by the importer, or his duly authorized agent, the following legend:

Strip stamps required by the Liquor Taxing Act of 1934 were affixed abroad. The stamps were purchased by _____ upon a requisition approved by the collector of
(Name of purchaser)
customs at _____
(Port where internal-revenue Form 428 was approved)
on _____
(Date of approval of internal-revenue Form 428)

(5) The collector of customs of the port at which warehouse or consumption entries are filed shall promptly notify the collector of customs who approved the requisition on internal-revenue Form 428, of the number and denomination of strip stamps shown by the usual customs examination to have been attached to the containers. The collector of customs who approved the requisition will credit such strip stamps against the number purchased under the internal-revenue Form 428 described in the endorsement on the entry referred to in paragraph 4.

(6) In the event of diversion of all or part of the spirits to a port other than that specified in the sworn statement filed with internal-revenue Form 428, the importer shall request the collector of customs who approved the internal-revenue Form 428 to transmit a copy of the statement to the collector of customs at the port to which the spirits are diverted. The collector of customs at the port to which the spirits were diverted shall promptly notify the collector of customs who approved the internal-revenue Form 428 of the number and denomination of strip stamps shown by the usual customs examination to have been attached to the containers.

(7) In case any irregularities or discrepancies are found, the collector of customs at the port of entry shall make demand for redelivery of unexamined packages, and shall not release examination or redelivered packages until satisfactory explanations and/or proper corrections have been made.

(8) Any breach of these regulations, or failure to use the strip stamps within a reasonable time for the purpose for which they were procured, not satisfactorily explained to the collector of customs, will be grounds for denial of approval of further requisitions for purchase of strip stamps for affixing abroad under these regulations.

(9) Collectors of customs will furnish the Bureau of Customs on April 1, July 1, October 1, and January 1 of each year a consolidated report showing the name of the importer, number of stamps, and denomination of stamps purchased on requisitions on internal-revenue Form 428, approved by them, not used within ninety days from the date of approval.

(*k*) Imported distilled spirits having strip stamps affixed, which spirits are diverted by the importer for exportation purposes, should retain the red strip stamps while passing in transit through the United States, though under bond, but the strip stamps must be effectively destroyed at the port of exportation by the exporter under customs supervision.

ART 522. *Marking of containers.*—(*a*) United States Code, title 26, section 1222:

Whenever in his judgment such action is necessary to protect the revenue, the Secretary of the Treasury is authorized, by the regulations prescribed by him, and permits issued thereunder if required by him (1) to regulate the size, branding, marking, sale, resale, possession, use, and reuse of containers (of a capacity of less than 5 wine-gallons) designed or intended for use for the sale at retail of distilled spirits (within the meaning of such term as it is used in sections 1152a to 1152g) for other than industrial use * * *. (June 18, 1934, c. 610, 48 Stat. 1020.)

(b) *Liquor bottles—Definition of.*—Internal-Revenue Regulations 13 as amended by I. R. T. D. 4641:

"Liquor bottle" shall mean any glass container for packaging distilled spirits for sale at retail, of a capacity of one-half pint or greater, conforming to these regulations and to the regulations prescribed by the Federal Alcohol Administration, the regulations in that regard promulgated by the Federal Alcohol Administration being hereby adopted as a part of these regulations.

(c) (1) *Empty bottles.*—The importation into the United States of containers of one-half pint capacity or greater for use in packaging distilled spirits for sale at retail, except in connection with the importation of the liquor contained therein, is prohibited: *Provided,* That upon application by any importer the supervisor of the district in which the port of entry is situated may in his discretion, by the issuance of an appropriate permit, authorize the importation of empty liquor bottles, or other containers, for packaging distilled spirits imported by him. There shall be blown legibly either in the bottom or in the body of all empty bottles imported under the provisions of this paragraph the name, and the name of the city of address, of the importer thereof, and there shall be blown legibly in the shoulder of each bottle the words "Federal Law Forbids Sale or Reuse of This Bottle."

(2) *Containers other than liquor bottles.*—No distilled spirits for sale at retail may be imported into the United States in containers of one-half pint capacity or greater, other than liquor bottles as defined in paragraph (b) above, unless in accordance with the terms of a permit issued, upon proper application, by the supervisor of the district in which the port of entry is situated, expressly authorizing importation in containers other than liquor bottles. The provisions of this paragraph shall not apply to the importation of distilled spirits in bulk containers of a capacity of 5 wine-gallons or greater.

(3) *Filled bottles.*—There shall be blown legibly either in the bottom or in the body of all liquor bottles containing distilled spirits imported from foreign countries the name, and the name of the city or country of address, of the manufacturer of the spirits, or of the exporter abroad, or the name, and the name of the city of address, of the importer in the United States, and there shall be blown legibly on the shoulder of each such bottle the words "Federal Law Forbids Sale or Reuse of This Bottle": *Provided,* That upon proper application the supervisor of the district in which the port of entry is situated may, in his discretion, issue a permit authorizing (a) the importation, in bottles not so marked, of vintage spirits, if accompanied by authenticated certificates of origin establishing such spirits to be as defined in Internal-Revenue Regulations 13, and (b) the importation of liqueurs, cordials, bitters, cocktails, gin fizzes, and such other specialties, as may be specified from time to time by the Commissioner of Internal Revenue, in bottles of distinctive shape or design, not marked as herein required.

(d) Containers, whether filled or empty, imported in violation of the provisions of this article shall be denied entry into the United States.

(e) Containers of distilled spirits exported in bond shall not be subject to these regulations and the manufacture, and the shipment or delivery, of containers for packaging such spirits, as well as the manufacture for exportation, and the exportation to foreign countries, of empty containers for packaging distilled spirits for sale at retail may, upon application, in the discretion of the supervisor of the district in which such manufacture is carried on, be authorized under permit.

(f) Wherever in these regulations the name of any city or country is required to be blown in any bottle, the name may be either in the language of such country or in English.

(g) Acid-etched or sand-blown indicia in liquor bottles do not meet the above requirements.

(h) The above marking requirements do not apply to distilled spirits withdrawn from warehouse for supplies of vessels.

ART. 523. *Standards of fill for bottled distilled spirits.*—(a) *Bottling requirements.*—No person engaged in business as an importer, shall, directly or indirectly, remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled in conformity with this article. Imported distilled spirits entered in customs bond in bottles prior to March 1, 1935, shall be regarded as being in conformity with this article (1) if the bottle, or the label on the bottle, contains a conspicuous statement of the net contents thereof, and (2) if the actual capacity of the bottle is not substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

(b) *Misbranding.*—Distilled spirits shall be deemed to be misbranded (1) if the bottle is not a standard liquor bottle as prescribed by paragraph (c) of this article for such distilled spirits; (2) if the amount of the distilled spirits contained in the bottle does not conform to one of the standards of fill in effect therefor under paragraph (d) of this article; (3) if the bottle is in an individual carton or other container, and the carton or other container is so made or formed as to mislead purchasers as to the size of the bottle.

(c) *Standard liquor bottles.*—(1) *General.*—A standard liquor bottle shall be one so made, formed, and filled as not to mislead the purchaser.

(2) *Size.*—A liquor bottle shall be held to be so filled as to mislead the purchaser if the bottle holds distilled spirits in an amount other than one of the standards of fill in effect therefor under paragraph (d) of this article.

(3) *Headspace.*—A liquor bottle of a capacity of one-half pint or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of eight per centum of the total capacity of the bottle after closure.

(4) *Design.*—A liquor bottle shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser, if its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

(d) *Standards of fill.*—(1) The standards of fill for distilled spirits in liquor bottles shall be the following, subject to the tolerance hereinafter allowed:

(A) For all distilled spirits, whether domestically manufactured, domestically bottled, or imported.

1 gallon	1 quart	1 pint	⅛ pint
½ gallon	⅙ quart	½ pint	1/10 pint

(B) In addition, for brandy, whether domestically manufactured, domestically bottled, or imported.

1/16 pint

(C) In addition, for Scotch and Irish Whiskey and Scotch and Irish type whiskey; and for brandy and rum:

⅛ pint

(2) The following tolerances shall be allowed:

(A) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(B) Discrepancies due exclusively to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles so as to be of uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of bottles which, because of their design, can not be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(C) Discrepancies in measure due exclusively to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customery exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(3) Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

(4) As used with reference to standard bottles, the term "gallon" means United States gallon of 231 cubic inches of alcoholic beverages at 68° F. (20° C.), and all other units of liquid measure are subdivisions of the gallon as so defined.

(e) *Vintage spirits.*—This article shall not apply to: (1) Distilled spirits imported as vintage spirits (see I. R. Regs. 13,

as amended) under permit issued by a district supervisor of the Alcohol Tax Unit of the Bureau of Internal Revenue pursuant to Internal-Revenue Regulations 13 (Liquor Bottle Regulations) issued by the Secretary of the Treasury; (2) cordials and liqueurs, and cocktails, high-balls, gin fizzes, bitters, and such other specialties as are specified from time to time by the Administrator.

ART. 524. *Wines—Labeling.*—(*a*) (1) Commencing December 15, 1936, imported wine, including sample bottles of wine, shall not be withdrawn from customs custody except upon depositing with the appropriate customs officer an "Affidavit for Release of Imported Wine" (Form L. 12) properly filled out and executed under oath by the importer, covering the wine proposed to be withdrawn. This must be accompanied by an original or photostatic copy of a "Certificate of Label Approval and Release for Imported Wine" (Form L. 11), unless the original or a copy of such Certificate of Label Approval and Release has previously been filed with the collector of customs at the port from which the withdrawal from customs custody is to be made.

(2) A Certificate of Label Approval (Form L. 11) bearing no rubber stamp impression authorizes the withdrawal from customs custody of any wine bearing labels identical with those shown on the release, irrespective of the customs entry number by which covered or the date entered into customs custody.

(3) A Certificate of Label Approval (Form L. 11) bearing a rubber stamp impression "This release applies only to goods entered into customs prior to ———", authorizes the withdrawal from customs custody of any wine bearing labels identical with those shown on the release, irrespective of the customs entry number by which covered, provided such wine was entered into customs custody prior to the date specified in the impression.

(4) If an original or a photostatic copy of a Certificate of Label Approval (Form L. 11) is already on file with the customs office, then in lieu of presenting upon each new importation an importer's affidavit (Form L. 12) accompanied by an original or a photostatic copy of the release, the importer's affidavit will state that the labels upon the wine to be withdrawn are identical with those upon the original or a photostatic copy of the release on file in the customs office.

(5) If the only difference between the labels upon the wine covered by an importer's affidavit (Form L. 12) and those covered by the Certificate of Label Approval is that the labels of the wine covered by the importer's affidavit bear an importer's name and address different from the importer's name and address on the labels covered by the Certificate of Label Approval, then the wine covered by the importer's affidavit may be withdrawn from customs custody notwithstanding the fact that the labels thereon are not identical as to the importer's name and address, provided the labels are identical in every other respect.

(6) A "Disapproval of Application for Certificate of Label Approval" (Form L. 8) does not authorize the release of any wine from customs custody for any purpose. The disapproval merely sets forth the reasons why the labels in question do not conform to the regulations of the Federal Alcohol Administration in the particulars set forth in the "Disapproval of Application for Certificate of Label Approval" (Form L. 8). Form L. 8 indicates that wine, bearing the labels attached thereto, must be relabeled in customs custody before release. *Release of the relabeled wine may be made only upon presentation of a "Certificate of Label Approval" (Form L. 11) covering the labels affixed to the relabeled wine,* and such Certificate of Approval shall operate as authority to relabel in customs custody the wine for which disapproval has been issued with labels identical with those attached to the Certificate of Approval.

(7) The Importer's Affidavit (Form L. 12) and the original or photostatic copy of the release affixed thereto are to be retained for the files of the collector of customs. Upon their being deposited with the appropriate customs officer, an appropriate notation shall be made on the entry to the effect that, in so far as labeling is concerned, wine covered by the customs entry number shown on the affidavit, and bearing labels identical with those appearing upon the Certificate of Label Approval, is authorized to be withdrawn from customs custody. In the event of a partial withdrawal only of wine covered by the particular customs entry number, the remaining wine covered by that customs entry number and bearing labels identical with those affixed to the Certificate of Label Approval may be subsequently withdrawn without the filing of an additional importer's affidavit.

(*b*) *Entries and Withdrawals.*—(1) *Consumption.*—An entry for immediate consumption can only be made when the importer has in his possession a Certificate of Label Approval bearing no rubber stamp impression and having affixed thereto labels identical with those affixed to the wine to be entered. If the importer has no release, a warehouse entry may be made. It is not required that shipments for which no releases have been issued be consigned to general order warehouse. There should be made on the entry papers, however, a notation to the effect that no withdrawal of such wine from bond is to be permitted until an appropriate release has been issued by the Federal Alcohol Administration.

(2) *Immediate transportation without appraisement.*—The appropriate form of release should, in the case of shipments of wine entered for immediate transportation, without appraisement, to another port of entry, be presented to the collector of customs at the port of destination. There may, but need not, be made on the forwarding papers a notation by the appropriate customs officer at the port of arrival to the effect that Federal Alcohol Administration releases were not presented at such port.

(3) *Warehouse withdrawals for transportation.*—In the case of wine already lodged in bonded warehouses and proposed to be withdrawn from warehouse for transportation in bond from the port of entry to another port, the appropriate Federal Alcohol Administration releases should be presented to the collector at the port of original entry before movement to the port of destination.

(*c*) *Release under bond not permissible.*—Wine for which no certificates are presented either at the time of entry or at the time of request for withdrawal should not be released under redelivery bond pending production of the required certificates. Neither should any other bond for the production of these missing documents be accepted.

(*d*) *Food and Drug Administration requirements.*—The requirements of this article are not in substitution for any similar or other requirement of the Food and Drug Administration.

(*e*) *Transferees.*—In the event the importer who entered the wine cannot be procured to make application to the Administration for its withdrawal from customs bonded warehouse, application for such release may be made by the transferee thereof. Any Federal Alcohol Administration forms required in connection with the withdrawal of wine from customs custody, or any affidavit or undertaking thereon, will be acceptable to the Federal Alcohol Administration when deposited with the appropriate customs officer by a transferee of wine in bond, provided the forms have been altered only to the extent applicable to such transferee.

(*f*) *Powers of attorney and affidavits.*—The importer's affidavit for release of wine (Form L. 12), as well as other Federal Alcohol Administration forms required in connection with the withdrawal of wine from customs custody, may be executed by anyone holding a power of attorney for the transaction of customs business of the principal. Powers of attorney for individuals and for corporations in any form acceptable to the customs service will be acceptable to the Federal Alcohol Administration. Affidavits sworn to before any officer authorized by the Tariff Act of 1930 to administer oaths will also be acceptable to the Federal Alcohol Administration.

(*g*) *Physical inspection of labeled goods.*—When feasible, examining officers will, by physical inspection, ascertain whether there is any discrepancy between the labels affixed to the wine to be entered or withdrawn and the correspond-

ing labels on the approved release or photostatic copy thereof. If a discrepancy is found, the facts should be immediately reported to the Federal Alcohol Administration and a copy sent to the Commissioner of Customs.

(*h*) *Ship's stores and wine for personal consumption.*—Wine intended for ship's supplies may be withdrawn from bond without the presentation of any form of Federal Alcohol Administration release, provided the collector of customs is satisfied that all the conditions imposed by the Tariff Act of 1930 and the regulations respecting duty and tax-free withdrawals for this purpose are observed and that the vessel to be supplied is within the category of vessels entitled to such privilege. Wine imported or brought into the United States for personal use and not for sale or other commercial purposes will not require any form of Federal Alcohol Administration release, provided the collector is satisfied that such merchandise is imported for personal use.

(*i*) *Wine for industrial use.*—Wine which is for an industrial use, as such use is defined in Regulations No. 2 of the Federal Alcohol Administration, is not included within the term "Wine" as used in the Federal Alcohol Administration Act. Such wine is not dealt with or included in these instructions.

(*j*) *Withdrawal of samples.*—Although paragraph (*a*) of this article provides that imported wine, including sample bottles of wine for non-industrial use, must be covered by certificates of label approval before withdrawal from customs custody, it will be noted that this applies only to wine for "non-industrial use." Section 2 (a) (3) of F. A. A. Regulations No. 2, relating to non-industrial use of distilled spirits and wine, lists as "industrial use" the use for experimental purposes. It would therefore be proper for collectors of customs to permit the withdrawal from customs custody of samples of wine in reasonable quantities if it has been proved to their satisfaction that such samples are to be used only for experimental purposes, in the making of analyses, tests, etc., even though the labels on such samples are not covered by certificates of label approval. However, bottles of samples intended for display purposes or as a basis for the solicitation of orders or for any similar commercial use in connection with the importer's business, must conform to all the requirements applicable to other wine imported for "non-industrial use."

(*k*) (1) *Exceptions in respect to size, statement of vintage year, and statement of net contents.*—The attention of all collectors is called to the Certificate of Label Approval and Release for Imported Wine (Form L. 11) which permits the withdrawal from customs custody of wine where the only variation in the labels on the containers is in respect to the size of the label, statement of vintage year and statement of net contents, appearing in conformity with section 37 of F. A. A. Regulations No. 4.

(2) Specific attention is also called to the prohibition against the withdrawal of any wine in containers having a capacity of more than one wine gallon when the labels on such containers bear a statement of vintage year. Permission to state vintage year on labels on containers of wine is limited to containers having a capacity of not more than one wine gallon. (See sec. 39 (b) (3) of Regulations No. 4, relating to labeling and advertising of wine.)

ART. 525. *Distilled spirits—Labeling—Certificates of origin and age.*—(*a*) (1) The following instructions govern whiskey, rum, brandy, gin, cordials, liqueurs, and other distilled spirits imported in containers having a capacity of one gallon or less irrespective of the material from which made.

(2) Commencing August 15, 1936, bottled distilled spirits, including sample bottles of distilled spirits, for nonindustrial use, shall not be withdrawn from customs custody except upon depositing with the appropriate customs officer an "Affidavit for Release of Distilled Spirits" (Form L. 3) properly filled out and executed under oath by the importer, covering the distilled spirits proposed to be withdrawn. This must be accompanied by an original or photostatic copy of a "Certificate of Label Approval and Release for Imported Distilled Spirits" (Form L. 2), unless the original or a copy of such Certificate of Label Approval and Release has previously been filed with the collector of customs at the port from which the withdrawal from customs custody is to be made.

(3) A Certificate of Label Approval (Form L. 2) bearing no rubber stamp impression authorizes the withdrawal from customs custody of any distilled spirits bearing labels identical with those shown on the release, irrespective of the customs entry number by which covered or the date entered into customs custody.

(4) A Certificate of Label Approval (Form L. 2) bearing a rubber stamp impression "This release applies only to goods entered into customs prior to _____", authorizes the withdrawal from customs custody of any distilled spirits bearing labels identical with those shown on the release, irrespective of the customs entry number by which covered, provided such distilled spirits were entered into customs custody prior to the date specified in the impression.

(5) If an original or a photostatic copy of a Certificate of Label Approval (Form L. 2) is already on file with the customs office, then in lieu of presenting upon each new importation an importer's affidavit (Form L. 3) accompanied by an original or a photostatic copy of the release, the importer's affidavit will state that the labels upon the distilled spirits to be withdrawn are identical with those upon the original or a photostatic copy of the release on file in the customs office.

(6) If the only difference between the labels upon the distilled spirits covered by an importer's affidavit (Form L. 3) and those covered by the Certificate of Label Approval is that the labels of the distilled spirits covered by the importer's affidavit bear an importer's name and address different from the importer's name and address on the labels covered by the Certificate of Label Approval, then the distilled spirits covered by the importer's affidavit may be withdrawn from customs custody notwithstanding the fact that the labels thereon are not identical as to the importer's name and address, provided the labels are identical in every other respect.

(7) A "Disapproval of Application for Certificate of Label Approval" (Form L. 8) does not authorize the release of any distilled spirits from customs custody for any purpose. The disapproval merely sets forth the reasons why the labels in question do not conform to the regulations of the Federal Alcohol Administration in the particulars set forth in the "Disapproval of Application for Certificate of Label Approval" (Form L. 8). Form L. 8 indicates that distilled spirits, bearing the labels attached thereto, must be relabeled in customs custody before release. *Release of the relabeled distilled spirits may be made only upon presentation of a "Certificate of Label Approval" (Form L. 2) covering the labels affixed to the relabeled distilled spirits,* and such Certificate of Approval shall operate as authority to relabel in customs custody the distilled spirits for which disapproval has been issued with labels identical with those attached to the Certificate of Approval.

(8) The Importer's Affidavit (Form L. 3) and the original or photostatic copy of the release affixed thereto are to be retained for the files of the collector of customs. Upon their being deposited with the appropriate customs officer, an appropriate notation shall be made on the entry to the effect that, in so far as labeling is concerned, distilled spirits covered by the customs entry number shown on the affidavit, and bearing labels identical with those appearing upon the Certificate of Label Approval, are authorized to be withdrawn from customs custody. In the event of a partial withdrawal only of distilled spirits covered by the particular customs entry number, the remaining distilled spirits covered by that customs entry number and bearing labels identical with those affixed to the Certificate of Label Approval may be subsequently withdrawn without the filing of an additional importer's affidavit.

(*b*) *Entries and withdrawals.*—(1) *Consumption.*—An entry for immediate consumption can only be made when the importer has in his possession a Certificate of Label Approval bearing no rubber stamp impression and having affixed thereto labels identical with those affixed to the bottled dis-

stilled spirits to be entered. If the importer has no release a warehouse entry may be made. Likewise, in the case of shipments of Irish, Scotch, Canadian, and American type of whiskeys, and cognac, rum, and brandy, whether blended or unblended, unaccompanied by the required certificates of age or origin, at the time of arrival of the shipment, entry may be made for warehouse but not for consumption. It is not required that shipments for which no releases have been issued, or for which the required certificates of age and origin can not be presented, be consigned to general order warehouse. There should be made on the entry papers, however, a notation to the effect that no withdrawal of such distilled spirits from bond is to be permitted until an appropriate release has been issued by the Federal Alcohol Administration and the required certificates of age and/or origin have been presented.

(2) *Immediate transportation without appraisement.*—The appropriate form of release should, in the case of shipments of distilled spirits entered for immediate transportation, without appraisement, to another port of entry, be presented to the collector of customs at the port of destination. There may, but need not, be made on the forwarding papers a notation by the appropriate customs officer at the port of arrival to the effect that Federal Alcohol Administration releases were not presented at such port.

(3) *Warehouse withdrawals for transportation.*—In the case of distilled spirits already lodged in bonded warehouses and proposed to be withdrawn from warehouse for transportation in bond from the port of entry to another port, the appropriate Federal Alcohol Administration releases should be presented to the collectcor at the port of original entry before movement to the port of destination. Each withdrawal for transportation entry shall bear a notation showing whether the strip stamps have been affixed to the immediate containers and whether the labels and bottles have been approved.

(*e*) *Certificates of origin and age.*—(1) Scotch, Irish, and Canadian whiskeys, in bottles, whether blended or unblended, imported on or after August 15, 1936, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian Governments, certifying (a) that the particular distilled spirits are Scotch, Irish, or Canadian whiskey, as the case may be; (b) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of the whiskey for home consumption; and (c) that the product conforms to the requirements of the Immature Spirits Act of such foreign government for spirits intended for home consumption.

(2) If the label of any Scotch, Irish, or Canadian whiskey, whether blended or unblended, imported in bottles on or after August 15, 1936, contains any statement of age for Scotch or Irish whiskey in excess of 3 years, or Canadian whiskey in excess of 2 years, the whiskey shall not be released from customs custody unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying that none of the distilled spirits in the bottle is of an age less than that stated on the label. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers.

(3) *Cognac, brandy, and rum.*—Bottled cognac, whether blended or unblended, imported in bottles on or after August 15, 1936, for which no certificate of origin (Acquit Regional Jaune d'Or) can be presented should not be permitted withdrawal. Brandy produced elsewhere than in the Cognac Region of France is not properly entitled under Federal Alcohol Administration Labeling Regulations to be designated as "Cognac." No certificates of origin (Acquit Regional Jaune d'Or) are required for brandy produced elsewhere than in the Cognac Region of France and not labeled as "Cognac." Certificates of age are not required for rum, brandy, or cognac unless the label contains a statement of age. If the label for any rum, brandy, or cognac, imported on or after August 15, 1936, contains any statement of age, the importer should not be permitted to withdraw such distilled spirits from customs custody until a certificate of age issued by a duly authorized officer of the appropriate foreign government, and certifying that none of the distilled spirits are of an age less than that stated on the label, is presented. Shipments of bottled cognac unaccompanied by the required certificate of origin and shipments of rum, brandy, and cognac unaccompanied by certificates of age, when required, should be handled according to the procedure and requirements outlined in subparagraph 1, above. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers.

(4) American type whiskeys imported on or after August 15, 1936, shall not be released from customs custody in bottles unless there is presented at the time of entry or at the time of request for release, a certificate issued by a duly authorized official of the appropriate foreign government certifying:

(A) In case of straight whiskey, (1) the class and type (such as straight whiskey, straight rye whiskey, straight bourbon whiskey, etc.) thereof; (2) the American proof at which distilled; (3) that no neutral spirits or other whiskey has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; and (4) the age of the whiskey;

(B) In case of distinctive types of whiskey, (1) the class and type (such as rye whiskey, bourbon whiskey, etc.); (2) the American proof at which distilled; (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; and (4) the age of the whiskey;

(C) In case of blended whiskey, (1) the class and type (such as blended whiskey, blended rye whiskey, blended bourbon whiskey, etc.), (2) the percentage of straight whiskey, or any distinctive type thereof, used in the blend, (3) the American proof at which the straight whiskey was distilled, (4) the percentage of other whiskey, if any, in the blend, (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled, and (6) the age of the straight whiskey and the age of the other whiskey, if any, in the blend.

(D) The age certified shall be the period during which, after distillation and before bottling, the whiskey has been kept in charred oak containers.

(5) *Neutral spirits, gin, cordials, and other miscellaneous distilled spirits.*—Certificates of age and origin are not required by the Federal Alcohol Administration for neutral spirits, gin, cordials, and other distilled spirits than those specified above.

(6) *Release under bond not permissible.*—Scotch, Irish, and Canadian whiskey, and cognac, brandy, and rum, whether blended or unblended, and American type whiskeys for which no certificates are presented either at the time of entry or at the time of request for withdrawal should not be released under redelivery bond pending production of the required certificate. Neither should any other bond for the production of those missing documents be accepted.

(7) *Food and Drug Administration requirements.*—The requirements of this article are not in substitution for any similar or other requirement of the Food and Drug Administration.

(*d*) Examining officers will, by physical inspection, ascertain whether there is any discrepancy between the labels affixed to bottles of distilled spirits and the corresponding photostatic copies of approved labels attached to Form L. 2. If a discrepancy is found, the facts should be immediately reported to the Federal Alcohol Administration and a copy sent to the Commissioner of Customs.

ART. 526. *Exemption from stamping, marking, bottling, and labeling requirements.*—The provisions of articles 521, 522, 523, and 525, are not applicable to distilled spirits: (1) Not for sale or for any other commercial purpose whatever; (2) for use as ship stores; (3) for personal use; (4) for industrial use as defined in F. A. A. T. D. 3, approved December 20, 1935; but distilled spirits, except anhydrous alcohol or alcohol in containers of one gallon or less, shall be deemed to be for nonindustrial use.

ART. 527. *Importation of distilled spirits in bulk.*—Whiskey, rum, brandy, gin, cordials, and liqueurs and other distilled spirits imported in bulk (i. e., in containers having a capacity in excess of 1 gallon) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn

from customs custody, only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of alcoholic beverages in bulk pursuant to section 6 (a) (1) of the Federal Alcohol Administration Act (U. S. C., supp. I, title 27, sec. 206 (a) (1)), for use in bottling, blending, or rectification by such person, prior to delivery to a person not so authorized. In case the customs officer has doubt as to whether the distilled spirits will be used by the person so authorized and will be delivered by him only in bottles, he should direct the importer to forward the documents to the Label Section, Federal Alcohol Administration, Washington, D. C., with a request for instructions to be sent the customs officer.

MARKING

ART. 528. *Marking of articles and packages to indicate country of origin.*—(*a*) Tariff Act of 1930, section 304 (a):

Every article imported into the United States, and its immediate container, and the package in which such article is imported, shall be marked, stamped, branded, or labeled, in legible English words, in a conspicuous place, in such manner as to indicate the country of origin of such article, in accordance with such regulations as the Secretary of the Treasury may prescribe. Such marking, stamping, branding, or labeling shall be as nearly indelible and permanent as the nature of the article will permit. The Secretary of the Treasury may, by regulations prescribed hereunder, except any article from the requirement of marking, stamping, branding, or labeling if he is satisfied that such article is incapable of being marked, stamped, branded, or labeled or can not be marked, stamped, branded, or labeled without injury, or except at an expense economically prohibitive of the importation, or that the marking, stamping, branding, or labeling of the immediate container of such article will reasonably indicate the country or origin of such article.

(*b*) The marking required by section 304 shall include the name of the country of origin. The name of a subdivision such as a kingdom, principality, State, or province, or of a city, within the country of origin is not alone sufficient. The term "country" as used in section 304 is held to mean the political entity known as a nation: *Provided*, That the Department will designate the marking considered sufficient to indicate the country of origin in those cases where the name of the country is of such length that to require such name would result in indistinct marking or no marking. However, colonies, possessions, or protectorates outside the boundaries of a mother country shall be considered separate countries. The adjectival form of the name of a country is acceptable as a proper indication of the origin of imported merchandise, provided the word does not appear with other words so as to refer to a kind or species of product, such terms as "English walnuts", "Brazil nuts", etc., being unacceptable, and provided also that the marking at the time of importation meets the requirements of legibility, conspicuousness, and permanency.

(*c*) Tariff Act of 1930, section 304 (b):

If at the time of importation any article or its container is not marked, stamped, branded, or labeled in accordance with the requirements of this section, there shall be levied, collected, and paid on such article, unless exported under customs supervision, a duty of 10 per centum of the value of such article, in addition to any other duty imposed by law, or, if such article is free of duty, there shall be levied, collected, and paid a duty of 10 per centum of the value thereof.

(*d*) The duty of 10 per centum provided for in paragraph (*c*) of this article shall be assessed upon the value as defined in section 503 of the Tariff Act of 1930.

(*e*) Tariff Act of 1930, section 304 (c):

No imported article or package held in customs custody shall be delivered until such article (and its container) or package and every other article (and its container) or package of the importation, whether or not released from customs custody, shall have been marked, stamped, branded, or labelled in accordance with the requirements of this section. Nothing in this subdivision shall be construed to relieve from the requirements of any provision of this Act relating to the marking of particular articles or their containers.

(*f*) No article which has been repacked under article 936 of these regulations or section 562 of the Tariff Act of 1930, or which has been manipulated under that section shall be withdrawn from warehouse for consumption unless such article (if subject to individual marking when imported and its immediate container and the package in which it is contained at the time of withdrawal are marked to indicate the country of origin or such article in accordance with the provisions of section 304 of the Tariff Act of 1930. The word "articles" within the meaning of this paragraph includes packages and immediate containers withdrawn for consumption which have been removed from articles repacked or manipulated and not replaced thereon. These regulations shall not be construed to relieve an importer from payment of marking duty if it accrued by reason of the absence at the time of importation of the marking required by section 304, nor to require the further marking of articles, containers, or packages which were marked in accordance with section 304 at the time of importation, when such marking has not been affected by the repacking or manipulation.

ART. 529. *Name or mark inducing false belief of origin of imported articles.*—(*a*) United States Code, title 15, section 106:

No article of imported merchandise which shall * * * bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; * * *.

(*b*) Collectors and other officers of the customs are instructed to use diligence to prevent violations of this provision.

ART. 530. *Special marking on certain articles.*—(*a*) Articles specified in paragraphs 354, 355, 357, 358, 359, 360, 361, and 1553 of the Tariff Act of 1930, shall, when imported, be marked in the manner provided in the respective paragraphs.

(*b*) Any article specified in paragraphs 367 and 368 of the tariff act, shall be marked in exact conformity with the requirements thereof and shall not be released until so marked. If any of the said articles specified in paragraphs 367 and 368 are found not to be marked to indicate the country of origin (manufacture), the 10 percent marking duty provided by section 304 shall be assessed for the late marking.

(*c*) The name of the maker (or manufacturer) or purchaser which must appear on the articles specified in the special marking paragraphs may consist either of the actual name of the maker (or manufacturer) or purchaser or a duly registered trade name under which such maker (or manufacturer) or purchaser carries on his business, except as hereinafter provided. A trade mark will be accepted only when it includes the actual name of the maker (or manufacturer) or purchaser or the trade name of such maker (or manufacturer) or purchaser as above specified, provided, however, that a trade mark or trade name will not satisfy the requirements of paragraph 367 (g) unless such trade mark or trade name includes the name in full of either the manufacturer or purchaser, as therein specified. The term "purchaser" as used in this sense means the purchaser in this country by whom or for whose account the articles are imported.

ART. 531. *Miscellaneous special marking.*—With respect to the special marking required on the following articles, see the articles of the regulations indicated opposite the respective items:

Bolting cloth	Art. 463
Inedible grease, tallow, and fat	Art. 572
Drums for the shipment of acids and chemicals	Art. 405
Coal-tar products	Art. 786
Food containers	Art. 549
Viruses, serums, and toxins	Arts. 606 and 610
Caustic or corrosive substances	Art. 550
Milk and cream	Art. 568

ART. 532. *Exceptions to marking requirements.*—(*a*) The following articles and their containers and the packages in which imported are hereby excepted from the marking requirements of section 304 and paragraphs 354, 355, 357, 358, 359, 360, 361, 367, 368, and 1553 of the tariff act:

(1) Articles entered for immediate exportation or in transit through the United States to a foreign country.

(2) Articles the manufacture or production of the Philippine or Virgin Islands; but articles of foreign manufacture or production imported into those islands and reshipped to the United States are subject to all marking requirements applicable to merchandise imported from a foreign country.

(3) Articles of trifling value or for the personal use of the importer or for use in his home, factory, or place of business and not intended for sale.

(4) (*a*) Articles of antiquity specified in paragraph 1811 of the tariff act; (*b*) Books, maps, music, engravings, photographs, etchings, lithographic prints and charts which have been printed more than 20 years at the time of importation and are free of duty under paragraph 1629 of the tariff act.

(*b*) The following articles are hereby excepted from the marking requirements of section 304 of the tariff act (the immediate containers and packages to be marked):

(1) Crude substances or materials.

(2) Merchandise which is to be substantially changed in the importer's plant or for his account by further processing or manufacture which would obliterate or destroy such marking.

(*c*) Other exceptions to the marking requirements will be published from time to time in the Treasury Decisions.

ART. 533. *Disposition of articles not properly marked.*—(*a*) The appraiser will report to the collector all articles, containers, and packages found by him not legally marked. The collector will notify the importer, on customs Form 4647, to redeliver the unexamined packages or to arrange for the marking thereof or of their contents under customs supervision, when permissible, at the expense of the importer.

(*b*) (1) Articles subject to special marking under paragraphs 354, 355, 357, 358, 359, 360, 361, and 1553, of the tariff act, if not marked at the time of importation, may not be marked afterward, but may be exported under customs supervision upon payment of storage and other lawful charges. In such cases the entire amount of estimated duties will be refunded upon liquidation of the entry.

(2) If an importer fails to export such articles within 90 days after the date of notice of lack of proper marking, the items should be treated as prohibited and seized and forfeited in accordance with the customs laws and regulations. The articles may be sold on condition that they are exported by the purchaser under customs supervision. If no bid is received or if the collector believes that the expense of selling such articles will probably be disproportionate to the proceeds realized from the sale thereof, the merchandise should be destroyed.

(*c*) In the case of other articles subject to marking, the importer may be permitted to mark examination packages and their contents in the appraiser's stores, or, if that be impracticable, such merchandise may be turned over to the importer for proper marking under customs supervision at the expense of the importer. If such merchandise shall not be properly marked by the importer within a period of 30 days from the date of notification by the collector of the marking requirements it shall be sent to general order stores unless covered by a warehouse entry, and if not exported within 1 year from the date of entry shall be sold as abandoned merchandise upon the condition that it be marked by the purchaser under customs supervision, or exported under such supervision.

(*d*) Before permitting marking of either examined or unexamined packages or articles subject to marking, elsewhere than at the appraiser's stores, the collector shall require satisfactory security to insure compliance with the marking requirements and the payment of any additional expense incurred on account of customs supervision.

(*e*) If in any case articles subject to marking which have been released from customs custody are not returned or properly marked within 30 days from the date of the requisition therefor, the collector should demand payment of the liquidated damages incurred under the redelivery bond, and in the event payment is not promptly made the matter should be referred to the United States attorney for collection.

ART. 534. *Penalty for fraudulent violation.*—Tariff Act of 1930, section 304 (d):

> If any person shall, with intent to conceal the information given thereby or contained therein, deface, destroy, remove, alter, cover, obscure, or obliterate any mark, stamp, brand, or label required under the provisions of this Act, he shall, upon conviction, be fined not more than $5,000 or imprisoned not more than 1 year, or both.

ART. 535. *Articles of gold or silver falsely marked or stamped.*—(*a*) It is unlawful for any manufacturer or dealer in gold or silver jewelry or gold or silver wares to import or export such wares for sale if marked or labeled in any manner to indicate a greater degree of fineness than the actual fineness thereof. Plated or filled articles must not be marked to indicate the fineness of the gold or silver unless also marked to indicate that the article is plated or filled, and no plated or filled article shall be marked with the word "sterling" or "coin" either alone or in conjunction with other words.

(*b*) Customs officers shall examine all gold and silver articles imported by manufacturers or dealers, and if any such articles are found to be falsely marked they shall be detained and a report of the facts made to the Bureau and the United States attorney.

(*c*) Any firm, manufacturer, dealer, or other person as agent of such firm, manufacturer, or dealer, willfully importing or exporting articles of gold or silver falsely marked or labeled is liable to a fine of not more than $500 or imprisonment or both.

TRADE-MARKS AND TRADE NAMES

ART. 536. *Unlawful importation.*—(*a*) Tariff Act of 1930, section 526:

> (a) 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 trade-mark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent Office by a person domiciled in the United States, under the provisions of the Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same", approved February 20, 1905, as amended, and if a copy of the certificate of registration of such trade-mark is filed with the Secretary of the Treasury, in the manner provided in section 27 of such Act, unless written consent of the owner of such trade-mark is produced at the time of making entry.
>
> (b) 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) 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 trade-mark and shall be liable for the same damages and profits provided for wrongful use of a trade-mark, under the provisions of such Act of February 20, 1905, as amended.

(*b*) United States Code, title 15, section 106:

> No article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this subdivision of this chapter, or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade mark, issued in accordance with the provisions of this subdivision of this chapter, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may

furnish to the department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade mark; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of customs. (Feb. 20, 1905, c. 592, sec. 27, 33 Stat. 730.)

(The foregoing section is applicable to marks placed on the international register provided for by section 1 of the act of Mar. 19, 1920.) (U. S. Code, title 15, sec. 121.)

(*c*) United States Code, title 15, section 132:

Any owner of a trade mark who shall have a manufacturing establishment within the territory of the United States shall be accorded, so far as the registration and protection of trade marks used on the products of such establishments are concerned, the same rights and privileges that are accorded to owners of trade marks domiciled within the territory of the United States by sections 81 to 109, inclusive, of this chapter. (May 4, 1906, c. 2081, sec. 3, 34 Stat. 169.)

(*d*) United States Code, title 48, section 1405q:

* * * The laws of the United States relating to patents, trade marks, and copyrights, and to the enforcement of rights arising thereunder, shall have the same force and effect in the Virgin Islands as in the continental United States, and the District Court of the Virgin Islands shall have the same jurisdiction in causes arising under such laws as is exercised by United States district courts. (June 22, 1936, c. 699, sec. 18, 49 Stat.)

ART. 537. *Prohibition of importation.*—(*a*) Merchandise of foreign or domestic manufacture is prohibited importation when it bears a name or mark which copies or simulates a trade mark or trade name entitled to the protection of the Trade Mark Act of 1905 or the Trade Mark Act of 1920, unless such merchandise is imported by or for the account of, or with the written consent of, the owner of the protected trade mark or trade name.

(*b*) A name or mark (including a name or mark which is a genuine trade mark or trade name in a foreign country) on an article of foreign manufacture identical with a trade mark or trade name protected by the trade-mark laws of the United States, as well as a name or mark on an article of foreign or domestic manufacture counterfeiting such protected trade mark or trade name, or so resembling such protected trade mark or trade name as to be likely to cause confusion or mistake in the minds of the public or to deceive purchasers, shall be deemed for the purposes of these regulations to copy or simulate such protected trade mark or trade name. However, merchandise manufactured or sold in a foreign country under a trade mark or trade name, which trade mark is registered and recorded, or which trade name is recorded under the trade-mark laws of the United States, shall not be deemed for the purpose of these regulations to copy or simulate such United States trade mark or trade name if such foreign trade mark or trade name and such United States trade mark or trade name are owned by the same person, partnership, association, or corporation.

ART. 538. *Trade marks—Recording.*—(*a*) Domestic or foreign manufacturers or traders, to avail themselves of the privileges of the law concerning trade-marks, are required to register their trade-marks with the Commissioner of Patents before the Treasury Department can act.

(*b*) To record a trade-mark with the Treasury Department an application must be addressed to the Treasury Department, Bureau of Customs, Washington, D. C. (which may be in the form of a letter), stating therein the name, residence, and citizenship of the owner or owners (if a partnership, the citizenship of each partner; if a corporation or association, the country or state within which it was organized or created); the name of the locality in which the goods are manufactured, and the names of the ports of entry to which the applicant desires to have facsimiles of the trade-mark transmitted. The application must be accompanied by one certified copy of the original certificate of registration issued by the Commissioner of Patents in accordance with the Trade-Mark Act of February 20, 1905, or the Trade-Mark Act of March 19, 1920; such of the documents mentioned in paragraph (c) as are required to show the ownership of the applicant; three uncertified printed Patent Office facsimiles of the trade-mark for deposit in the Treasury Department, and a sufficient number of such facsimiles to enable the Bureau to forward copies to the port or ports of entry named in the application. The number of facsimiles necessary for each of the ports of entry is as follows:

Four facsimiles for each of the ports of New York and Chicago.

Three facsimiles for each of the ports of Baltimore and Boston.

Two facsimiles for each of the ports of Nogales, Buffalo, Tampa, Key West, Los Angeles, Portland, Me., Detroit, New Orleans, Cleveland, Cincinnati, Portland, Oreg., Philadelphia, Pittsburgh, San Antonio, San Francisco, St. Louis, St. Albans, Vt., Seattle, Milwaukee, and Saint Thomas, Virgin Islands.

One facsimile for each of the other ports of entry.

No fee is charged for recording trade-marks in the Treasury Department.

(*c*) If ownership of a registered trade-mark is claimed by an applicant by virtue of an assignment of such trade-mark, there must be transmitted with the application for recording, in addition to the documents and information specified in paragraph (*b*) of this article, a certified abstract of title from the records of the United States Patent Office showing the ownership of the applicant. Similar documentary evidence must accompany an application for recording if the commercial name of the applicant has been changed subsequent to registration of the trade-mark. If the application for recording is presented after the expiration of the period for which the certificate of registration, or a renewal thereof, was issued, the application must be accompanied by a certified copy of a certificate of renewal from the United States Patent Office showing that the registration is in force. In order to continue to receive the protection of the trade-mark statutes with respect to imported merchandise, such a certified copy of a certificate of renewal must be filed with the Treasury Department if the period of protection expires after the trade-mark has been recorded.

ART. 539. *Trade names—Recording.*—(*a*) To record the trade name (not a trade-mark) of a manufacturer or trader, an application must be addressed to the Treasury Department, Bureau of Customs, Washington, D. C. (which may be in the form of a letter), stating therein the trade name; the name, residence, and citizenship of the owner or owners (if a partnership, the citizenship of each partner; if a corporation or association, the country or state within which it was organized or created); a description of the class or kind of merchandise to which the trade name is applied, and the name of the locality in which the merchandise is manufactured. The application must be accompanied by supporting evidence, in the form of affidavits by the owner or owners and by at least two other persons having first-hand knowledge of the facts, showing that the applicant has used the trade name, in connection with the class or kind of merchandise described in the application, for a designated period of time and has the sole and exclusive right to the use of such trade name in connection with merchandise of such class or kind.

(*b*) Such affidavits accompanying an application to record the trade name of a manufacturer or trader located in a foreign country should be acknowledged before an American consular officer.

No fee is charged for recording trade names in the Treasury Department.

ART. 540. *Notice to collectors—Action by collectors.*—Upon receiving notice from the Bureau of the recording of a trade-mark or a trade name the collector will issue appropriate instructions to prevent the unauthorized importation or entry at the customhouse of articles bearing marks or names which violate the statutory rights of the owner of the recorded trade-mark or trade-name.

ART. 541. *Detention—Seizure—Exportation—Release.*—(*a*) Merchandise of foreign manufacture which bears a trade mark entitled to the protection of section 526 of the Tariff Act of 1930, and merchandise which bears a name or mark copying or simulating a trade mark or trade name entitled

to the protection of section 27 of the Trade Mark Act of 1905, or section 6 of the Trade Mark Act of 1920, if not imported by or for the account of, or with the appropriate written consent of, the owner of the United States trade mark or trade name, shall be detained, but not seized, until 30 days have elapsed from the date of notice to the importer that the merchandise is prohibited importation.

(*b*) Whenever merchandise is detained in accordance with the foregoing provisions of this article and the written consent of the owner of the trade mark or trade name to the importation of the merchandise is not presented to the collector prior to the expiration of the 30-day period, the merchandise shall be seized and forfeited in the usual manner, except that in any such case if the foreign value does not exceed $100 and the collector is satisfied that the importation involved neither wilful negligence nor any intention to defraud the revenue or to violate the law, he may release the merchandise, without formal seizure and without referring the matter to the Bureau, upon the condition that, within 30 days from the date of the collector's decision, the name, mark, or trade mark be removed or obliterated prior to the release, or the merchandise be exported under customs supervision and without expense to the Government. If the value exceeds $100, the importer may petition the Commissioner of Customs, through the collector, for the release of or permission to export the merchandise under the same conditions. (See art. 1145.) In any such case, however, if the name, mark, or trade mark is indelibly impressed upon the merchandise or upon the immediate container thereof and it is impracticable to remove or obliterate the same, such merchandise may be destroyed or exported under customs supervision and at the expense of the importer, or if the immediate container alone bears the name, mark, or trade mark the merchandise may be released after the container has been so destroyed or exported.

(*c*) Merchandise forfeited for violation of any trademark law may be disposed of in accordance with the procedure applicable to other customs forfeitures, but only after removal or obliteration of the name, mark, or trade mark by reason of which the goods were seized.

(*d*) If the violation is not discovered until after entry and deposit of estimated duty, the entry shall be endorsed with an appropriate notation, the duty refunded as an erroneous collection, and the merchandise disposed of in accordance with the foregoing provisions of this article.

COPYRIGHTS

ART. 542. *Articles prohibited importation.*—(*a*) United States Code, title 17, section 15:

Of the printed book or periodical specified in section 5, subsections (a) and (b) of this title, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this title, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photo-engraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photo-engraving process, and also to separate lithographs or photo-engravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art: *Provided, however,* That said requirements shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this title, or to works printed or produced in the United States by any other process than those above specified in this section. (Mar. 4, 1909, c. 320, sec. 15, 35 Stat. 1078; July 3, 1926, c. 743, 44 Stat. 818.)

(*b*) United States Code, title 17, section 30:

The importation into the United States of any article bearing a false notice of copyright when there is no existing copyright thereon in the United States, or of any piratical copies of any work copyrighted in the United States, is prohibited. (Mar. 4, 1909, c. 320, sec. 30, 35 Stat. 1082.)

NOTE.—See article 536 (*d*) for act of Congress approved June 22, 1936, extending the laws of the United States relating to copyrights to the Virgin Islands.

(*c*) United States Code, title 17, section 31:

During the existence of the American copyright in any book the importation into the United States of any piratical copies thereof or of any copies thereof (although authorized by the author or proprietor) which have not been produced in accordance with the manufacturing provisions specified in section 15 of this title, or any plates of the same not made from type set within the limits of the United States, or any copies thereof produced by lithographic or photo-engraving process not performed within the limits of the United States, in accordance with the provisions of section 15 is prohibited: *Provided, however,* That except as regards piratical copies, such prohibition shall not apply;

(a) To works in raised characters for the use of the blind;

(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization;

(c) To the authorized edition of a book in a foreign language or languages of which only a translation into English has been copyrighted in this country;

(d) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four subdivisions following, that is to say:

First. When imported, not more than one copy at one time, for individual use and not for sale; but such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States;

Second. When imported by the authority or for the use of the United States;

Third. When imported, for use and not for sale, not more than one copy of any such book in any one invoice, in good faith, by or for any society or institution incorporated for educational, literary, philosophical, scientific, or religious purposes, or for the encouragement of the fine arts, or for any college, academy, school, or seminary of learning or for any State, school, college, university, or free public library in the United States;

Fourth. When such books form parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale: *Provided,* That copies imported as above may not lawfully be used in any way to violate the rights of the proprietor of the American copyright or annul or limit the copyright protection secured by this title, and such unlawful use shall be deemed an infringement of copyright. (Mar. 4, 1909, c. 320, sec. 31, 35 Stat. 1082.)

(*d*) United States Code, title 17, section 32:

Any and all articles prohibited importation by this title which are brought into the United States from any foreign country (except in the mails) shall be seized and forfeited by like proceedings as those provided by law for the seizure and condemnation of property imported into the United States in violation of the customs revenue laws. Such articles when forfeited shall be destroyed in such manner as the Secretary of the Treasury or the court, as the case may be, shall direct: *Provided, however,* That all copies of authorized editions of copyright books imported in the mails or otherwise in violation of the provisions of this title may be exported and returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve willful negligence or fraud. (Mar. 4, 1909, c. 320, sec. 32, 35 Stat. 1083.)

ART. 543. *Piratical copies.*—(*a*) "Piratical copies" are defined to mean either actual copies or substantial reproductions of legally copyrighted works, produced and imported in contravention of the rights of the copyright proprietor.

(*b*) Collectors will admit to entry imported articles, including moving-picture films, concerning which either (1) adverse copyrights are claimed by parties in interest, or (2) an infringement only is claimed. In such cases the copyright claimants will be remitted to their remedies at law or equity.

(*c*) Collectors will not permit delivery of imported articles if either (1) representations are made that they are piratical copies and such representations are not denied by the importers, or (2) if the collector is satisfied that they do, in fact, constitute piratical copies as above defined and not mere infringements.

(*d*) Collectors will detain articles covered by the preceding paragraph, and report the facts to the Bureau for instructions.

(*e*) If the collector is not satisfied that an imported article is a piratical copy, and the importer files an affidavit denying that it is in fact such a piratical copy, and alleging that the detention of the article will result in a material depreciation of its value, or loss or damage to him, the article will be admitted to entry unless a written demand for its exclusion is filed by the copyright proprietor or other party in interest, setting forth that the imported article is a piratical copy of an article legally copyrighted in the United States, and unless there is also filed with the collector a good and sufficient bond conditioned to hold the importer or owner of such article harmless from any loss or damage resulting from its detention in the event that the same is held by the Bureau not to be prohibited from importation under section 30 of the act of March 4, 1909.

(*f*) Upon the filing of such demand and bond the collector will cause the article to be detained, and will fix a time at which the parties in interest may submit evidence to substantiate their respective claims, which evidence shall be reduced to writing, at the expense of the parties in interest, and transmitted by the collector to the Bureau with such report and recommendations as he may deem proper.

(*g*) No article will be presumed to be prohibited from entry as a piratical copy under said act, and the burden of proof that any article is in fact a piratical copy will be upon the party making such claim.

(*h*) If the article is held by the Bureau to be a piratical copy, its seizure and forfeiture will be directed in accordance with section 32 of the Copyright Act, and the bond will be returned to the copyright proprietor; but if not so held the collector will be directed to release the article and transmit the bond to the importer.

ART. 544. *False notice of copyright.*—(*a*) Books, periodicals, newspapers, music, moving-picture films, and other articles which bear a false notice of copyright—that is, words indicating that they have been copyrighted in the United States when they have not in fact been so copyrighted—are prohibited from importation.

(*b*) If the collector is satisfied that such importations are made without any willful intent to violate the law he may permit them to be exported under customs supervision, or may permit delivery upon the false notice of copyright being removed or obliterated.

ART. 545. *First editions.*—First editions of publications printed abroad, usually printed in limited numbers with an identification number and the signature of the author, constitute no exception to the prohibition against the unauthorized importation of copyrighted books.

ART. 546. *Subsistence of copyright necessary to secure protection.*—Before action may be taken by the Customs Service to prevent the importation of works under section 31 of the Copyright Act, it is necessary that there be a subsisting American copyright, either ad interim or full term. A mere notice of intent to secure a copyright on a particular work is insufficient to invoke the protection accorded by section 31.

CHAPTER X

EXAMINATION, CLASSIFICATION, AND DISPOSITION OF SPECIAL CLASSES OF MERCHANDISE

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625. Entry—Bond—Storage.

FOODS, DRUGS, INSECTICIDES, FUNGICIDES, AND CAUSTIC OR CORROSIVE SUBSTANCES

ART. 547. *Invoices—Declaration.*—(*a*) Invoices of foods and drugs, when required by the Secretary of Agriculture, and all invoices of insecticides, fungicides, lead arsenates, Paris greens, and caustic or corrosive substances, shipped to the United States must have attached thereto a declaration of the shipper, made before a United States consular officer on consular Form 198, if foods or drugs, or on consular Form 218, if insecticides, fungicides, lead arsenates, Paris greens, or caustic or corrosive substances. As a general rule declarations are required for foods and drugs which have been manufactured, dried, or treated in any manner, except sugar, meat, and meat food products and animal casings. Representatives of the Food and Drug Administration of the Department of Agriculture should be consulted as to the articles for which no declaration is required.

(*b*) Even though otherwise declared on the invoice or entry, all substances ordinarily used as foods or drugs or insecticides or fungicides or caustic or corrosive substances will be treated as such. Shipments of substances ordinarily used as foods or drugs, intended for technical purposes, must be accompanied by a declaration stating that fact. If the Secretary of Agriculture shall so recommend, any such substances may be required to be denatured under supervision of that department.

ART. 548. *Definitions.*—(*a*) The word "food" includes all articles used for food, drink, confectionery, or condiments by man or other animals, whether simple, mixed, or compound.

(*b*) The word "drug" includes all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of man or other animals.

(*c*) The term "insecticide" includes any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever.

(*d*) The term "fungicide" includes any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever.

(*e*) The term "caustic or corrosive substances" applies to the following-named substances and preparations containing them in the concentration of the percentages specified, when they are in parcels, packages, or containers suitable for household use:

	Per Cent
1. Hydrochloric acid (HCl)	10 or more.
2. Sulphuric acid (H_2SO_4)	10 or more.
3. Nitric acid (HNO_3)	5 or more.
4. Carbolic acid (C_6H_5OH)	5 or more.
5. Oxalic acid ($H_2C_2O_4$)	10 or more.
6. Any salt of oxalic acid	10 or more.
7. Acetic acid ($HC_2H_3O_2$)	20 or more.
8. Hypochlorous acid or its salts (except chlorinated lime) to yield available chlorine	10 or more.
9. Potassium hydroxide (KOH)	10 or more.
10. Sodium hydroxide ($NaOH$)	10 or more.
11. Silver nitrate ($AgNO_3$)	5 or more.
12. Ammonia water (NH_3)	5 or more.

The words "suitable for household use" mean and imply adaptability for ready or convenient handling in places where people dwell.

ART. 549. *Marking of quantity on food packages.*—The quantity of the contents of food in package form must be plainly and conspicuously marked in terms of weight, measure, or numerical count on the outside of the covering or container usually delivered to customers, and the quantity of the contents so marked should be the amount of food in the package. The marking must not be a part of or obscured by any legend or design, and must be so placed

and in such characters as to be readily seen and clearly legible. (See Reg. 26 Ag. Dept. S. R. A. F. D. No. 1.)

ART. 550. *Markings required for caustic or corrosive substances.*—The container must bear a conspicuous, easily legible label or sticker containing the common name of the substance, the name and place of business of the manufacturer, packer, seller, or distributor, the word "Poison" in letters of the size and style required by the law, and directions for treatment in case of accidental personal injury.

ART. 551. *Laboratory districts and branch laboratories.*—The Secretary of Agriculture has established branch laboratories of the Food and Drug Administration at several ports of entry for the examination of products subject to the food and drugs act of June 30, 1906; for the collection of specimens of products subject to the insecticide act of April 26, 1910, and for the collection of specimens of products subject to the caustic poison act of March 4, 1927, the tea act of March 2, 1897, as amended, and the import milk act of February 15, 1927. A list of ports at which branch laboratories are located, and also of the ports located in the districts under each laboratory, will be published from time to time in the Treasury Decisions. Ports at which branch laboratories are located will be known as laboratory ports; other ports will be known as nonlaboratory ports.

ART. 552. *Examination of invoices.*—As soon as the importer makes entry, invoices covering foods, drugs, insecticides, fungicides, paris greens, lead arsenates, and caustic or corrosive substances, and public store packages thereof shall be made available with the least possible delay, for inspection by the Agricultural Department representative. When samples of free bulk goods are taken or examined on the docks by the station examiners, special care shall be taken that the invoices covering such goods shall be made available immediately.

ART. 553. *Delivery under bond.*—Merchandise subject to examination by representatives of the Department of Agriculture in accordance with the provisions of the food and drugs act, the insecticide act, and the caustic poison act shall not be delivered to the consignee prior to report of examination unless a bond has been given (customs Form 7551 or 7553) in an amount equal to the invoice value of the goods, together with the duty thereon.

ART. 554. *Examination of cases not ordered to public store.*—If at the time of inspection of any invoice by the representative of the Department of Agriculture it shall be found necessary to inspect packages not ordered to the public stores, such packages may be ordered in the usual manner, or verified samples procured for the use of that Department.

PROCEDURE AT LABORATORY PORTS

ART. 555. *Samples.*—When samples are desired the representative of the Department of Agriculture shall make suitable request on food and drug administration Form F. D. 791, attaching it to the invoice, and when no samples are desired shall stamp the invoice accordingly. The appraiser, before returning the invoice, shall see that it bears one of these evidences of examination. As soon as samples are requested, and on the same day, a notice shall be sent by the collector or appraiser to the importer on customs Form 6521 to the effect that samples have been taken and that the goods must be held intact pending a notice of the result of inspection and analysis, and in case of the failure of the goods to comply with the requirements of the food and drugs act, the insecticide act, or the caustic poison act, that they must be returned to the collector for disposition. This notice in the collector's name must be prepared simultaneously with the request for samples and by the employee filling out the request. It will contain a statement to the effect that samples will be paid for by the Food and Drug Administration upon presentation to it of proper vouchers, provided such samples are not found to be illegal.

ART. 556. *Bulletin notices.*—(*a*) From the above-described notices there shall be immediately prepared by the officer making out these notices a list, on combined Form F. D. 788, of all entries of food and drug products or insecticides or fungicides, or caustic or corrosive substances, from which samples have been requested and this notice shall be posted daily in the customhouse over the collectors' signature as a public notice to importers that goods must be held subject to examination until definite release is given in so far as the provisions of the food and drugs act, the insecticide act, or the caustic poison act are concerned.

(*b*) A list shall also be prepared on food and drug administration Form F. D. 786 by the chief of the food and drug inspection station of those invoices which have been stamped "No samples desired, Food and Drug Administration, U. S. Dept. of Agriculture, per * * *." It shall be posted promptly each day on the official bulletin board most readily available to importers—preferably that of the collector or appraiser. If a public list is not posted on Form F. D. 786 individual notices shall be issued to the importer or his agent on Form F. D. 799 showing whether or not samples have been taken by the Food and Drug Administration for action under the food and drugs act, the insecticide act, or the caustic poison act.

(*c*) The chief of station shall send the collector a notice in duplicate when samples will be requested from every shipment of particular articles of food or drug, or insecticide or fungicide or caustic or corrosive substance. The collector, during the period over which such request is effective, shall keep continuously posted in the customhouse on his bulletin board one of the copies signed by him as an official notice for the benefit of importers, advising them that samples will be taken from all shipments of these articles and to the effect that if such goods are allowed to go into consumption, except as definite release is received from the chief of station and until after the provisions of the food and drugs act, the insecticide act, or the caustic poison act have been definitely complied with, they will be strictly held to the full penalty incurred under their penal bond given at time of entry. Combined Form F. D. 787 shall be used. In such instances the usual notices regarding sampling individual shipments may be omitted as unnecessary.

ART. 557. *Suspension of liquidation.*—(*a*) Liquidation of all entries of goods directed to be held pending examination will be suspended until it shall be ascertained whether or not delivery is refused under the law.

(*b*) Entries covering goods which are exported or destroyed under these regulations will be liquidated free of duty as a "nonimportation", and the estimated duties will be refunded as an excess of deposits.

ART. 558. *Release—Notification of.*—As soon as examination of the samples is completed, if no violation of the act is detected, the chief of the station shall send a notice of release to the importer on food and drug administration Form "F. D. 779–Release", a copy of this notice to be sent to the collector of customs for his information.

ART. 559. *Violation—Notice of.*—(*a*) If a violation of the food and drugs act, the insecticide act, or the caustic poison act is disclosed, the chief of the station shall send to the importer due notice on food and drug administration Form "F. D. 777–Importer, Date of Hearing", and at the same time to the collector similar notice, on Form "F. D. 777–Collector, Detention", requesting him to refuse delivery of the goods or to require their return to customs custody if by any chance the merchandise was released without the bond, referred to in article 553, being given.

(*b*) If the importer does not reply to the notice of hearing in person or by letter within the time allowed on the notice, a second notice, Form F. D. 777, marked "Second and Last Notice", shall be sent at once by the chief of the station, advising him that failure to reply will cause definite recommendation to the collector that goods be refused entry.

ART. 560. *Rejection—Notice of.*—(*a*) In all cases where the goods are to be refused entry, the chief of the station within 1 day after hearing, or if the importer does not appear or reply within 3 days after second notice, shall notify the collector accordingly on food and drug administration Form

"F. D. 776a–Collector, Statement of Violation" in duplicate. Collectors will file by laboratory serial number or entry number as most convenient.

(*b*) Not later than 1 day after receipt of this notice the collector shall sign and transmit one of the copies to the importer, which shall serve as notification to the importer that the goods must be exported or destroyed within 3 months from such date, as provided by law; the other notice to be retained as office record and later returned as report to the chief of station. The importer shall in all cases return his notice to the collector, properly certified as to the information required, as the form provides, and it shall then be transmitted to the surveyor, or to the inspector where there is no surveyor.

ART. 561. *Goods to be conditioned before release.*—(*a*) If goods may be released after relabeling or after certain conditions are complied with, a notice shall be sent on food and drug administration Form F. D. 776a by the chief of station direct to the importer, a carbon copy being sent to the collector. This notice must state specifically the conditions to be performed so as to bring the performance thereof under the provisions of the customs bonds on consumption and warehouse entries, these bonds including provisions requiring compliance with all of the requirements of the food and drugs act, the insecticide act, and the caustic poison act, and all regulations and instructions issued thereunder. The notice will also state the officer to be notified by the importer when the goods are ready for inspection.

(*b*) The importer must return the notice to the collector or chief of station, as designated, with the certificate thereon filled out stating that he has complied with the prescribed conditions and that the goods are ready for inspection at the place named.

(*c*) This notice will be delivered to the inspection officer, who, after inspection, will indorse the results thereof on the back of the notice and return the same to the collector or the chief of the station, as the case may be.

(*d*) When the conditions to be complied with are under the supervision of the chief of the station, and these conditions have been fully met, he shall release the goods to the importer, using food and drug administration Form "F. D. 779 Release," sending a copy to the collector for his information.

(*e*) When, however, release is still conditioned upon destruction or rejection of some portion of the shipment or the importer has been unsuccessful in meeting the conditions imposed, and the goods must be exported or destroyed, the chief of station shall immediately notify the collector of the results of inspection, on food and drug administration Form F. D. 776a in duplicate. The collector shall sign and immediately transmit one copy to the importer and proceed in the usual manner.

(*f*) If the goods are detained subject to conditioning to be performed under the collector's supervision, the collector, as soon as conditions are performed, will notify the importer by letter that the goods are released. If goods are not properly conditioned within the period allowed, the goods must be exported or destroyed in accordance with the terms of the notice in F. D. 776a.

(*g*) When intent to violate the act is evident, the privilege of relabeling, cleaning, and similar renovation will not be allowed. Similarly, at the discretion of the station chief, this privilege will not be allowed in those cases where through carelessness or otherwise shipments in violation of the act are offered for entry when the exporter or importer has been informed in connection with violations in previous shipments. In general when shipments with identical labeling have been detained for relabeling three times, the privilege of relabeling will not be extended.

(*h*) When the privilege of sorting or renovating shipments is allowed, the importer must furnish satisfactory evidence as to the identity of the goods before release is given. This privilege shall not be granted except as stated conditions agreed to by the importer include segregation of goods at a stated place and apart from other goods of similar nature.

(*i*) The chief of station or other officer by him appointed when it is deemed advisable, may require of the importer an affidavit as evidence that the goods have been properly disposed of, such affidavit to be executed before a notary public or other officer authorized to administer oaths generally.

ART. 562. *Inspection service—Expenses.*—(*a*) Collectors of customs will perform the inspection service whenever goods are to be exported or destroyed, and in other cases when there is no officer of the station available.

(*b*) Collectors of customs and representatives of the station will confer and arrange the apportionment of the inspection service according to local conditions. Officers of the station will, whenever feasible, perform the inspection service when cleaning, bringing up to standard, and like reconditioning operations are involved.

(*c*) Expenses incurred by the Government for storage, cartage, and labor arising from the detention for inspection and analysis of goods admitted to entry will be borne by the Government, and bills therefor will be rendered to the Secretary of Agriculture; but all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee. Salaries of Government officers detailed to supervise the exportation of such goods are not within the meaning of the word "labor."

ART. 563. *Notice of final action.*—When final action has been taken on goods which have been refused entry or on goods release of which is subject to conditions to be performed under the collector's supervision, the collector shall send to the chief of station a notice of such final action, giving the date of release, destruction, or date of export and country to which exported, indorsed on food and drug administration Form F. D. 776a.

ART. 564. *Shipment to other ports.*—When imported merchandise subject to the provisions of the food and drugs act or the insecticide act or the caustic poison act is shipped to another port for reconditioning or exportation, the goods must be shipped under customs carriers' manifest, customs Form 7512, in the same manner as shipments in bond.

ART. 565. *Penalties for noncompliance with instructions of chief of station.*—(*a*) In case of failure to comply with the instructions or recommendations of the chief of the station as to the conditions under which the merchandise may be disposed of, the collector shall notify the chief of the station in all cases coming to this attention within three days after inspection or after the expiration of the three months allowed by law if no action is taken.

(*b*) The chief of the station upon receipt of the above-described notice, and in all cases of failure to meet the conditions imposed in order to comply with the provisions of the food and drugs act or the insecticide act or the caustic poison act coming directly under his supervision, shall transmit to the collector of customs such evidence as he may have at hand tending to indicate the importer's liability and make a recommendation in triplicate accordingly.

(*c*) The collector, within three days of the receipt of this recommendation, whether favorable or otherwise, shall notify the importer that the legal period of three months for exportation or destruction having expired, action will be taken within 30 days to enforce the terms of the bond, unless in the meantime application for remission or mitigation of penalties incurred with definite offer of settlement is filed with the collector. The application should be in triplicate with a full statement of reasons under oath.

(*d*) The collector shall transmit the application in duplicate, together with his own and the station chief's recommendation, both in duplicate, to the Secretary of the Treasury (Bureau of Customs), for action.

(*e*) The station chief shall be deemed a customs officer in enforcing these regulations.

PROCEDURE AT NONLABORATORY PORTS

ART. 566. *Notification from collector, etc.*—(*a*) At ports of entry where there is no station of the Food and Drug Administration, the collector or deputy, on the day when the first notice of expected shipment is received either by invoice or entry, shall notify the chief of station in whose territory the port is located, on Food and Drug Administration blue card Form "F. D. 755—Notice from Collector Nonlaboratory Ports."

(*b*) On day of receipt of card F. D. 755, the station chief shall mail to the collector the yellow card "F. D. 757—Notice to Collector Nonlaboratory Ports" if no sample is desired. This notice serves as an equivalent to stamping the invoices at laboratory ports with the legend "No samples desired. Food and Drug Administration, U. S. Dept. of Agriculture."

(*c*) If samples are desired, the station chief shall mail request on Form "F. D. 783—Nonlaboratory Ports, Request for Samples."

(*d*) The collector at once shall forward sample accompanied by Food and Drug Administration Form "F. D. 794—Label for Samples" (supplied in tablets of 100), or if found mutually more satisfactory, on the larger Form "F. D. 784—Imports, Description of Samples", which is used at laboratory ports for noting such data.

(*e*) When samples will be requested from each shipment of certain foods or drugs, insecticides, fungicides, or caustic or corrosive substances, the chief of station shall furnish to collectors and deputies at ports within the station's territory a list of such products, indicating size of sample necessary. Samples should then be sent promptly on arrival of goods, with Form F. D. 784 or F. D. 794, dispensing in such cases with use of request Forms F. D. 755 and F. D. 783.

(*f*) Blank forms mentioned above, "F. D. 755", "F. D. 784", and "F. D. 794—Label for Samples" tablets, will be supplied by the chief of station to the collectors or deputies located at ports within the station's territory.

(*g*) In all other particulars the procedure shall be the same at nonlaboratory ports as at laboratory ports except that the time consumed in delivery of notices by mail shall be allowed for.

MILK AND CREAM

ART. 567. *Importation prohibited except under permit.*—(*a*) Under the Import Milk Act of February 15, 1927, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit therefor from the Secretary of Agriculture.

(*b*) The act provides that at the time of entry such milk and cream shall not exceed a certain temperature and bacteriological count.

(*c*) The provisions of the act apply to all milk and cream offered for importation into the continental United States. (Department of Agriculture Regulation 2.)

ART. 568. *Permits.*—(*a*) This act is enforceable by the Secretary of Agriculture, and customs officers are instructed not to permit any milk or cream to be imported unless the shipper holds a valid permit from the Secretary of Agriculture. Persons desiring to ship milk or cream to the United States should apply to the Food and Drug Administration, Department of Agriculture, for permits, and each can or container of milk or cream will be required to be tagged with the permit number.

(*b*) Collectors of customs will be furnished with a list of the permittees in their territory and with the permit numbers assigned to each permittee with the date when the permit becomes effective.

(*c*) Permits become invalid after the end of 1 year unless applications for renewal are filed prior to the dates of expiration of such permits.

ART. 569. *Samples and examination.*—Samples are taken from time to time by representatives of the Food and Drug Administration of importations of milk and cream with a view to examination to determining whether or not the requirements regarding temperature and bacterial counts have been met and with a view to the exclusion of shipments which are found not to meet these requirements.

INSPECTION AND DISPOSITION OF MEAT AND MEAT FOOD PRODUCTS

ART. 570. *Meat and meat food products prohibited or restricted.*—Tariff Act of 1930, section 306:

(a) If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country the importation into the United States * * * of fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, from such foreign country, is prohibited.

(b) No meat of any kind shall be imported into the United States unless such meat is healthful, wholesome, and fit for human food and contains no dye, chemical, preservative, or ingredient which renders such meat unhealthful, unwholesome, or unfit for human food, and unless such meat also complies with the rules and regulations made by the Secretary of Agriculture. All imported meats shall, after entry into the United States in compliance with such rules and regulations, be deemed and treated as domestic meats within the meaning of and subject to the provisions of the Act of June 30, 1906 (Thirty-fourth Statutes at Large, p. 674), commonly called the "Meat Inspection Amendment", and the Act of June 30, 1906 (Thirty-fourth Statutes at Large, p. 768), commonly called the "Food and Drugs Act", and acts amendatory of, supplementary to, or in substitution for such acts.

(c) The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other domestic ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, domestic ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations.

ART. 571. *Meat and meat food products defined.*—(*a*) The term "meat and meat food products" for the purpose of these regulations shall include any imported article of food or any imported article which enters into the composition of food for human consumption, which is derived or prepared, in whole or in part, from any portion of the carcass of any cattle, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organo-therapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

ART. 572. *Inedible grease, tallow, and fat.*—No inedible grease, tallow, or other rendered inedible fat possessing the physical characteristics of an edible product shall be admitted into the United States for industrial use unless it has been first denatured or otherwise destroyed for food purposes and both ends of each container, such as barrels, tierces, or tank cars, etc., are painted white with durable paint and the name of the product and the word "inedible" conspicuously marked thereon in letters not less than 2 inches high, or, in the case of tank cars, not less than 4 inches high.

ART. 573. *Foreign certificates of inspection.*—(*a*) Meat and meat food products imported into the United States must be accompanied by certificates of foreign official inspection, which must be delivered by the consignee or agent to the inspector of the Bureau of Animal Industry.

(*b*) Samples or any small quantities of meat or meat food products imported for the personal use of the consignee may be permitted entry without the production of foreign meat inspection certificates or compliance with the marking requirements. An affidavit of the consignee stating the appropriate facts should be filed with the invoice in lieu of the foreign meat inspection certificate for the information of the inspector of the Bureau of Animal Industry.

ART. 574. *Inspection.*—(*a*) All meat and meat food products must be inspected and passed by inspectors of the Bureau of Animal Industry.

(*b*) Inspection will be made while the merchandise is in actual customs custody when such inspection takes place at the port at which the merchandise is cleared from customs, unless upon application of the consignee or agent authority

is given by the inspector of the Bureau of Animal Industry for inspection at the importer's premises or other place not under customs supervision. In such cases a bond shall be given by the consignee or agent for the redelivery of the merchandise if demanded by the collector, on customs Form 7551 or 7553, and the cars, wagons, vehicles, or packages shall be sealed or corded and sealed by a customs officer or an inspector of the Bureau of Animal Industry with import-meat seals furnished by the Department of Agriculture, unless bearing United States customs seals. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Import-meat seals or cords and seals may be broken only by a customs officer or inspector of the Bureau of Animal Industry. In all cases where the merchandise is not cleared from customs at the port of first arrival, the regular "in bond" procedure shall be followed.

(*c*) Shipments of foreign meat and meat food products arriving in the United States by water at a port where an inspector of the Bureau of Animal Industry is stationed shall either be inspected on the wharf at the time of unloading or be shipped under import-meat or United States customs seals to destination. If the shipments are destined to a point where no inspector of the Bureau of Animal Industry is stationed, inspection shall be made on the wharf at the time of unloading. Shipments arriving by water at a port where no inspector of the Bureau of Animal Industry is stationed, destined to a point where an inspector is stationed, shall be shipped under import-meat or customs seals to destination for inspection.

(*d*) Large quantities of imported meat and meat food products arriving by water at a port where no inspector of the Bureau of Animal Industry is stationed destined to a point where no inspector is stationed shall be inspected on the wharf at the time of unloading. In such cases the collector at the port of first arrival shall immediately telegraph the nearest Bureau of Animal Industry inspector in charge, stating the quantity, kind of products, import-meat seals numbers, place of origin, and names of consignor and consignee. Upon receipt of such telegraphic information, the inspector in charge will immediately detail an inspector to make the required inspection. Small quantities (less than carload lots) arriving by water at a port where no inspector is stationed, destined to a point where no inspector is stationed, shall be shipped under import-meat or customs seals to the nearest point where an inspector is stationed for inspection at that point.

(*e*) Carload lots of foreign meat and meat food products routed through border ports, destined to a point where an inspector is stationed, shall proceed to destination under import-meat or customs seals for inspection at destination. Carload lots routed through border ports destined to a point where no inspector is stationed shall proceed to destination under import-meat or customs seals for inspection at destination. In such cases the inspector of the Bureau of Animal Industry or the collector at the border port shall immediately telegraph the information specified in paragraph (*d*) to the Bureau of Animal Industry inspector in charge at the nearest point to which the meats are destined. Upon receipt of such telegraphic information, the inspector in charge will immediately detail an inspector to the point where the shipment is destined, to make the required inspection.

(*f*) Less than carload lots of imported meat and meat food products routed through border ports destined to a point where an inspector is stationed shall proceed to destination under cord and import-meat or customs seals for inspection at destination. Less than carload lots routed through border ports where an inspector is stationed destined to a point where no inspector is stationed shall be inspected at the border port. If there is no inspector stationed at the border port, less than carload lots destined to a point where there is no inspector stationed shall proceed under cord and import-meat or customs seals to the nearest point where an inspector is stationed for inspection at that point.

(*g*) In the absence of an inspector of the Bureau of Animal Industry at the port of first arrival, collectors of customs will prepare notices on M. I. Forms 109–FF and 109–FF (special), reporting to the inspector in charge at the point where inspection is to be made, information regarding the sealing of railroad cars, trucks, and packages of foreign meat and meat food products. The Bureau of Animal Industry, Washington, D. C., will supply collectors with the M. I. Forms 109–FF and 109–FF (special) upon request.

ART. 575. *Release.*—Meat or meat food products will not be released for final delivery to the consignee until the collector of customs is advised by the Department of Agriculture, or its representative, that the same is admissible.

ART. 576. *Rejection—Disposition.*—Meat or meat food products refused admission by the Department of Agriculture must either be destroyed for food purposes under the supervision of its representative or exported under customs supervision within 30 days after notice of rejection, unless a different time shall be fixed by the Secretary of Agriculture.

ART. 577. *Animal casings.*—No animal casings shall be finally released for delivery to the consignee until the collector of customs is advised by the Department of Agriculture or its representative that the same is admissible.

QUARANTINE OF PLANTS AND PLANT PRODUCTS

ART. 578. *Definitions.*—(*a*) The term "nursery stock", plants and seeds, includes all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs; also field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots, and other plants and plant products for, or capable of, propagation.

(*b*) The term "plant products" includes:

(1) Fruits and vegetables, the edible, more or less succulent portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

(2) Cotton, which for the purposes of these regulations shall mean raw or unmanufactured ginned cotton, either baled or unbaled, including all cotton which has not been woven or spun or otherwise manufactured, such as all forms of cotton waste, including thread waste, card strips, willowed fly, willowed picker, picker or blowings, and chum, and cotton waste, in any other form or under any other trade designation, and also including second-hand burlap or other fabric, which has been used, or is of the kind ordinarily used, for wrapping cotton.

(3) Seed cotton: Cotton fiber which has not been ginned and from which the seed has not been removed.

(4) Cottonseed products, such as cottonseed cake, meal, and all other cottonseed products except oil. (See T. D. 44693.)

ART. 579. *Restrictions on entry—Marking—Inspection.*—(*a*) The entry of plants and seeds (with the exception of field, vegetable, and flower seeds) and fruits and vegetables (no restrictions on fruits and vegetables grown in Canada) as defined in the first paragraph of article 578 or included in the list of special quarantines and orders (T. D. 44693) is prohibited unless and until a permit for the importation thereof has been issued by the Bureau of Entomology and Plant Quarantine, Department of Agriculture, and unless the cases or other packages are plainly marked to indicate the nature and quantity of the contents, the district or locality and country where grown, the name and address of the exporter and the name and address of the importer and consignee.

(*b*) Every bale or other container of cotton offered for entry shall be plainly marked with such bale number and other marks as will distinguish the bales or containers from one another.

(*c*) Permits for shipments entered for immediate transportation to an interior port are required only at the port of arrival.

(*d*) Plants and plant products (as defined in art. 578) are prohibited entry under "Merchandise arriving from a contiguous country in sealed cars" destined for a port of entry in the United States as provided in articles 913 to 917, unless previously inspected and released by a representative of the Department of Agriculture.

(*e*) Permits are required for plants and plant products entered for transportation in bond to a foreign country.

ART. 580. *Documents required on entry.*—(*a*) The following described papers are required to be filed with the entry of plants or plant products:

(1) The importer's permit to import. The original permit will be furnished the collector by the Bureau of Entomology and Plant Quarantine.

(2) The importer or his representative will submit to the collector at the port of first arrival for any type of entry, except rewarehouse and informal mail entries, a notice of arrival. For I. T. shipments a second notice will be submitted to the collector at the port of destination, and for diverted T. & E. shipments a second notice will be submitted to the collector at the port at which a change in entry is made. The collector at the port of arrival, as well as at destination, will compare the notice which he receives from the importer or his representative with the shipping documents, certify to its agreement therewith or note any discrepancies, and tranmit it to the Secretary of Agriculture. The merchandise is not to be released until the said notice has been submitted.

(3) The original foreign certificate of inspection.

(*b*) Further certificates relative to cottonseed products are now required under T. D. 37258.

(*c*) Blank forms will be furnished by the Department of Agriculture.

(*d*) In the case of importations intended to be shipped I. T., a quadruplicate of the consular invoice is required at the port of first arrival.

ART. 581. *Release under bond.*—(*a*) If the permit to import is not at hand at the time of arrival of nursery stock, plants, and seeds, other than those covered by special quarantine and other restrictive orders, from a country which maintains inspection, and such shipment meets the requirements of the Secretary of Agriculture it may be delivered to the consignee under a bond in double the invoiced value, but in no case less than $100, conditioned upon the redelivery thereof to the collector within 20 days after arrival and that the goods shall not be removed from the port of entry until the presentation of a permit from the Department of Agriculture.

(*b*) Plants and plant products arriving from countries without inspection service should not be delivered under bond pending the production of a permit to import.

(*c*) Cotton or cotton wrappings may be delivered to the permittee for disinfection within the limits of the port of entry upon the filing of a bond in the amount of $5,000 or in an amount equal to the invoice value of the cotton or wrappings, if such value be less than $5,000, with approved sureties, conditioned upon such disinfection and upon the redelivery of the cotton to the collector of customs within 40 days from arrival thereof at the port of entry.

(*d*) Seed of Indian corn or maize in the raw or unmanufactured state from southeastern Asia (including India, Siam, Indochina, and China), Malay Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Formosa, Japan and adjacent islands, will be delivered to the permittee for sterilization upon the filing with the collector of customs of a bond with approved sureties, in the amount of $5,000, or in an amount equal to the invoice value of the corn if such value be less than $5,000, conditioned on sterilization of the corn under the supervision and to the satisfaction of, the inspector of the Department of Agriculture, and upon the redelivery of the corn to the collector of customs within 40 days from the arrival of the same at the port of entry.

(*e*) When entry under sterilization or other treatment is required for broomcorn or brooms and clean shelled corn or clean seed or related plants, the importation will be released to the permittee upon the filing with the collector of customs of a bond with approved sureties in the amount of $5,000, or in an amount equal to the invoice value if such value be less than $5,000, the conditions of which shall be that the importation shall be sterilized or otherwise treated under the supervision of an inspector of the Bureau of Entomology and Plant Quarantine, that no bale or other container thereof shall be broken open or removed from the port of arrival unless and until a written notice is given to such collector by the inspector that the importation has been properly sterilized or treated; and that the importation shall be redelivered to the collector of customs within 30 days after its arrival.

(*f*) Rice straw and rice hulls, which shall not be compressed to a density of more than 30 pounds per cubic foot, will be delivered to the permittee for treatment, and unless, within 20 days after the date of arrival of a shipment at the port at which the formal entry was filed, the importation has received the required treatment, due notice of which shall be given to the collector of customs by the inspector of the Department of Agriculture, demand will be made by the collector for redelivery of the shipment into customs custody under the terms of the entry bond, and, if such redelivery is not made, the shipment shall be removed from the country or destroyed.

ART. 582. *Unclaimed shipments.*—(*a*) If plants or plant products enterable into the United States under the rules and regulations promulgated by the Secretary of Agriculture are unclaimed they may be sold with the consent of the Secretary of Agriculture to any person who can comply with the requirements of the regulations governing the material involved.

(*b*) Unclaimed plants and plant products not complying with the requirements mentioned herein should be destroyed by burning under customs supervision.

ART. 583. *Detention—Search and seizure—Mail entries.*—(*a*) Collectors of customs will refuse delivery of all plants or plant products, notice of the prohibition of which has been promulgated by the Secretary of Agriculture under the various quarantines. Should importers refuse to immediately export prohibited shipments the collector will report the facts to the Bureau of Entomology and Plant Quarantine, and to the United States attorney, and withhold delivery pending advice from the bureau.

(*b*) In case of doubt as to whether any plants or plant products are prohibited, the collector will withhold the same from delivery pending advice from the Department of Agriculture.

(*c*) United States Code, title 7, section 164 (a):

* * * Any employee of the Department of Agriculture, authorized by the Secretary of Agriculture to enforce the provisions of sections 151 to 164 of this title, and furnished with and wearing a suitable badge for identification, who has probable cause to believe that any person coming into the United States, or any vehicle, receptacle, boat, ship, or vessel, coming from any country or countries or moving interstate, possesses, carries, or contains any nursery stock, plants, plant products, or other articles the entry or movement of which in interstate or foreign commerce is prohibited or restricted by the provisions of sections 151 to 164 of this title, or by any quarantine or order of the Secretary of Agriculture issued or promulgated pursuant thereto, shall have power to stop and, without warrant, to inspect, search, and examine such person, vehicle, receptacle, boat, ship, or vessel, and to seize, destroy, or otherwise dispose of, such nursery stock, plants, plant products, or other articles found to be moving or to have been moved in interstate commerce or to have been brought into the United States in violation of sections 151 to 164 of this title or of such quarantine or order. (Act May 1, 1928; 45 Stat. 468.)

(*d*) The importation of nursery stock and fruits and vegetables through the mails is prohibited except under specific permit and accompanied by a special yellow and green mailing tag issued by the Bureau of Entomology and Plant Quarantine. Cotton and cotton waste may be imported by mail if the wrapper bears the name and address of the ultimate consignee in the lower left-hand corner and is addressed to the Bureau of Entomology and Plant Quarantine at Washington, D. C., San Francisco, Calif., or Seattle, Wash., or if direct from Mexico, if it is addressed to the Bureau of En-

tomology and Plant Quarantine at Laredo, Brownsville, or El Paso, Tex., or Nogales, Ariz.

(*e*) All parcel-post packages or mail articles other than parcel post which, either from examination or from external evidence, are found to contain plants or plant products are to be submitted to the representative of the Bureau of Entomology and Plant Quarantine.

ART. 584. *Disposition—Refund of duty.*—Plants or plant products which have been found in violation of the plant quarantine act may be exported or destroyed under customs supervision and the estimated duties refunded as an excess of deposits.

GRAIN AND GRASS SEEDS

ART. 585. *Prohibited importation.*—The importation of seeds of alfalfa, barley, Canadian bluegrass, Kentucky bluegrass, awnless brome grass, buckwheat, clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass (cocksfoot), rape, rye, rye grass, sorghum, timothy, vetch, and wheat, or mixtures of seeds containing any of such seeds as one of the principal component parts, which are adulterated or unfit for seeding purposes, is prohibited. This prohibition does not apply to barley, buckwheat, field corn, Kafir corn, sorghum, flax, oats, broom millet, early fortune millet, rye, or wheat not intended for seeding purposes or when imported for the purpose of manufacture.

ART. 586. *Samples required.*—(*a*) The collector of customs shall cause to be drawn and forwarded for examination, without specific request from the Bureau of Plant Industry, United States Department of Agriculture, samples of all seeds of alfalfa, Canadian bluegrass, Kentucky bluegrass, awnless bromegrass, millet, orchard grass (cocksfoot), rape, rye grass, timothy, clover, meadow fescue, and vetch when entered for consumption, whether or not a consular invoice is presented on the entry thereof.

(*b*) Samples of shipments of barley, buckwheat, field corn, kafir corn, sorghum, flax, broomcorn millet, early fortune millet, oats, rye, and wheat shall be drawn and forwarded only when the Bureau of Plant Industry shall make specific request for such samples.

ART. 587. *Method of sampling.*—(*a*) When a shipment consists of a single lot of five sacks or less, each sack shall be sampled.

(*b*) When a shipment consists of a single lot of more than five sacks, every fifth sack, but not less than five sacks, shall be sampled.

(*c*) When a shipment consists of several lots, each lot shall be sampled as provided in *a* and *b* of this article.

(*d*) On request additional samples shall be drawn.

(*e*) The seed from the sacks sampled shall be made into a composite sample of not less than 1 pint.

(*f*) Each 200 sacks shall be represented by a composite sample.

(NOTE.—Delays in sampling shipments considerably in excess of 200 bags will be greatly reduced if importers will arrange with their foreign shippers to subdivide these lots and mark them so that each 200 sacks shall bear a distinctive shipping mark.)

(*g*) Recleaned seeds shall be sampled as provided in paragraphs *a*, *b*, *c*, *d*, *e*, and *f*, of this article and the weight of the recleaned seed stated on the sample.

(*h*) Samples shall be taken from each sack of screenings or refuse resulting from cleaning in bond of seeds imported subject to the act.

(*i*) The sample from each sack of cleanings or refuse shall be placed in a separate container which shall be marked with the weight of the screenings contained in the sack from which it was taken in addition to other identifying marks.

(*j*) Accompanying the composite samples shall be a statement containing the following information:

Port of entry_____ Entry No. _____
Date of entry_____ Invoice No. _____
Invoiced at_____
Kind of seed_____
Consignor_____
Address of consignor_____
Entered by_____
Ultimate consignee_____
Address of consignee_____
Quantity of each lot by weight_____
Price_____ Value _____
Distinguishing mark_____
Steamer or car_____
Evidence as to the country in which seed of alfalfa and/or red clover was grown_____

ART. 588. *Samples—Where to be sent.*—All samples drawn under article 587 shall be forwarded to the respective seed laboratories under which the ports are grouped in the following list of seed-laboratory districts, unless otherwise specifically requested by the Bureau of Plant Industry:

1. *Division of Seed Investigations, United States Department of Agriculture, Washington, D. C.*—All ports in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, and the ports of Chicago, Ill., and Port Huron and Detroit, Mich.

2. *Seed Laboratory, Purdue University, La Fayette, Ind.*—All ports in the States of Indiana, Illinois (except the port of Chicago), Kentucky, Tennessee, Wisconsin, Minnesota, and Michigan (except Port Huron and Detroit).

3. *Seed Laboratory, Agricultural Experiment Station, Columbia, Mo.*—All ports in the States of Iowa, Missouri, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Colorado, Texas, and New Mexico.

4. *Seed Laboratory, Agricultural College, Corvallis, Oreg.*—All ports in the States of Montana, Wyoming, Idaho, Washington, and Oregon.

5. *Seed Laboratory, California State Department of Agriculture, Sacramento, Calif.*—All ports in the States of California, Nevada, Utah, Arizona, and Territory of Hawaii.

ART. 589. *Forwarding of samples of all forage-plant seeds.*—Irrespective of the foregoing articles, collectors of customs will forward to the Division of Seed Investigations, United States Department of Agriculture, Washington, D. C., 2-ounce samples of each lot of all grass, clover, and other forage-plant seeds imported into the United States not specified in article 586 (*a*).

ART. 590. *Notice to consignee.*—(*a*) No notification that samples have been drawn will be given when samples are drawn under article 586 (*a*), and the remainder of the shipment shall be held intact pending a decision of the Bureau of Plant Industry in the matter.

(*b*) The collector of customs shall immediately notify the consignee that samples of seeds under article 586 (*b*) have been drawn and that the remainder of the shipment must be held intact pending a decision of the Bureau of Plant Industry in the matter.

ART. 591. *Examination of seeds—Delivery in bond.*—After samples of seed offered for importation into the United States from any foreign country have been drawn, such seed shall be admitted only after the seed has been found to be neither adulterated nor unfit for seeding purposes within the meaning of the act and to have been colored as required by article 592: *Provided, however*, That collectors of customs may deliver to consignees shipments which have been sampled, on the execution of a bond on customs Form 7551 or 7553 conditioned upon the return of the shipments, or any part thereof, to the collector when demanded by him for any reason. The penalty of the bond or the charge against the term bond will be collected as liquidated damages for failure to return to the collector on demand any part of the seed or any part of the cleanings or refuse from the seed.

ART. 592. *Kinds and proportions of seeds to be colored.*—(*a*) Except as provided in paragraph (*c*) or (*d*) of this article, the importation into the United States of seeds of alfalfa or red clover, or any mixture of seeds containing 10 percent or more of the seeds of alfalfa and/or red clover, is prohibited, unless at least 1 percent of the seeds in each container is stained with the color required by paragraph (*b*) of this article.

(*b*) Except as provided in paragraph (*c*) or (*d*) of this article, the seeds of alfalfa or red clover and any mixture of seeds containing 10 percent or more of the seeds of alfalfa and/or red clover grown in Canada shall be colored iridescent violet, and such seeds grown in any other country or region shall be colored green.

(*c*) Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination, and on and after the expiration of 90 days after the date of such publication and until such determination is revoked the importation into the United States of any such seeds or of any mixture of seeds containing 10 percent or more of such seeds of alfalfa and/or red clover is prohibited, unless at least 10 percent of the seeds in each container is stained a red color.

(*d*) Under the authority conferred by the Federal seed act, as amended April 26, 1926, notices have been issued by the Secretary of Agriculture directing that seed of alfalfa and red clover grown in the following countries be colored as follows:

Red clover seed grown in Italy, 10 percent red.

Alfalfa seed grown in Turkestan, 10 percent purple red.

Alfalfa seed grown in Africa, 10 percent red.

Alfalfa seed grown in South America, 10 percent orange-red.

Similar notices issued by the Secretary of Agriculture will be published in the Treasury Decisions.

(*e*) The importation into the United States of seeds of alfalfa or red clover or any mixture of seeds containing 10 percent or more of the seeds of alfalfa and/or red clover, which is not accompanied by the evidence specified in article 595, is prohibited, unless at least 10 percent of the seeds in each container is stained a red color.

ART. 593. *Method of coloring seeds.*—(*a*) Color used shall be in the form of an aqueous solution of such concentration as to color the seeds distinctly with the colors prescribed.

(*b*) The designated proportion of the seed will be completely colored and blended with the uncolored seed.

ART. 594. *Coloring seeds under supervision.*—(*a*) Seed required to be colored under article 592 may be colored at the expense of the importer under the supervision of a representative of the Bureau of Plant Industry, or of a customs officer, when the collector of customs is notified that such supervision by the Bureau of Plant Industry is impracticable.

(*b*) Seed claimed by the importer to have been colored, and upon sampling found not to be colored as required by article 592, at the option of the importer may be colored as provided in paragraph (*a*), or the shipment may be bulked and thoroughly mixed by the importer and resampled.

(*c*) No seed shall be colored by the importer until notice of the color to be applied has been given by the Bureau of Plant Industry.

ART. 595. *Evidence as to country or region where seed was grown.*—(*a*) A certificate, attached to the invoice, of the properly authorized official of the foreign country in which the seed was grown, to the effect that the seed of alfalfa or the seed of red clover or any mixture of seeds containing 10 percent or more of the seed of alfalfa and/or red clover was grown in that country, will be regarded as prima facie evidence of such fact. This certificate shall be in the following form:

Foreign Official Seed Certificate

Place _____, city _____, country _____, date _____

I, _____, _____, hereby
(Name of official) (Official title)

certify that the seed of alfalfa_____
seed of red clover_____
mixtures containing 10 percent or more of either or both seeds described in consular invoice No. _____, to which this certificate is attached, was grown in the above-named country.

_____
(Name of official)

_____
(Official title)

(*b*) A declaration of the shipper attached to the invoice stating the country in which the seed of alfalfa or the seed of red clover or any mixture of seeds containing 10 percent or more of the seed of alfalfa and/or red clover was grown will be regarded as prima facie evidence of such fact. The form of declaration shall be as follows:

Form No. _____—Consular

Declaration of shipper of seed of alfalfa or red clover or mixtures of seed containing 10 percent or more of either or both of such seeds

Regarding shipment covered by consular invoice No. _____, certified at_____, on _____ 19____

I, the undersigned,_____,
(Name)

the _____ of the seed mentioned and described in the accompanying consular invoice, certify that the seed was all grown in_____
(Seller or owner, or agent of seller or owner)

_____
(If grown in one country, state name of country. If grown in more than one country, state name of countries and proportion of seed from each country.)

and was exported from_____ and consigned to _____
(City) (City)

_____
(Signature)

(*c*) If the information contained in the certificate and declaration provided for in paragraphs (*a*) and (*b*) of this article is not sufficient to show the country or region of origin of the seed, or if the invoice is not accompanied by such certificate or declaration of shipper, other evidence may be submitted to show such facts, or the seed may be allowed entry in compliance with paragraph (*e*) of article 592.

(*d*) In the event that the invoice is not accompanied by an official certificate of origin the color will not be designated until after the samples of the shipment drawn by the Customs Service have been examined by the Bureau of Plant Industry.

ART. 596. *Conditions for release, recleaning, coloring.*—If the Bureau of Plant Industry shall inform the collector that the seeds have been found to comply with the provisions of the act, the collector shall no longer detain the shipment under the act, and the bond given pursuant to article 591 shall be canceled; but if the seeds have been found not to comply with the provisions of the act, the collector may permit the importer to color and/or reclean the seeds under the bond required by article 591 at the expense of the importer, in accordance with articles 587, 597, and 598.

ART. 597. *Exportation.*—If the Bureau of Plant Industry shall inform the collector that the sample of the recleaned seeds is not satisfactory, or if the importer shall decline to reclean and/or color any shipment of seeds which the Bureau of Plant Industry has found not to comply with the provisions of the act or the requirements of the regulations under it, the collector shall refuse delivery of the shipment and require it to be exported under customs supervision and notify the Bureau of Plant Industry of such disposition.

ART. 598. *Disposition of refuse from recleaning.*—(*a*) If the Bureau of Plant Industry shall inform the collector of customs that the requirements of article 587 and/or 596 have been complied with, the seeds may be released to the owner or consignee only on condition that—

(1) The screenings and all other refuse shall have been destroyed under customs supervision; or

(2) The screenings and all other refuse shall have been ground or otherwise treated under customs supervision so as to render all seeds contained therein incapable of germination and the whole impossible of sale for seeding purposes; or

(3) The screenings and all other refuse shall have been sacked, weighed, sealed, and tagged for identification under customs supervision and retained for later destruction or further recleaning, subject to the conditions of the bond given pursuant to article 591 to secure return of the shipment.

(*b*) The screenings and all other refuse retained in accordance with method (*a*) (3) of this article may be recleaned at any time within 12 months from the date of the entry of the shipment. Unless recleaned within the said period of 12 months said screenings or other refuse shall be destroyed under customs supervision.

(*c*) The exportation of screenings, refuse, and other material removed from seeds prohibited entry under the Federal seed act is prohibited, unless the entire shipment including recleaned seed, screenings, refuse, and other material is exported under customs supervision.

ART. 599. *Mixing seed prohibited.*—Mixing any seed with a lot or shipment of seed offered for entry which has been found to be in violation of the Federal seed act or of the regulations under it is prohibited, except that in cases where it shall appear to the satisfaction of the Bureau of Plant Industry that two or more such lots or shipments of seed offered for entry are of substantially the same quality and origin, they may be mixed for the purpose of recleaning upon a written permit of the Bureau of Plant Industry, provided that the different lots or shipments are covered by the same bond.

ART. 600. *Notice of removal from port of entry.*—The collector of customs will notify the Bureau of Plant Industry whenever seed which has been sampled under the Federal seed act is moved from one port to another port before being finally released.

ART. 601. *Disposition of detained shipment.*—The collector of customs shall inform the Bureau of Plant Industry of the disposition made of every shipment detained under the Federal seed act.

ART. 602. *Failure to export.*—Should the importer fail to export within 12 months from the date of refusal of delivery any seeds the delivery of which has been refused under the Federal seed act, the collector shall report the facts to the Bureau of Customs and to the United States attorney.

ART. 603. *Report of violation.*—The collector of customs shall report to the Bureau of Customs and to the United States attorney any violation of the Federal seed act which may come to his knowledge.

ART. 604. *Request for review.*—Requests for review of the findings of the Bureau of Plant Industry should be addressed to the Secretary of Agriculture, United States Department of Agriculture, Washington, D. C.

VIRUSES, SERUMS, AND TOXINS FOR TREATMENT OF DOMESTIC ANIMALS

ART. 605. *Importation restricted.*—The importation of viruses, serums, toxins, and analogous products for the treatment of domestic animals is prohibited unless the importer holds a permit from the Department of Agriculture covering the specific product. The collector of customs will notify the Bureau of Animal Industry, Department of Agriculture, Washington, D. C., of the arrival of all such products, and refuse delivery thereof until he shall receive notice from the Department that a permit to import the shipment has been issued.

ART. 606. *Labels.*—Each separate container of virus, serum, toxin, or analogous product imported shall bear the true name of the product and the permit number assigned by the Department of Agriculture in the following manner: "U. S. Veterinary Permit No. —", or an abbreviation thereof authorized by the Bureau of Animal Industry. Each separate container shall also bear a serial number affixed by the manufacturer for identification of the product with the records of preparation thereof, together with a "return date."

ART. 607. *Detention—Samples.*—(*a*) The collector of customs will detain all shipments of such products for which no permit to import has been issued pending instructions from the Department of Agriculture.

(*b*) Samples will be furnished to the Department of Agriculture upon its request, and the collector will immediately notify the consignee thereof.

ART. 608. *Disposition.*—Viruses, serums, or toxins rejected by the Department of Agriculture will be delivered by the collector to that Department for destruction, or exported under customs supervision at the expense of the importer, if so requested by the Department of Agriculture.

VIRUSES, SERUMS, TOXINS, ANTITOXINS, AND ANALOGOUS PRODUCTS FOR THE TREATMENT OF MAN

ART. 609. *Licensed establishment.*—(*a*) Viruses, serums, toxins, antitoxins, and analogous products for the treatment of the diseases of man are prohibited entry for sale, barter, or exchange unless propagated in an establishment holding an unsuspended and unrevoked license.

(*b*) A list of the establishments holding licenses, the number of the license, and the names of the several products produced are published periodically in the Treasury Decisions.

ART. 610. *Labels—Samples.*—Each package of such products imported for sale, barter, or exchange must be labeled or plainly marked with the name of the article, the name, address, and license number of the manufacturer, and the time beyond which the contents can not be expected to yield their specific results. Samples of the same lot or laboratory number must accompany each importation for sale, barter, or exchange, and such samples will be forwarded by the collectors to the National Institute of Health of the United States Public Health Service at Washington, D. C.

ART. 611. *Detention, examination, disposition.*—(*a*) Collectors of customs will detain all importations of viruses, serums, toxins, antitoxins, and analogous products for the treatment of the disease of man pending examination by the National Institute of Health unless satisfied from evidence furnished at the time of entry, in the form of an affidavit or otherwise, that the products are not intended for sale, barter, or exchange.

(*b*) If the shipment is imported for sale, barter, or exchange and is found by the National Institute of Health to be admissible, the collector will release the same upon receipt of a report from the Public Health Service that the article is admissible.

(*c*) If the Public Health Service reports that the articles were found upon examination not to conform to the law and the regulations, the collector will refuse delivery and permit the exportation or destruction thereof under customs supervision at the option of the importer.

INSPECTION AND QUARANTINE OF CERTAIN DOMESTIC ANIMALS, ANIMAL BY-PRODUCTS, ANIMAL FEEDING MATERIALS, ETC.

ART. 612. *Animals—Importation prohibited.*—(*a*) Tariff Act of 1930, section 306 (a) and (c):

(a) If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country, the importation into the United States of cattle, sheep, or other domestic ruminants, or swine, * * * from such foreign country, is prohibited.

(c) The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other domestic ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, domestic ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations.

(*b*) Official notices and orders issued by the Secretary of Agriculture regarding the inspection and quarantine of certain domestic animals, animal byproducts, animal feeding materials, etc., will be announced in the weekly Treasury Decisions.

(*c*) Customs officers should scrutinize permits presented for the importation of any animal in order that it may be ascertained that the regulations of the Bureau of Animal Industry have been followed. Orders listing the ports designated, with the approval of the Secretary of the Treasury as quarantine stations for the inspection and quarantine of animals will be issued by the Secretary of Agriculture whenever conditions warrant. Inspection by an inspector of the Bureau of Animal Industry is required for all horses, cattle,

sheep, other ruminants, and swine as a prerequisite to their entry from any foreign country.

(*d*) The regulations of the Secretary of Agriculture provide that no vessel having on board as sea stores, cattle, sheep, other ruminants, or swine, which originated in a region in which foot-and-mouth disease or rinderpest exists, shall enter any port of the United States. Under a cooperative agreement between the Bureau of Animal Industry and the Bureau of the Public Health Service, a declaration is required from the master of every vessel from a foreign country before entering a port of the United States as to the presence on board the vessel of any sea stores, cattle, sheep, other ruminants, or swine. In case the vessel has on board any such animals originating in a country in which foot-and-mouth disease or rinderpest has been declared by the Secretary of Agriculture to exist, the quarantine officer is to immediately notify by telegraph or telephone the inspector of the Bureau of Animal Industry at the port, in order that prohibited animals may be slaughtered and disinfection of the vessel accomplished.

ART. 613. *Penalty for violation of statute.*—Any person convicted of a willful violation of any of the provisions of the statutes relating to the importation of animals or animal byproducts shall be fined or imprisoned, in the discretion of the court, within the amounts and periods named in the statues.

ART. 614. *Entry and release of animals subject to inspection and quarantine.*—The entry of animals may be made before the quarantine period, but will not be required until the expiration thereof. Such animals if not entered at the time of arrival will be considered as under general order while under quarantine. Animals under general order in quarantine will not be released except upon notice from the collector of customs that all the requirements for entry have been complied with by the importer.

ART. 615. *Articles accompanying animals.*—No litter, fodder, or aliment, or any crates, boxes, ropes, straps, chains, girths, blankets, poles, buckets, or other things used for or about the animals, and no manure, shall be landed from any vessel except under such restrictions as the inspector of the Bureau of Animal Industry at the port of entry shall direct.

ART. 616. *Hides, skins, wool, other animal by-products, feeding materials, etc.*—(*a*) Hides, fleshings, hide cuttings, parings, and gluestock, sheepskins, and goatskins and parts thereof, hair, wool, and other animal by-products, hay, straw, forage, or similar material, and previously used bags or bagging offered for entry into the United States are subject to such measures and regulations as the Secretary of Agriculture deems necessary to prevent the introduction of communicable diseases of animals.

(*b*) Animal by-products taken or removed from an animal affected with anthrax, foot-and-mouth disease, or rinderpest, are prohibited importation. This likewise holds true of dried blood or blood meal from any country in which foot-and-mouth disease or rinderpest exists, unless shown by the certificate of a United States consular officer to have been subjected to an adequate degree of heat or accompanied by an acceptable certificate of the national government of origin showing that it was produced from animals slaughtered under national-government inspection and found to be free from anthrax, foot-and-mouth disease, and rinderpest. Countries considered to be free from foot-and-mouth disease and rinderpest are those not named by the Secretary of Agriculture, in B. A. I. Order 353, effective August 1, 1935, subject to revision as conditions warrant.

(*c*) By order of the Secretary of Agriculture, no garbage derived from fresh or frozen meat which originated in a country in which either foot-and-mouth disease or rinderpest exists can be unloaded from any vessel upon the mainland of or within the 3-mile limit in the navigable waters of any port of entry into the United States, except when contained in tight receptacles for the purpose only of being incinerated or transported beyond the 3-mile limit for dumping.

(*d*) By order of the Secretary of Agriculture, no dressed poultry from any country in which foot-and-mouth disease or rinderpest exists, are to be allowed entry unless or until their feet have been removed at a point above the spur or spur core. When the feet are removed after importation they shall be destroyed or disinfected as directed by the Chief of the Bureau Animal Industry.

RAGS

ART. 617. *Disinfection of rags.*—(*a*) Rags, or similar material, are subject to such quarantine regulations as may be prescribed by the Surgeon General United States Public Health Service, which will be published from time to time in the Treasury Decisions.

(*b*) When a certificate of disinfection is required by such regulations and is not produced at the time of entry, the collector shall hold the merchandise for a reasonable time in a designated place separate from other merchandise, pending the receipt of a certificate of disinfection; and, in the event of its nonreceipt, the merchandise shall be disinfected in a manner satisfactory to the Surgeon General at the expense of the importer, or shall be exported or disposed of as directed by the department.

WILD ANIMALS, INSECT PESTS, AND BIRDS

ART. 618. *Species absolutely prohibited.*—(*a*) United States Code, title 18, section 391 (Criminal Code, sec. 241):

The importation into the United States, or any Territory or District thereof, of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of Agriculture may from time to time declare to be injurious to the interests of agriculture or horticulture, is hereby prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner. No person shall import into the United States or into any Territory or District thereof, any foreign wild animal or bird, except under special permit from the Secretary of Agriculture. Nothing in this section shall restrict the importation of natural-history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the Secretary of Agriculture may designate. The Secretary of the Treasury is hereby authorized to make regulations for carrying into effect the provisions of this section. (May 25, 1900, c. 553, sec. 2, 31 Stat. 188; Mar. 4, 1909, c. 321, sec. 241, 35 Stat. 1137.)

(*b*) The importation, except for scientific purposes under regulations of the Secretary of Agriculture, of living stages of injurious insects is prohibited. All packages containing insects in any living stage arriving from abroad, unless accompanied by a permit issued by the Department of Agriculture, should be detained and submitted to the Bureau of Entomology and Plant Quarantine of that Department for inspection and determination of their admissibility into the United States.

(*c*) The importation of snakes into Hawaii is prohibited.

(*d*) A quarterly report of all wild animals and birds imported shall be forwarded to the Bureau of Biological Survey, United States Department of Agriculture, Washington, D. C., on customs Form 6551.

(*e*) It is unlawful for any person, firm, corporation, or association to import any wild animal or wild bird; or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to law of the foreign country in which it was captured, etc. It is also unlawful to export any wild animal or wild bird, or the dead body or part thereof, or the egg of any such bird, captured, killed, taken, purchased, sold, or possessed contrary to the law of any State, Territory, or the District of Columbia in which it was captured, etc.

(*f*) Marking requirements for packages containing wild animals or birds, or the dead bodies or parts thereof, or the eggs of any such birds, are contained in section 243 of the Criminal Code quoted in article 643 of the customs regulations.

(*g*) Any person, firm, corporation, or association convicted of evading or violating or failing to comply with any provision of sections 241, 242, and 243 of the Criminal Code is liable to a fine of not more than $1,000 or imprisonment for not more than 6 months, or both.

(*h*) Any customs officer has power to arrest any person importing or exporting in violation of law any wild animals

or wild birds, or the dead bodies or parts thereof, or the eggs of any such birds, and such merchandise imported or exported in violation of law, when found, shall be taken into customs custody and held pending disposition thereof by a court of the United States.

(*i*) It is unlawful, except as permitted by regulations issued by the Secretary of Agriculture, to import or export any migratory birds, or any part, nest, or egg of such birds, included in the terms of the convention between the United States and Great Britain, concluded August 16, 1916. It shall be unlawful, except as permitted by regulations issued by the Secretary of Agriculture, to import or export any migratory bird, or any part, nest, or egg of any such bird, or any game mammal, the subject of the convention between the United States and the United Mexican States, concluded February 7, 1936, when such convention has been ratified and proclaimed.

(*j*) Supplemental regulations with respect to the importation of wild animals and wild birds and living stages of injurious insects will be published from time to time in the Treasury Decisions.

ART. 619. *Honey bees.*—(*a*) United States Code, title 7, section 281:

In order to prevent the introduction and spread of diseases dangerous to the adult honeybee, the importation into the United States of the honeybee (Apis mellifica) in its adult stage is hereby prohibited, and all adult honeybees offered for import into the United States shall be destroyed if not immediately exported: *Provided*, That such adult honeybees may be imported into the United States for experimental or scientific purposes by the United States Department of Agriculture: *And provided further*, That such adult honeybees may be imported into the United States from countries in which the Secretary of Agriculture shall determine that no diseases dangerous to adult honeybees exist, under rules and regulations prescribed by the Secretary of the Treasury and the Secretary of Agriculture. (Aug. 31, 1922, c. 301, sec. 1, 42 Stat. 833.)

(*b*) Regulations promulgated under the authority of the foregoing provision of law were published in T. D. 44908 and are continued in force.

ART. 620. *Parrots.*—Regulations governing the importation of parrots into the United States in pursuance of Executive Order No. 5264, T. D. 43894, are contained in T. D. 46846.

ART. 621. *Importation or transportation of illegally killed animals, birds, etc.*—(*a*) United States Code, title 16, section 705:

It shall be unlawful to ship, transport, or carry, by any means whatever, * * * to or through a foreign country, any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried at any time contrary to the laws of the State, Territory, or District in which it was captured, killed, or taken, or from which it was shipped, transported, or carried. It shall be unlawful to import any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried contrary to the laws of any Province of the Dominion of Canada in which the same was captured, killed, or taken, or from which it was shipped, transported, or carried. (July 3, 1918, c. 128, sec. 4, 40 Stat. 755.)

(*b*) United States Code, title 18, section 392:

It shall be unlawful for any person, firm, corporation, or association to deliver or knowingly receive for shipment, transportation, or carriage, or to ship, transport, or carry, by any means whatever, from any State, Territory, or the District of Columbia to, into, or through any other State, Territory, or the District of Columbia, or to a foreign country any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country contrary to any law of the United States, or captured, killed, taken, purchased, sold, or possessed contrary to any such law, or captured, killed, taken, shipped, transported, carried, purchased, sold, or possessed contrary to the law of any State, Territory, or the District of Columbia, or foreign country or State, Province, or other subdivision thereof in which it was captured, killed, taken, purchased, sold, or possessed or in which it was delivered or knowingly received for shipment, transportation, or carriage, or from which it was shipped, transported, or carried; and it shall be unlawful for any person, firm, corporation, or association to transport, bring, or convey, by any means whatever, from any foreign country into the United States any wild animal or bird, or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to the law of the foreign country or State, Province, or other subdivision thereof in which it was captured, killed, taken, delivered, or knowingly received for shipment, transportation, or carriage, or from which it was shipped, transported, or carried; and no person, firm, corporation, or association shall knowingly purchase or receive any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, carried, brought, or conveyed, in violation of this section; nor shall any person, firm, corporation or association purchasing or receiving any wild animal or bird, or the dead body or part thereof, or the egg of any such bird, imported from any foreign country, or shipped, transported, or carried in interstate commerce make any false record or render any account that is false in any respect in reference thereto. (May 25, 1900, c. 553, secs. 3, 5, 31 Stat. 188; Mar. 4, 1909, c. 321, sec. 242, 35 Stat. 1137; June 15, 1935, c. 261, sec. 201, 49 Stat. 380.)

(*c*) Regulations under The Whaling Treaty Act of May 1, 1936, in respect of the importation, exportation, etc., of baleens or whalebone whales or the products thereof are set forth in T. D. 48601.

(*d*) Special restrictions pertaining to the importation of certain halibut are outlined in T. D. 48745.

ART. 622. *Importation of wild mammals and birds in violation of foreign law.*—(*a*) Tariff act of 1930, section 527:

(a) 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 the enactment of this act, 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) 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 subdivision 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) The provisions of this section shall not apply in the case of—

(1) Articles the importation of which is prohibited under the provisions of this act, or of section 241 of the Criminal Code, or of any other law;

(2) Wild mammals or birds, alive or dead, or parts or products thereof, whether raw or manufactured, imported for scientific or educational purposes;

(3) 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.

(*b*) No wild mammal or bird, or part or product thereof, shall be released from customs custody, under bond or otherwise, if the collector has knowledge of a foreign law or regulation that brings it within the purview of subdivision (a) of section 527, unless accompanied by the required consular certificate or entitled to entry under the provisions of subdivision (c) of such section.

(*c*) When in doubt as to the admissibility under such section of any importation, the collector should refer the case to the Bureau for instructions. Information with respect to the laws or regulations of foreign governments restricting the taking, killing, possession, or exportation to the United States of wild mammals or birds or parts or products thereof will be published in the Treasury Decisions.

(*d*) The collector shall report to the Bureau all articles seized for violation of section 527, and shall proceed under the provisions of the tariff act applicable to seizure and forfeiture of merchandise valued at less than $1,000, except that:

(1) No such article shall be disposed of before receipt of the Bureau's instructions as to its disposition; but,

(2) In the case of a perishable article or of a canned food article, if the importer assents in writing to forfeiture, it

shall be destroyed without instructions from the Bureau or further proceedings; otherwise perishable articles shall be sent to a cold-storage warehouse at the expense of the importer pending instructions of the Bureau as to their disposition.

ART. 623. *Game animals and birds.*—(*a*) Tariff Act of 1930, paragraph 1682 (free list):

Live game animals and birds, imported for stocking purposes, and game animals and birds killed in foreign countries by residents of the United States and imported by them for noncommercial purposes; under such regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

(*b*) United States Code, title 18, section 393 (Criminal Code, sec. 243):

All packages or containers in which wild animals or birds, or the dead bodies or parts thereof, or the eggs of any such birds are shipped, transported, carried, brought, or conveyed, by any means whatever, from one State, Territory, or the District of Columbia, to, into, or through another State, Territory, or the District of Columbia, or to or from a foreign country shall be plainly and clearly marked or labeled on the outside thereof with the names and addresses of the shipper and consignee and with an accurate statement showing by number and kind the contents thereof. (May 25, 1900, c. 553, sec. 4, 31 Stat. 188; Mar. 4, 1909, c. 321, sec. 243, 35 Stat. 1137; June 15, 1936, c. 261, sec. 201, 49 Stat. 380.)

(*c*) There shall be filed in connection with the entry a declaration by the importer or his agent on customs Form 3313. If the declaration is signed by an officer of the Federal or a State Government, or a person who shall present to the collector an order for the shipment given him by the Federal or a State Government, a statement as to the place of delivery shall not be required.

(*d*) Game animals and birds killed in foreign countries by residents of the United States, if not imported for sale or other commercial purposes, may be admitted free of duty upon the filing of a declaration on customs Form 3315. No bond or cash deposit to insure the destruction or exportation of the plumage of such birds shall be required.

(*e*) Application for the free entry of other live animals or birds, other than those enumerated in article 487 (*b*), under paragraph 1682 of the Tariff Act of 1930 should be referred to the Bureau of Customs for consideration. Animals imported for fur-farming purposes should not be admitted free of duty under that paragraph.

ENTRY AND EXAMINATION OF TEAS

ART. 624. *Impure tea prohibited.*—(*a*) The importation of any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards fixed and established by the Secretary of Agriculture in accordance with section 3 of the import tea act, as amended, is prohibited.

(*b*) Tea is subject to the provisions of the Food and Drugs Act of June 30, 1906, as well as the import tea act and any importation found to be adulterated under the Food and Drugs Act of June 30, 1906, will be dealt with as provided in that act.

(*c*) The administration of the import tea act, in so far as the Department of Agriculture is concerned, shall be under the direction of the chiefs of the inspection stations of the Food and Drugs Administration at which tea examiners are located.

ART. 625. *Entry—Bond—Storage.*—(*a*) All entries must be on regular forms, and the regular serial numbers for both bonds and entries should be used.

(*b*) Tea entered for consumption must be stored as herein provided, pending examination, and a bond must be taken by the collector of customs as provided in section 4 of the import tea act, on customs Form 7551 or 7553. This bond will be canceled upon the issuance of the permit for release, as the consumption entry bond includes provisions for the redelivery, the exportation, the destruction, and holding of merchandise for customs examination.

(*c*) Imported teas entered at an exterior port for immediate transportation to an interior port shall be forwarded without detention.

(*d*) Warehouses for the storage of tea will be designated by the collector of customs and the proprietor thereof will be required to give a bond in the form prescribed (customs Form 3581). Teas not stored in such designated warehouses will be placed in general-order store or in public store pending examination and release on proper permit. In the absence of proper storage facilities at customhouses, teas may be retained in locked cars as constructive warehouses, under proper supervision, pending examination.

(*e*) The importer's premises may be designated as a warehouse for the storage of tea on the filing of the bond provided for by these regulations, but whenever, in the discretion of the collector of customs, it shall be considered desirable a storekeeper shall be assigned to the supervision of such premises at the importer's expense while the teas shall remain under bond therein.

(*f*) When tea under examination is stored in any warehouse, it must be so placed as to be separate from other merchandise and so as to allow convenient supervision by customs officers and officers of the Food and Drugs Administration. At ports where there are no bonded warehouses, class 2 or 3, the chief customs officer of the port will, when necessary, procure suitable premises for the temporary storage of any tea reaching his port. The repacking of tea in warehouse for export purposes is not allowed.

(*g*) All expenses for storage, cartage, and labor must be paid by the importer.

ART. 626. *Examination for dutiable articles.*—The collector may order such an examination of packages containing tea as will satisfy him that no dutiable goods are packed therein. For this purpose the customary designation should be made of packages for examination in public stores.

ART. 627. *Samples for examination.*—(*a*) The examination of teas at ports where a duly qualified tea examiner is stationed shall be made by means of samples drawn by the sampler from packages designated by the tea examiner. The importer, when his teas are ready for sampling, shall submit in duplicate to the tea examiner a chop list and release permit (T. I. S. Cat. No. 1) of the several lines included in the invoice, and the tea examiner shall select for examination packages representing the different lines.

(*b*) In case the tea coverings are dutiable and appraised at a value or rate higher than the entered value or rate the tea examiner shall send chop list and release permit to the collector of customs for such action as he sees fit to take.

(*c*) If the consular invoice has not been received the importer may prepare an additional copy of the chop list and release permit as a pro forma invoice, marking across the face thereof "Pro forma invoice."

(*d*) When entry is made at a port where there is no tea examiner, the importer shall prepare the chop list and release permit (T. I. S. Cat. No. 1) in triplicate and file them with his entry, and the collector of customs will designate a sample from each line thus shown for examination by the tea examiner. Samples shall be furnished by the importer to the collector with a sworn statement that the samples submitted by him were drawn from packages designated by the collector and covered by his entry, and that to the best of his knowledge and belief they represent the true qualities of each and every part of the invoice and accord with the specifications contained therein, and duplicate samples shall also be taken by the collector, all of which shall be forwarded to the nearest qualified tea examiner for his report and return. Tea examiners are stationed at the ports of New York, Boston, San Francisco, Seattle, and Honolulu.

(*e*) Samples forwarded to tea examiners shall be packed in perfectly clean tin cans, cylindrical in shape, 2½ inches deep, 3 inches in diameter, of a capacity of 4 ounces, with tight slip covers, properly labeled and properly "seasoned" according to the customs of trade.

(*f*) Importers may print their chop list and release permit forms provided they conform strictly with T. I. S. Cat. No. 1, or such forms may be obtained free of charge from the United States tea examiner at ports where tea examiners are stationed, or from the chief officer of customs at ports where no tea examiners are stationed.

ART. 628. *Examination—Comparison with standards.*—The examination of teas in comparison with standards will be

made according to the usages and customs of the tea trade, in accordance with instructions issued by the Department of Agriculture. For detailed information and regulations governing the examination of tea under the act of March 2, 1897, amended, see T. D. 38470 and subsequent amendments.

ART. 629. *Release of teas entitled to entry—Rejection—Notice to importer.*—(*a*) If, after examination, the tea is found not to be prohibited under the import tea act, a release permit (T. I. S. Cat. No. 1) shall be granted to the importer by the examiner, and the result of the examination shall be noted on the invoice, which shall be returned to the collector by the examiner in the usual manner. Should a portion only of the invoice be passed by the examiner as fit for consumption, a permit of delivery may be granted for that portion and the remainder held as provided in section 6 of the act. The importer will be required to furnish an additional chop list and tea release permit for the teas released, the original permit being retained by the examiner until action has been taken on all teas covered by the invoice.

(*b*) In all cases of rejections by examiners, the importers will be notified on T. I. S. Cat. No. 6 of the reason for rejection—that is, whether it be on the ground of quality, character of infused leaf, dust, artificial coloring, facing matter, or other impurities. The result of the examination will be noted on the invoice which will be returned to the collector and the tea, or merchandise described as tea, shall not be released by the customhouse authorities, unless upon a reexamination called for by the importer, as hereinafter provided, the return of the examination shall be found erroneous.

ART. 630. *Protest—Reexaminations.*—(*a*) In case the collector of customs, importer, or consignee shall protest against the finding of the examiner, in accordance with section 6 of the import tea act, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals, designated by the Secretary of Agriculture, 201 Varick Street, New York City, and if such board shall, after due examination, find the tea in question to be equal in purity, quality, and fitness for consumption, to the proper standards, a permit shall be issued by the collector of customs for its release and delivery to the importer; but if upon such final reexamination by such board the tea shall be found to be inferior in purity, quality, and fitness for consumption, to the said standards, the importer or consignee shall give a bond; unless he has previously done so, with security satisfaction to the collector, to export said tea out of the limits of the United States within a period of 6 months after such final reexamination; and if the same shall not have been exported within the time specified, the collector of customs, at the expiration of that time, shall cause the same to be destroyed.

(*b*) An importer desiring to protest the finding of the examiner shall, within 30 days after he has been notified of the examiner's return, file with the collector a written application on Form T. I. S. Cat. No. 20, which the collector shall forward to the Board of Tea Appeals.

(*c*) The procedure in the case of protest shall be in accordance with section 8 of the act. The samples for reexamination should weigh at least 1 pound, and should be put up in tins with a label (T. I. S. Cat. No. 21) securely attached thereto.

ART. 631. *Decision of United States Board of Tea Appeals final.*—Teas rejected by tea examiners and rejections affirmed by the United States Board of Tea Appeals can not be reexamined. The decision of the board shall be in writing and transmitted to the collector within 3 days.

ART. 632. *Rejected teas.*—Rejected tea can only be released or withdrawn for exportation, for transportation and exportation, or for manufacturing purposes under the act of May 16, 1908.

ART. 633. *Exportation.*—(*a*) Teas to be exported for the reason that they are within the prohibition of the statute will be entered for exportation on customs Form 7512, and bond on customs Form 7557 shall be given for their exportation in a penal sum equal to double the value of the tea, provided consumption entry bond (customs Form 7551 or 7553) was not previously given.

(*b*) Whenever a bond is given to export any rejected tea in pursuance of the act, it will be canceled upon the filing of an outward bill of lading and a duly authenticated certificate of clearance from the customs officer supervising the lading thereof, and all accrued charges must be paid before issuance of permit for exportation.

(*c*) At interior ports the export entry shall be made for transportation and immediate exportation in bond.

(*d*) Tea packages and contents should be treated as a unit, and no separation of tea from its covering can be allowed either for exportation or destruction except in the two following cases: (1) In the case of an importation of tea containing an excessive amount of tea dust the tea may, upon suitable application to the examiner by the importer, be permitted to be sifted to remove the tea dust. The tea, if found in compliance with standard after reexamination, may be admitted, but the dust must be exported or destroyed under customs supervision. (2) In the case of a consignment containing damaged tea, the importer, after suitable application, may be permitted to remove the damaged portion. If the good portion, after reexamination by the examiner, is found to be equal to the standard, it shall be permitted entry. The damaged portion shall be destroyed or sold for manufacturing purposes under regulations prescribed by the Secretary of the Treasury for the entry of tea for manufacturing purposes.

ART. 634. *Reimportation of rejected teas—Forfeiture.*—No imported teas which have been rejected by an examiner or by the United States Board of Tea Appeals and exported under the provisions of this act shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition. Customs officers will make seizure of any tea so imported.

ART. 635. *Destruction.*—Whenever condemned tea is to be destroyed, it must be conveyed to some suitable place, and proper means, to be prescribed by the examiner, must be used for its effectual destruction, which shall be effected in the presence of an officer of customs, detailed by the collector for the purpose. Before the tea is destroyed a particular description or statement of the same must be prepared containing the name of the importer or owner, the date of importation, the name of the vessel, and the place from which imported, with the character and quantity of the tea and the invoice value. The fact of its destruction must be certified on said statement by the officer detailed as aforesaid, which statement must be filed in the customhouse.

ART. 636. *Samples, retention of.*—The reexamination of the tea samples must be restricted to the samples put up and sealed by the examiner at ports where qualified tea examiners are stationed, or by the chief officer of the customs, if there is no qualified tea examiner so stationed, in the presence of the importer or consignee, if he so desires. In either case the samples shall be transmitted to the board by the tea examiner, together with a finding of the examiner, setting forth the cause of condemnation. These samples for reexamination should weigh at least 1 pound and should be put up in tins with a label (T. I. S. Cat. No. 21) securely attached thereto. Half of such samples shall be utilized for the examination by the board and for return to the port of entry with the decision, as heretofore, and the remaining half, if the tea be rejected by the said board, shall be distributed among the various examiners for their information and guidance.

ART. 637. *Commercial samples.*—(*a*) Where tea is put in packages of not over 2 pounds in weight, imported by mail, express, or otherwise from the country of production, and the fact is established that the packages are samples for distribution, or for use in soliciting orders and not for sale, no examination should be made under the act of March 2, 1897, and they may be delivered at once to the importer.

(*b*) Packages of tea not exceeding 5 pounds in weight brought by passengers may be delivered without examination for purity under the act of March 2, 1897. (See art. 420.)

ART. 638. *Surplus samples.*—(*a*) Surplus samples drawn from importations for purposes of examination, and which represent pure tea as declared by the examiner, shall be returned to the importer after examination is completed, if so requested by the importer, but if no request is made for the return of samples, they shall be disposed of as provided in article 639 for unused standard samples.

(*b*) Surplus samples representing tea which has been finally rejected should be destroyed.

ART. 639. *Standard samples—Distribution—Sale.*—(*a*) Tea standards, original and duplicate, will be prepared by the board of tea experts, subject to the approval of the Secretary of Agriculture.

(*b*) In the selection of standards by the board of tea experts, due regard will be paid to the provisions of the Food and Drugs Act of June 30, 1906.

(*c*) Standards shall be in effect from the 1st day of May of the year selected until April 30, inclusive, of the following year, except that tea shipped from abroad prior to May 1 of any year shall be governed by the standards in effect at the time of shipment.

(*d*) Such standards for each year will be published in Service and Regulatory Announcements.

(*e*) A quantity of tea of the approved standards will be repacked in half-pound tin containers by competent tea packers under the constant supervision of an officer of the tea inspection service, and full sets will be furnished to the board of tea appeals, and to the examiners of tea at all the tea examining stations.

(*f*) Standards will be furnished to actual importers and regular tea brokers at the actual cost thereof.

(*g*) After standard samples have served their purpose and new season samples submitted, the old samples may be included in quarterly sales of unclaimed goods, and the proceeds paid into the Treasury, after deducting expenses of advertisement and sale, the designation on the packages showing such teas to have been used as Government standards to be obliterated before delivery to purchaser.

WHITE PHOSPHORUS MATCHES

ART. 640. *Importation prohibited—Certificate of inspection—Importer's declaration.*—(*a*) United States Code, title 26, section 1074:

White phosphorus matches, manufactured wholly or in part in any foreign country, shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited. All matches imported into the United States shall be accompanied by such certificate of official inspection by the government of the country in which such matches were manufactured as shall satisfy the Secretary of the Treasury that they are not white phosphorus matches. The Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of the provisions of this section. (Apr. 9, 1912, c. 75, sec. 10, 37 Stat. 83.)

(*b*) Tariff Act of 1930, paragraph 1516:

* * * *Provided*, That in accordance with section 10 of "An act to provide for a tax upon white phosphorus matches, and for other purposes", approved April 9, 1912, white phosphorus matches manufactured wholly or in part in any foreign country shall not be entitled to enter at any of the ports of the United States, and the importation thereof is hereby prohibited: *Provided further*, That nothing in this act contained shall be held to repeal or modify said act to provide for a tax upon white phosphorus matches, and for other purposes, approved April 9, 1912.

(*c*) United States Code, title 26, section 1070:

For the purposes of this chapter the words "white phosphorus" shall be understood to mean the common poisonous white or yellow phosphorous used in the manufacture of matches and not to include nonpoisonous forms or the nonpoisonous compounds of white or yellow phosphorous. (Apr. 9, 1912, c. 75, sec. 1, 37 Stat. 81.)

(*d*) Invoices covering matches imported into the United States must be accompanied by a certificate of official inspection of the Government of the country of manufacture in the following form:

Certification of Official Inspection of Matches

_____

_____

I, _____ (name), do hereby certify that I am the _____ (official title); that according to the chemical analysis made by myself the matches described below do not contain white or yellow phosphorus, and that therefore they are not white phosphorus matches as defined in the act of Congress of the United States of America approved April 9, 1912:

Number of case and mark	Description of matches	Name and address of manufacturer	Name and address of consignee, vessel, and date of shipment

_____

(Signature)

_____

(Official title)

CONSULATE OF THE UNITED STATES,

_____,

_____, 19__.

I, _____, consul of the United States of America at _____, do hereby certify that the foregoing is the signature of _____, and that he is the officer duly authorized by the Government of _____ to make such certificate.

[SEAL]

_____,

United States Consul.

(*e*) In the absence of such certificate the matches shall be detained until a certificate is produced or the importer submits satisfactory evidence to show that the matches were not in fact manufactured with the use of poisonous white or yellow phosphorus.

(*f*) The production of the above certificate will not be required on the entry of matches manufactured in Argentina, Australia (Victoria State), Austria, Belgium, Bulgaria, Canada, Colombia, Cuba, Czechoslovakia, Denmark, Ecuador, Estonia, Finland, Germany, Great Britain and Ireland, Hungary, Italy, Japan, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, or any other countries which prohibit the use of poisonous white or yellow phosphorus in the manufacture of matches.

(*g*) At the time of filing an entry for imported matches, the importer must make a declaration that to the best of his knowledge and belief none of the matches included in the invoice and entry are "white phosphorus" matches.

ART. 641. *Exportation.*—(*a*) United States Code, title 26, section 1075:

It shall be unlawful to export from the United States any white phosphorus matches. The Secretary shall have power to issue such regulations to customs officers as are necessary to the enforcement of this section. (Apr. 9, 1912, c. 75, sec. 11, 37 Stat. 83.)

(b) The shipper, owner, or agent of matches intended for exportation from the United States shall, at least six hours before such matches are laden for exportation, file with the collector a manifest, in duplicate, signed by the shipper, which shall state the date of exportation, the name of the exporting vessel, the marks and numbers of the packages, and the specific description of the matches. There shall be attached to the manifest an affidavit of the shipper that no "white phosphorus" matches are included in the shipment.

(*c*) The collector may cause any or all matches offered for exportation to be opened and inspected, and if any such matches are found to be white phosphorus matches the collector will detain the same and report the facts to the Bureau for instructions.

PLUMAGE AND EGGS OF WILD BIRDS

ART. 642. *Birds of paradise, aigrettes, and other plumage—Importation prohibited.*—(*a*) Tariff Act of 1930, paragraph 1518:

* * * *Provided*, That the importation of birds of paradise, aigrettes, egret plumes or so-called osprey plumes, and the feathers, quills, heads, wings, tails, skins, or parts of skins, of

wild birds, either raw or manufactured, and not for scientific or educational purposes, is hereby prohibited; but this provision shall not apply to the feathers or plumes of ostriches or to the feathers or plumes of domestic fowls of any kind: *Provided further*, That birds of paradise, and the feathers, quills, heads, wings, tails, skins, or parts thereof, and all aigrettes, egret plumes, or so-called osprey plumes, and the feathers, quills, heads, wings, tails, skins, or parts of skins, of wild birds, either raw or manufactured, of like kind to those the importation of which is prohibited by the foregoing provisions of this paragraph, which may be found in the United States, on and after the passage of this Act, except as to such plumage or parts of birds in actual use for personal adornment, and except such plumage, birds or parts thereof imported therein for scientific or educational purposes, shall be presumed for the purpose of seizure to have been imported unlawfully after October 3, 1913, and the collector of customs shall seize the same unless the possessor thereof shall establish, to the satisfaction of the collector that the same were imported into the United States prior to Ocober 3, 1913, or as to such plumage or parts of birds that they were plucked or derived in the United States from birds lawfully therein; and in case of seizure by the collector, he shall proceed as in case of forfeiture for violation of the customs laws, and the same shall be forfeited, unless the claimant shall, in any legal proceeding to enforce such forfeiture, other than a criminal prosecution, overcome the presumption of illegal importation and establish that the birds or articles seized, of like kind to those mentioned, the importation of which is prohibited as above, were imported into the United States prior to October 3, 1913, or were plucked in the United States from birds lawfully therein.

That whenever birds or plumage, the importation of which is prohibited by the foregoing provisions of this paragraph, are forfeited to the Government, the Secretary of the Treasury is hereby authorized to place the same with the department or bureaus of the Federal or State Governments or societies or museums for exhibition or scientific or educational purposes, but not for sale or personal use; and in the event of such birds or plumage not being required or desired by either Federal or State Government or for educational purposes, they shall be destroyed.

That nothing in this act shall be construed to repeal the provisions of the Act of March 4, 1913, chapter 145 (37 Stat. L., p. 847), or the act of July 3, 1918 (40 Stat. L., p. 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States. That if on investigation by the collector before seizure, or before trial for forfeiture, or if at such trial if such seizure has been made, it shall be made to appear to the collector, or the prosecuting officer of the Government, as the case may be, that no illegal importation of such feathers has been made, but that the possession, acquisition, or purchase of such feathers is or has been made in violation of the provisions of the act of March 4, 1913, chapter 145 (37 Stat. L., p. 847), or the act of July 3, 1918 (40 Stat. L., p. 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States, it shall be the duty of the collector, or such prosecuting officer, as the case may be, to report the facts to the proper officials of the United States, or State or Territory charged with the duty of enforcing such laws.

(*b*) The above provisions of law apply to the plumage of all wild birds, except live wild birds and game birds killed in foreign countries by residents of the United States, and not imported for sale or other commercial purpose, whether imported separately or upon the bird itself. Such plumage of either American or foreign origin imported as merchandise or as passengers' baggage or worn on the person is prohibited, but it does not apply to baggage forwarded in transit nor to plumage taken out as personal effects for a temporary stay. Such plumage may be registered for identification on return in accordance with the provisions of article 428.

(*c*) Tariff Act of 1930, paragraph 1535:

* * * *Provided*, That any prohibition of the importation of feathers in this Act shall not be construed as applying to artificial flies used for fishing, or to feathers used for the manufacture of such flies.

(*d*) Upon entry of imported artificial flies or feathers used in their manufacture, the importer must file an affidavit to the effect that the feathers are of such a character as are ordinarily used for the manufacture of flies for fishing purposes; that they are imported for and will be used for that purpose, and that they will not be used for any other purpose unless under specific authority from the Secretary of the Treasury they may be diverted to scientific or educational use. Other manufactures of prohibited plumage should be excluded from importation.

(*e*) As the plumage of certain species of birds, viz, the rhea, the ringnecked pheasant, the so-called Mongolian pheasant, the mallard duck, and the muscovy duck, may be obtained from either wild or domesticated birds, such plumage should be admitted only upon the presentation of satisfactory evidence that it was in fact taken from domesticated birds. As the English pheasant and the Indian peacock are considered to be domesticated birds, the feathers of such birds do not constitute prohibited merchandise.

ART. 643. *Marking of packages.*—United States Code, title 18, section 393 (Criminal Code, sec. 243):

All packages or containers in which wild animals or birds, or the dead bodies or parts thereof, or the eggs of any such birds are shipped, transported, carried, brought, or conveyed, by any means whatever, from one State, Territory, or the District of Columbia, to, into, or through another State, Territory, or the District of Columbia, or to or from a foreign country shall be plainly and clearly marked or labeled on the outside thereof with the names and addresses of the shipper and consignee and with an accurate statement showing by number and kind the contents thereof. (May 25, 1900, c. 553, sec. 4, 31 Stat. 188; Mar. 4, 1909, c. 321, sec. 243, 35 Stat. 1137; June 15, 1935, c. 261, sec. 201, 49 Stat. 380.)

ART. 644. *Eggs of wild birds.*—(*a*) Tariff Act of 1930, paragraph 1671:

* * * *Provided*, That the importation of eggs of wild birds is prohibited, except eggs of game birds imported for propagating purposes under regulations prescribed by the Secretary of Agriculture, and specimens imported for scientific collections.

(*b*) Upon the attempted importation of eggs of wild birds which are not admissible, the eggs should be seized and the importer accorded the opportunity to assent to forfeiture of the merchandise. In the event the importer refuses or fails to assent to the forfeiture of the prohibited eggs, the collector should proceed to forfeit the merchandise under the provisions of the tariff act applicable to seizure and forfeiture of merchandise valued at less than $1,000. The collector should immediately advise the Bureau by letter of the seizure, stating the number, kind, and country of exportation. The eggs of wild birds being a prohibited importation, they may not be sold. They should, therefore, be held pending receipt of instructions from the Bureau as to their disposition.

FUR SKINS

ART. 645. *Fur-seal skins prohibited.*—United States Code, title 16, section 635:

The importation or bringing into territory of the United States, by any person whatsoever, of skins of fur seals or sea otters taken in the waters mentioned in section 632 of this title [the waters of the North Pacific Ocean north of the thirtieth parallel of north latitude, including the seas of Bering, Kamchatka, Okhotsk, and Japan], or of skins identified as those of the species known as Callorhinus alascanus, Callorhinus ursinus, and Callorhinus kurilensis, or belonging to the American, Russian, or Japanese herds, whether raw, dressed, dyed, or manufactured, except such as have been taken under the authority of the respective parties to the convention between the Governments of the United States, Great Britain, Japan, and Russia, concluded at Washington, July 7, 1911 (37 Stat. 1546), to which the breeding grounds of such herds belong, and have been officially marked and certified as having been so taken, is hereby prohibited; and all such articles imported or brought in shall not be permitted to be exported, but shall be seized and forfeited to the United States. (Aug. 24, 1912, c. 373, sec. 4, 37 Stat. 500.)

ART. 646. *Fur skins permitted entry.*—The fur skins specified in the preceding article may be admitted to entry under the following conditions:

(*a*) Skins taken on the Pribilof Islands, Russian seal islands, and the Japan seal islands under the authority of the country having jurisdiction.

(*b*) Skins taken from the American herds by Indians and Aleuts dwelling on the American coast north of the thirtieth parallel north latitude.

(*c*) Skins taken from the Russian and Japanese herds by Ainos or other aborigines dwelling on the coasts of Russia and Japan.

ART. 647. *Evidence of origin.*—If the skins were taken on the Pribilof Islands under authority of the United States, the affidavit of the shipper must be produced at the time of entry of the skins or articles made therefrom, identifying the skins by marks and numbers, and as the identical skins covered by the certificate of the Government of the United

States, or its agent, which shall also be produced in the form prescribed below.

_____

_____, 19__.

This certifies that the fur-seal skins bearing the marks and numbers _____ were certified to us by the United States Department of Commerce as having been taken on the Pribilof Islands in the season of 19__ under the authority of the United States.

_____

Agent for the United States.

ART. 648. *Skins taken by the Indians or Aleuts.*—(*a*) In the case of skins taken by Indians or Aleuts dwelling on the coast of Alaska, British Columbia, Washington, Oregon, or California, there shall be furnished in addition to the affidavit of the shipper, a certificate by an official of the Department of Commerce specifying in detail the locality in which the skins were taken, and showing the approximate date of taking, the transfer of the skins from the person by whom taken to the shipper or importer, and the names and permanent addresses of all intermediate owners and the dates of transfer, which certificate shall be in the following form:

DEPARTMENT OF COMMERCE

BUREAU OF FISHERIES

Certificate to Accompany Sealskins taken by Indians Dwelling on the Pacific Coast of the United States

Number of skin, _____; sex, _____; by whom taken, _____; when taken, _____; where taken, _____; how taken, _____. Description of skin: Length, _____ inches; width, _____ inches; weight, _____ pounds _____ ounces.

I hereby certify that the fur-seal skin referred to above and now bearing tag No. _____ was lawfully taken by me and that the above statements concerning its capture are true.

_____

Of _____

Native Hunter.

I hereby certify that the fur-seal skin bearing leather tag No. _____ has been examined, measured, and tagged by me; that the statement regarding its capture has been signed in my presence; and that, to the best of my knowledge and belief, the skin was legally taken and in the manner permitted by Article IV of the convention (Treaty Series, No. 564) of July 7, 1911.

_____

_____

(Official title.)

[SEAL]

_____, ALASKA,

_____, 19__.

Ownership in this skin (No. ____) has been transferred as follows:

Date	By whom sold	To whom sold	Address

(*b*) In the case of skins taken by aborigines off the coast of British Columbia, a certificate issued by any recognized official of the Canadian or British Columbian Government identifying the skins and stating that their taking was authorized, will be accepted as sufficient evidence that the skins are of lawful origin.

ART. 649. *Skins of Russian or Japanese origin.*—In the case of skins taken on the Russian and Japanese seal islands, and in the case of those taken by Ainos or other aborigines dwelling on the coasts of Russia and Japan, each shipment should be accompanied by a certificate, in the case of Japan, of an officer (or other authorized agent) of the Japanese Government, showing that the skins were taken by authority of that Government, and, in the case of Russia, of an administrative official functioning in that country, showing that the taking of the skins was authorized. Any certificate issued by an administrative official of the country concerned identifying the skins and stating that they were lawfully taken may be used in such cases.

ART. 650. *Sealskin garments—Waste.*—(*a*) All fur sealskin articles except as provided in article 421 must be sent to the public stores for examination. If the examiner entertains any doubt of the authenticity of the identification of the skins or legal taking thereof, the garments should be retained in customs custody and the facts reported to the Bureau.

(*b*) Articles manufactured in whole or in part from fur sealskins imported into the United States shall have the linings thereof so arranged that the pelts of the skin can be exposed for examination.

(*c*) Fur sealskin waste composed of small pieces not large enough to be sewed together and utilized as dressed fur shall not be considered subject to the requirements of these regulations.

ART. 651. *Skins of sea otters.*—No skins of sea otters from the waters specified in article 645 may be imported except those taken within 3 miles of or on shore and officially marked and certified by the country having jurisdiction as having been taken under its authority. The taking of sea otters in Alaska or in the waters thereof (including the Pribilof Islands) is prohibited by the United States. (Art. V, convention of July 7, 1911; 36 Stat. 327; 43 Stat. 739, 747, secs. 2 and 14.)

NARCOTIC DRUGS

ART. 652. *Opium and other narcotic drugs prohibited.*—The importation of opium in any form shipped by or consigned to Chinese subjects is absolutely prohibited. The importation of smoking opium or opium prepared for smoking, and of all narcotic drugs, by any person, is also prohibited, except crude opium and coca leaves, which may be imported under permits issued by the Commissioner of Narcotics, Treasury Department, Washington, D. C., by manufacturers actually engaged in manufacturing, from such crude opium or coca leaves, products for medical or other legitimate uses.

ART. 653. *Definitions.*—(*a*) The term "narcotic drug" means opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine.

(*b*) By "crude opium" shall be understood the spontaneously coagulated sap obtained from capsules of the soporific poppy (*Papaver somniferum*), and which shall not have been subjected to any but the processes necessary to the packing and the transportation thereof.

(*c*) By coca leaves shall be understood the leaves of *Erythroxylon coca*, known commercially as "Huamuco Coca", or the leaves of *Erythroxylon truxillense*, known commercially as "Truxillo Coca," or the leaves of any other species of *Erythroxylon* yielding cocaine, or substances convertible into cocaine.

(*d*) By "cocaine" shall be understood the principal alkaloid of the leaves of *Erythroxylon coca* expressed by the formula $C_{17}H_{21}NO_4$, or any other substance, regardless of its name or formula, which reacts to the usual tests in substantially the same manner as does the principal alkaloid of the leaves of *Erythroxylon coca*.

(*e*) The term "derivative," as used in the narcotic drugs import and export act, shall be broadly construed in accordance with the generally accepted meaning of the term in common or chemical usage. It shall include morphine, codeine, ethyl-morphine hydrochloride (known as dionin), or diacetylmorphine hydrochloride (known as heroin), ecgonine, their salts, compounds, and combinations, and any new alkaloid, salt, compound, or combination obtained from opium, coca leaves, or cocaine.

(*f*) By "preparation" shall be understood any product, mixture, or compound containing or representing any quantity of opium, coca leaves, cocaine, or any salt or derivative thereof.

ART. 654. *Administration—Regulations.*—The administration of the "Narcotic drugs import and export act" is vested in the Commissioner of Narcotics, Treasury Department. All regulations of the Commissioner of Narcotics, are subject to the provisions of the customs, internal revenue, and other laws and regulations applicable. All such regulations will be published in the Treasury Decisions for the information of the collectors of customs.

ART. 655. *Entries.*—(*a*) Crude opium may be entered only for consumption or for transportation in bond between the

port of first arrival and the port of entry specified upon the import permit. No entry of either crude opium or coca leaves shall be permitted except upon an import permit duly issued by the Commissioner of Narcotics, and then only if the merchandise has been properly described in the manifest of the importing vessel or carrier. Any quantity of crude opium or coca leaves imported or attempted to be imported not in accordance with such a permit or not properly described in the manifest of the importing vessel or carrier, shall be subject to forfeiture.

(*b*) Coca leaves may be entered either for consumption or warehouse or for transportation in bond between the port of first arrival and the port of entry specified on the permit covering the shipment.

ART. 656. *Procedure on importation.*—(*a*) Import permits for crude opium or coca leaves shall be prepared in quintuple and signed by the Commissioner of Narcotics. After being signed, these copies shall be distributed and shall serve purpose as follows: Original and one copy shall be transmitted by the Bureau of Narcotics to the importer, who will retain the copy on file as his record of authority for the importation and shall transmit the original of the permit to the foreign exporter. The foreign exporter will submit the original of the permit to the United States consul at the foreign port of exportation, whereupon this original will accompany the bill of lading. Upon arrival of the imported merchandise, the collector of customs at the port of entry will forward the original of the permit with the bill of lading to the appraiser for the port who, after appraising the merchandise, will promptly return the permit to the Commissioner of Narcotics with a report as to the quantity and kind, including a report of analysis, if opium, of the merchandise entered.

(*b*) Another copy of the import permit shall be forwarded by the Bureau of Narcotics to the collector of customs at the United States port of entry in order that, upon arrival of the merchandise, the collector may compare the copy with the original which accompanies the bill of lading.

(*c*) If a discrepancy is noted between corresponding items upon different copies of a permit bearing the same serial number when compared by the collector of customs, that official shall refuse to permit the importation until the facts are communicated to the Commissioner of Narcotics and further instructions are received.

(*d*) Immediately upon the unlading of crude opium or coca leaves from the importing vessel, the customs officer shall carefully examine the packages, note their condition, seal the packages, and cause them to be transported under customs guard and by bonded cartmen to the appraiser's warehouse, where they shall be placed in a separate and specially protected inclosure.

(*e*) The appraiser shall issue such special regulations to his employees as will insure the safekeeping of the packages while in the warehouse.

(*f*) No delivery of crude opium or coca leaves to the importer from the appraiser's warehouse shall be permitted until the deputy collector of customs in charge of the building and the appraising officer shall be satisfied, and so note on the delivery permit after personal examination, that the importer has taken all proper precautions for the safe transportation of the crude opium or coca leaves from the appraiser's warehouse to the importer's.

ART. 657. *Procedure on exportation.*—(*a*) No person shall in any manner export from the United States, take out of the United States on his person or in his baggage, or cause to be exported or taken out of the United States any narcotic drug, nor shall any carrier receive for exportation, export, or carry out of the United States any narcotic drug, unless and until a permit, in due form, to export the narcotic drug in each instance shall have been issued by the Commissioner of Narcotics.

(*b*) Application in triplicate for permission to export narcotic drugs shall be made under oath, on Bureau of Narcotics Form 1542, and such application shall be transmitted to the nearest collector of customs sufficiently early to permit of orderly procedure and any necessary investigation.

(1) Form 1542 shall show the date of execution, the exporter's number of the application, and the exporter's internal-revenue registry number, and on the reverse side shall show the name, detailed description, and quantity of the narcotic drug or preparation desired to be exported, the name of the narcotic drug contained in any preparation being stated, and the quantity of any solids in the preparation being given in avoirdupois.

(2) Under the last item listed for export a double line should be drawn either by pen and ink or typewriter, and no export permit shall be valid as to any item listed below such double line.

(3) Form 1542 shall state on its face that application is made for permission to export the narcotics listed on the reverse side, immediately following which shall be given the name, address, and business of the consignee, the foreign port of entry, port of exportation, date of exportation, name of exporting carrier or vessel (if known, or if unknown, so stated), and date of foreign import license or permit.

(4) The application shall also contain an averment that the packages are marked according to the regulations, and that to the best of affiant's knowledge and belief the narcotics therein are to be applied exclusively to medical and legitimate uses within the country to which exported, will not be reexported therefrom, and are needed therein because there is an actual shortage thereof and a demand therefor for medical and legitimate uses within such country.

(*c*) With the application the shipper's export declaration in due form shall also be submitted, together with the import license or a certified copy of such license (and a translation thereof if in a foreign language) if any has been issued by the country of destination, or other evidence that the merchandise is consigned to an authorized permittee. Verification by an American consular officer of signatures on foreign import licenses will not be necessary if such licenses bear the official seal of the officer signing them. The shipper's export declaration shall be returned to the applicant for presentation to the collector at the port of exportation in the event the application is approved.

(*d*) The collector shall forward the application, together with its supporting papers, to the Commissioner of Narcotics and if the collector is in possession of any facts which might adversely affect the application, he shall also send therewith a statement of such facts together with his recommendation.

(*e*) If the application is disapproved by the Commissioner of Narcotics, the fact of such disapproval and the reasons therefor will be communicated to the applicant and to the collector of customs concerned.

(*f*) If additional information is required or other action is necessary to correct any mistake or irregularity in the application or accompanying documents, opportunity will be afforded by the Commissioner of Narcotics to furnish such additional information or to correct such mistake or irregularity before finally disapproving the application.

(*g*) If the Commissioner of Narcotics decides to permit the exportation, he will approve and sign the application which shall thereupon become a permit to export the narcotic drugs listed thereon in accordance with the data shown upon the application.

(*h*) In lieu of the marking on the outside of the packages as required in previous regulations, the inner packages shall be labeled in a legible and conspicuous manner to show the narcotic character of the contents. Inner packages shall also bear internal-revenue narcotic stamps as required, and affixed in the manner provided, by the act of December 17, 1914, as amended, and regulations thereunder. The collector of customs may require packages offered for exportation to be opened and may inspect the contents thereof.

(*i*) Export declarations covering drugs, pharmaceuticals, medicines, chemicals, or other articles of a similar general

designation, not covered by a permit to export, shall contain a statement in writing that the articles are not narcotic drugs. In the absence of such a statement in the export declaration covering such articles, the collector shall detain the merchandise, at the exporter's risk and expense, until, by examination or the submission of evidence by the exporter, the collector shall be convinced that the articles contain no narcotic drugs.

(*f*) The regulations governing shipments of narcotic drugs to Puerto Rico are contained in articles 77 to 80 of Narcotic Regulations No. 5.

ART. 658. *In transit shipments.*—(*a*) Section 2 of the narcotic drugs import and export act (subsec. 5) prohibits the admission of smoking opium or opium prepared for smoking into the United States or into any Territory under its control or jurisdiction for transportation to another country or transfer from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose. No other narcotic drug may be so admitted, transferred, or transshipped except with the approval of the Commissioner of Narcotics. The regulations applicable to exports will govern as far as practicable, except that the collector of customs may permit narcotic drugs, other than smoking opium or opium prepared for smoking, to be retained on board a vessel arriving from a foreign port if shown on the manifest to be destined to another foreign port.

(*b*) Articles in transit manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the collector that they contain no narcotic drugs, shall be detained and subjected at the carrier's risk and expense to such examination as may be necessary to satisfy the collector as to whether or not they contain narcotic drugs.

ART. 659. *Violation of the law—Reports of.*—Collectors of customs shall report to the United States attorney and to the Commissioner of Narcotics any violations of the law which they may discover, and will furnish a copy of such report to the Bureau of Customs.

(See art. 1109 for procedure governing forfeiture and penalties, narcotic drugs.)

LIQUORS

ART. 660. *Restricted importations.*—(*a*) United States Code (supp. I), title 27, section 203 (a) (1), (b) (1), and (c) (2):

SEC. 203 (a) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the (Federal Alcohol) Administrator—

(1) to engage in the business of importing into the United States distilled spirits, wine, or malt beverages; * * *

SEC. 203. (b) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the (Federal Alcohol) Administrator—

(1) to engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; * * *

SEC. 203. (c) (2) * * * This section shall not apply to any agency of a State or political subdivision thereof or any officer or employee of any such agency, and no such agency or officer or employee shall be required to obtain a basic permit under this chapter. (Aug. 29, 1935, c. 814, sec. 3, 49 Stat. 878.)

(*b*) The production of a basic permit is not necessary when spirits are withdrawn from warehouse under any form of withdrawal entry.

(*c*) The above basic permit requirements are not applicable when the collector is satisfied that the liquor is for personal use or sample purposes only.

(*d*) Blending or rectifying of wines or distilled spirits in class 6 manufacturing warehouses, or the bottling of imported distilled spirits in class 8 manipulation warehouses will not be permitted unless the proprietor has obtained from the Federal Alcohol Administration the appropriate permit.

(*e*) *Bulk imports.*—United States Code (supp. I), title 27, section 206 (a) (1), (b) and (c):

SEC. 206. (a) It shall be unlawful for any person—

(1) To sell or offer to sell, contract to sell, or otherwise dispose of distilled spirits in bulk except, under regulations of the Administrator, for export or to the following, or to import distilled spirits in bulk except, under such regulations, for sale to or for use by the following: A distiller, rectifier of distilled spirits, person operating a bonded warehouse qualified under the internal-revenue laws or a class 8 bonded warehouse qualified under the customs laws, a winemaker for the fortification of wines, a proprietor of an industrial alcohol plant, or an agency of the United States or any State or political subdivision thereof.

(b) Any person who violates the requirements of this section shall, upon conviction thereof, be fined not more than $5,000 or imprisoned for not more than 1 year or both, and shall forfeit to the United States all distilled spirits with respect to which the violation occurs and the containers thereof.

(c) The terms "in bulk" mean in containers having a capacity in excess of one wine gallon. (Aug. 29, 1935, c. 814, sec. 6, 49 Stat. 985.)

ART. 661. *Containers of illegal size.*—Tariff act of 1930, paragraph 812:

* * * Any brandy or other spirituous or distilled liquors imported in any sized cask, bottle, jug, or other package, of or from any country, dependency, or province under whose laws similar sized casks, bottles, jugs, or other packages of distilled spirits, wine, or other beverage put up or filled in the United States are denied entrance into such country, dependency, or province shall be forfeited to the United States.

ART. 662. *Marking requirements—Packages.*—(*a*) United States Code (supp. II), title 18, section 390 (Criminal Code, sec. 240):

Whoever shall knowingly ship or cause to be shipped from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such package be so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than $1,000 or imprisoned not more than 1 year, or both; and such liquor shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law. (June 25, 1936, c. 815, sec. 8, 49 Stat.)

(*b*) All packages of liquor violating the above provision of law shall be seized and disposed of in the manner prescribed in chapter XXI for merchandise imported contrary to law.

UNFAIR COMPETITION

ART. 663. *Unfair methods of competition declared unlawful.*—Tariff Act of 1930, section 337 (a):

Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are hereby declared unlawful, and when found by the President to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.

ART. 664. *Exclusion of articles from entry.*—Tariff Act of 1930, section 337 (e):

Whenever the existence of any such unfair method or act shall be established to the satisfaction of the President he shall direct that the articles concerned in such unfair methods or acts, imported by any person violating the provisions of this Act, shall be excluded from entry into the United States, and upon information of such action by the President, the Secretary of the Treasury shall, through the proper officers, refuse such entry. The decision of the President shall be conclusive.

ART. 665. *Entry under bond.*—(*a*) Tariff Act of 1930, section 337 (f):

Whenever the President has reason to believe that any article is offered or sought to be offered for entry into the United States in violation of this section but has not information sufficient to satisfy him thereof, the Secretary of the Treasury shall, upon his request in writing, forbid entry thereof until such investigation as the President may deem necessary shall be completed; except that such articles shall be entitled to entry under bond prescribed by the Secretary of the Treasury.

(*b*) Entries of merchandise the subject of an order of the President issued pursuant to the above provision of law should be refused unless there is presented therewith the special bond authorized by this provision of law, or unless the order of the President specifies some other condition under which the merchandise may be released to the importer and such condition is complied with. When any doubt exists as to whether or not any merchandise arriving at a port of entry in the United States should be excluded from entry by reason of an order of the President issued pursuant to the above provision of law, the collector should submit a report thereof, together with a sample or samples of the merchandise if practicable, to the Bureau of Customs for consideration.

(*c*) The form of bond to be used in connection with the release of merchandise the importation of which is conditionally prohibited by an order of the President issued pursuant to the above provision of law should be the special form provided for that purpose in T. D. 45474. The amount of the special bond should be equal to the domestic value defined in section 340 of the Tariff Act of 1930, as ascertained by the appraising officer.

(*d*) In the event the President directs the exclusion of merchandise which has been released under bond pursuant to the authority contained in section 337 (f) of the tariff act, collectors of customs should notify each importer concerned to export the prohibited merchandise to a foreign country under customs supervision unless the entry of the merchandise is permitted under license and an appropriate license is presented. In lieu of exportation the merchandise may be destroyed under customs supervision upon receipt of the written request of the importer. Unless prohibited merchandise which has been released under bond is exported under customs supervision or is destroyed under like supervision, or an appropriate license is presented, within 30 days after notice is given the importer concerned, demand should be made upon the principal and the sureties on the bond for payment of the penal sum thereof as liquidated damages. If the obligors fail to comply with the demand for payment within 30 days, the bond should be transmitted to the United States Attorney for the institution of appropriate proceedings. If the condition of any bond taken in such cases have been met, or the President determines that the entry of the merchandise did not violate the provisions of section 337 of the tariff act, the bond shall be canceled.

ART. 666. *Continuance of exclusion.*—Tariff Act of 1930, section 337 (g):

Any refusal of entry under this section shall continue in effect until the President shall find and instruct the Secretary of the Treasury that the conditions which led to such refusal of entry no longer exist.

ART. 667. *Definition.*—Tariff Act of 1930, section 337 (h):

When used in this section and in sections 338 and 340, the term "United States" includes the several States and Territories, the District of Columbia, and all possessions of the United States except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam.

DISCRIMINATION

ART. 668. *Additional duties.*—Tariff Act of 1930, section 338 (a):

(a) The President when he finds that the public interest will be served thereby shall by proclamation specify and declare new or additional duties as hereinafter provided upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country—

(1) Imposes, directly or indirectly, upon the disposition in or transportation in transit through or reexportation from such country of any article wholly or in part the growth or product of the United States any unreasonable charge, exaction, regulation, or limitation which is not equally enforced upon the like articles of every foreign country; or

(2) Discriminates in fact against the commerce of the United States, directly or indirectly, by law or administrative regulation or practice, by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or prohibition, in such manner as to place the commerce of the United States at a disadvantage compared with the commerce of any foreign country.

ART. 669. *Exclusion from importation.*—Tariff Act of 1930, section 338 (b):

If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the United States, as aforesaid, but has, after the issuance of a proclamation as authorized in subdivision (a) of this section, maintained or increased its said discriminations against the commerce of the United States, the President is hereby authorized, if he deems it consistent with the interests of the United States, to issue a further proclamation directing that such products of said country or such articles imported in its vessels as he shall deem consistent with the public interests shall be excluded from importation into the United States.

ART. 670. *Application of proclamation.*—Tariff Act of 1930, section 338 (c):

Any proclamation issued by the President under the authority of this section shall, if he deems it consistent with the interests of the United States, extend to the whole of any foreign country or may be confined to any subdivision or subdivisions thereof; and the President shall, whenever he deems the public interests require, suspend, revoke, supplement, or amend any such proclamation.

ART. 671. *Duties to offset commercial disadvantages.*—Tariff Act of 1930, section 338 (d):

Whenever the President shall find as a fact that any foreign country places any burden or disadvantage upon the commerce of the United States by any of the unequal impositions or discriminations aforesaid, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty as he shall determine will offset such burden or disadvantage, not to exceed 50 per centum ad valorem or its equivalent, on any products of, or on articles imported in a vessel of, such foreign country; and 30 days after the date of such proclamation there shall be levied, collected, and paid upon the articles enumerated in such proclamation when imported into the United States from such foreign country such new or additional rate or rates of duty; or, in case of articles declared subject to exclusion from importation into the United States under the provisions of subdivision (b) of this section, such articles shall be excluded from importation.

ART. 672. *Duties to offset benefits to third country.*—Tariff Act of 1930, section 338 (e):

Whenever the President shall find as a fact that any foreign country imposes any unequal imposition or discrimination as aforesaid upon the commerce of the United States, or that any benefits accrue or are likely to accrue to any industry in any foreign country by reason of any such imposition or discrimination imposed by any foreign country other than the foreign country in which such industry is located, and whenever the President shall determine that any new or additional rate or rates of duty or any prohibition hereinbefore provided for do not effectively remove such imposition or discrimination and that any benefits from any such imposition or discrimination accrue or are likely to accrue to any industry in any foreign country, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty upon the articles wholly or in part the growth or product of any such industry as he shall determine will offset such benefits, not to exceed 50 per centum ad valorem or its equivalent, upon importation from any foreign country into the United States of such articles; and on and after 30 days after the date of any such proclamation such new or additional rate or rates of duty so specified and declared in such proclamation shall be levied, collected, and paid upon such articles.

ART. 673. *Forfeiture of articles.*—Tariff Act of 1930, section 338 (f):

All articles imported contrary to the provisions of this section shall be forfeited to the United States and shall be liable to be seized, prosecuted, and condemned in like manner and under the same regulations, restrictions, and provisions as may from time to time be established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws. Whenever the provisions of this act shall be applicable to importations into the United States of articles wholly or in part the growth or product of any foreign country, they shall be applicable thereto whether such articles are imported directly or indirectly.

ART. 674. *Ascertainment by commission of discriminations.*—Tariff Act of 1930, section 338 (g):

It shall be the duty of the commission to ascertain and at all times to be informed whether any of the discriminations against the commerce of the United States enumerated in subdivisions (a),

(b), and (e) of this section are practiced by any country; and if and when such discriminatory acts are disclosed, it shall be the duty of the commission to bring the matter to the attention of the President, together with recommendations.

ART. 675. *Rules and regulations of Secretary of the Treasury.*—Tariff Act of 1930, section 338 (h):

The Secretary of the Treasury with the approval of the President shall make such rules and regulations as are necessary for the execution of such proclamations as the President may issue in accordance with the provisions of this section.

ART. 676. *Definition.*—Tariff Act of 1930, section 338 (i):

When used in this section the term "foreign country" means any empire, country, dominion, colony or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions), within which separate tariff rates or separate regulations of commerce are enforced.

IMMORAL ARTICLES

ART. 677. *Prohibition of importation.*—Tariff Act of 1930, section 305 (a):

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

Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the collector to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Customs Court from the decision of the collector. Upon the seizure of such book or matter the collector shall transmit information thereof to the district attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

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

ART. 678. *Penalty on government officers.*—Tariff Act of 1930, section 305 (b):

Any officer, agent, or employee of the Government of the United States who shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writings, advertisements, circulars, prints, pictures, or drawings containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not more than $5,000, or by imprisonment at hard labor for not more than 10 years, or both.

ART. 679. *Seizure—Disposition of seized articles—Reports to United States attorney.*—(a) Upon the seizure of any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, such book or other matter shall be transmitted to the United States attorney for his consideration and action.

(b) Upon the seizure of articles and/or matter prohibited entry by section 305 (with the exception of the matter included in the preceding paragraph), a notice of the seizure of such articles and/or matter shall be sent to the person for whom intended.

(c) When articles of the class covered by the preceding paragraph are of small value and no criminal intent is apparent, a blank assent to forfeiture and destruction of the articles seized, customs Form 4609, should accompany the notice of seizure. Upon receipt of the assent to forfeiture and destruction duly executed, the articles should be destroyed and the case closed.

(d) When the facts indicate that the importation was made deliberately with intent to evade the law, or in the case of a repeated offender, the facts and evidence should be submitted to the United States attorney for consideration of prosecution under the provisions of the Criminal Code as well as an action in rem under section 305 for condemnation of the articles.

(e) If the importer declines to execute an assent to forfeiture of the articles other than those mentioned in paragraph (a) and fails to submit within 30 days after being notified of his privilege so to do, a petition under section 618 of the tariff act for the remission of the forfeiture and permission to export the seized merchandise, information concerning the seizure should be submitted to the United States attorney in accordance with the provisions of paragraph 2 of section 305 (a) of the tariff act for the institution of condemnation proceedings.

(f) Section 305 prohibits the importation of articles for the prevention of conception and/or causing abortion but does not prohibit the importation of articles containing information or advertisements relative thereto. Section 211 and 245 of the United States Criminal Code contain provisions which apply to information and advertisements on these subjects.

(g) If seizure is made of books or other articles which do not contain obscene matter but contain information or advertisements relative to the prevention of conception or to means of causing abortion, the procedure outlined in paragraphs (b), (c), (d), and (e), supra, should be followed.

(h) In all cases when a book is seized as being obscene and the importer declines to execute an assent to forfeiture on the ground that the book is a classic, or of recognized and established literary or scientific merit, a petition addressed to the Secretary of the Treasury may be filed by the importer for release of the book. Petitioners must establish their claims by satisfactory evidence. Mere unsupported statements or allegations will not be considered. Petitioners should be so advised before a petition is transmitted to the Bureau. If the ruling is favorable, release of such a book shall be made only to the ultimate consignee.

(i) When a ruling by the Bureau is requested, a sample of the seized articles or the article itself should be transmitted to the Bureau at the time of the request for a ruling, unless reasons are apparent that the sample or article will not be required for the purpose of a ruling.

ART. 680. *Prohibited films.*—Customs officers will make a careful examination of all importations of films whenever practicable and report to the United States attorney and the Bureau any objectionable importations which they discover. Any such objectionable film should be detained pending instructions from the Bureau or a decision of the court as to their final disposition. Importers of films will be required at the time of entry to make affidavit that the film which they desire to import contains no matter repugnant to the principles of the Government of the United States or subversive of public morals.

ART. 681. *Disposition of seized articles by United States attorneys.*—(*a*) In the event that seized articles are transmitted to the United States attorney for action and, upon a final determination, the merchandise is not to be forfeited, but released, the United States attorney should be requested to return the articles to the office of the collector for release in order that the revenue may be protected and customs formalities complied with.

(*b*) As collectors of customs are charged with the custody of seized articles, they should require receipts for such seized articles which are submitted to United States attorneys. Such receipts should be attached to the proper seizure reports and retained pending the return of the articles.

PICTORIAL REPRESENTATIONS OF PRIZE FIGHTS

ART. 682. *Importation prohibited—Procedure.*—(*a*) United States Code, title 18, section 405:

It shall be unlawful for any person to deposit or cause to be deposited in the United States mails for mailing or delivery, or to deposit or cause to be deposited with any express company or other common carrier for carriage, or to send or carry from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or to bring or to cause to be brought into the United States from abroad any film or other pictorial representation of any prize fight or encounter of pugilists, under whatever name, which is designed to be used or may be used for purposes of public exhibition. (July 31, 1912, c. 263, sec. 1, 37 Stat. 240.)

(*b*) Collectors will require importers of films and similar articles at the time of entry to make affidavit on customs Form 3291 that the shipment contains no representation of a prize fight or pugilistic encounter.

(*c*) All imported films and similar articles will be sent to the appraiser's stores for examination. If any package is found to contain a representation of a prize fight or pugilistic encounter, it will be seized by the collector and the facts reported to the United States attorney.

MERCHANDISE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

ART. 683. *Importation prohibited.*—Tariff Act of 1930, section 307:

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

"Forced labor", as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

ART. 684. *Findings of commissioner.*—If after investigation upon complaint of American manufacturers, producers, wholesalers, or importers, representatives of American labor organizations, or other interested persons, or upon his own initiative, the Commissioner of Customs is satisfied that convict labor or/and forced labor or/and indentured labor under penal sanctions, is used in any locality in a foreign country in the mining, production, or manufacture of any class of merchandise, and, in the case of forced labor or indentured labor under penal sanctions, that the merchandise is mined, produced, or manufactured in the United States in sufficient quantities to meet the consumptive demands of the United States, he shall, with the approval of the Secretary of the Treasury, publish a finding to that effect. Any merchandise of that class imported after such publication directly or indirectly from the locality shall be held to be an importation prohibited by section 307 of the Tariff Act of 1930 unless the importer establishes by a preponderance of evidence that the merchandise was not mined, produced, or manufactured, wholly or in part, by the class of labor specified in such finding.

ART. 685. *Bonding of merchandise covered by such findings.*—No merchandise of the class specified in such a finding, imported after the publication thereof, directly or indirectly from the locality specified therein, shall be admitted to entry or released from customs custody (except for exportation) unless the importer files with the collector a bond conditioned that he shall return the merchandise to customs custody within 30 days after demand of the collector if (1) the importer fails to submit to the commissioner within 3 months from the date of entry the certificate or certificates required by article 687 or (2) the Commissioner decides that the merchandise was mined, produced, or manufactured, wholly or in part, by the class of labor specified in such finding. Such bond shall be in an amount equal to the estimated domestic value (as defined in sec. 340 of the Tariff Act of 1930) of such merchandise, the full amount to be paid as liquidated damages; shall be a single bond for each importation; and shall be acceptable only with qualified corporate surety or sureties. Liquidation of the entry shall be suspended and the facts reported to the Commissioner for decision as to the admissibility of the merchandise.

ART. 686. *Action of collector in the absence of such a finding.*—When the collector has reason to believe that convict labor or/and forced labor or/and indentured labor under penal sanctions, is used in the mining, production, or manufacture of any class of merchandise in any locality in a foreign country and no finding to that effect has been made by the Commissioner with the approval of the Secretary, he shall report to the Commissioner any merchandise of that class imported, directly or indirectly from that locality, offered for entry in his district, setting forth in detail the basis of his belief and hold such merchandise for the Commissioner's instructions as to whether or not the bond provided for in article 685 shall be required.

ART. 687. *Certificates of origin.*—The importer of merchandise bonded under article 685 or 686, or held in customs custody because of failure to file a bond under article 685 or 686, shall within 3 months from the date of entry submit to the Commissioner a certificate of origin in the form set forth below, signed by the foreign seller or owner of the merchandise under oath or affirmation before an American consular officer, or if the place where the certificate is executed is so remote from an American consulate as to render impracticable its execution before an American consular officer, then under an oath or affirmation for falsity of which he will be punishable under the laws of the jurisdiction where it is made. If the merchandise was mined, produced, or manufactured, wholly or in part, in a country other than that from which it was exported to the United States, an additional certificate in such form so signed by the last owner or seller in such other country, substituting the facts of transportation from such other country for the statements with respect to shipment from the country of exportation, shall be so submitted.

Certificate of origin

I, _____, foreign seller or owner of the merchandise hereinafter described, do solemnly swear (affirm) that the same, consisting of _____
(Quantity)
of _____ (Kind) in _____ (Number and kind of packages)
bearing the following marks and numbers _____
was mined, produced, or manufactured by _____
(Name)
_____
at or near _____
(Location of mine, mill, or factory)
_____
and was laden on board _____
(Name of vessel or initials and number of car in which transported to the United States)
_____
at _____
(Places actually laden)

that such vessel or car departed from _____
(Port of such departure in the country of exportation)
_____
on _____
(Date of departure)
and that _____ (class of labor specified in the finding) was not employed in any stage of the mining, producing, or manufacturing of the merchandise, including the raw materials therein.

ART. 688. *Investigation by ultimate consignee.*—The ultimate consignee of merchandise bonded under article 685 or 686, or held in customs custody because of failure to file a bond under article 685 or 686, shall make every reasonable effort to determine the source of the merchandise, including the raw materials therein, and ascertain the character of labor used in its mining, production, or manufacture, and shall within three months from the date of entry submit to the Commissioner a statement, under oath, setting forth his efforts, the result thereof, and his belief with respect to the use of the class of labor specified in the finding in any of the processes of mining, production, or manufacture of the merchandise.

ART. 689. *Decision of commissioner—Action of collector.*—If the certificate or certificates required by article 687 are submitted within the time prescribed and the Commissioner's decision is in favor of the admissibility of the merchandise, the collector shall cancel the bond or release the merchandise. If such certificate or certificates are not submitted within the time prescribed, or if the Commissioner's decision is against the admissibility of the merchandise, the collector shall, in cases where the merchandise has been released under bond, make demand upon the importer for return of the merchandise to customs custody. If the merchandise is not exported within 60 days from the date of return, or, if the merchandise was held in customs custody, within 60 days from notice of the Commissioner's decision, the merchandise shall, unless the importer files a protest against the decision, be treated as abandoned and shall be destroyed.

ART. 690. *Transportation in interstate and foreign commerce.*—(*a*) United States Code, title 49, sections 61, 62, 63, and 64:

SEC. 61. It shall be unlawful for any person knowingly to transport or cause to be transported in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institution, from one State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, where said goods, wares, and merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise in violation of any law of such State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof. Nothing herein shall apply to commodities manufactured in Federal penal and correctional institutions for use by the Federal Government. (July 24, 1935, c. 412, sec. 1, 49 Stat. 494.)

SEC. 62. All packages containing any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee; the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package. (July 24, 1935, c. 412, sec. 2, 49 Stat. 494.)

SEC. 63. Any person violating any provision of sections 61 and 62 of this title shall for each offense, upon conviction thereof, be punished by a fine of not more than $1,000, and such goods, wares, and merchandise shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law. (July 24, 1935, c. 412, sec. 3, 49 Stat. 495.)

SEC. 64. Any violation of sections 61 and 62 of this title shall be prosecuted in any court having jurisdiction of crime within the district in which said violation was committed, or from, or into which any such goods, wares, or merchandise may have been carried or transported, or in any Territory, Puerto Rico, Virgin Islands, or the District of Columbia, contrary to the provisions of said sections. (July 24, 1935, c. 412, sec. 4, 49 Stat. 495.)

(*b*) All goods, wares, and merchandise imported into the United States which appear to have been transported in violation of the provisions of law set forth in paragraph (*a*) of this article shall be detained by the customs officers concerned and the facts reported to the United States attorney. If the United States attorney determines that action should be taken against the merchandise and the person or persons interested therein and so advises, the merchandise shall be seized and held pending the receipt of further instructions from the United States attorney or from the court. If the United States attorney determines from the facts that no action will be taken by his office looking to the forfeiture of the merchandise and the prosecution of the person or persons interested therein, the facts shall be reported to the Bureau for instructions.

COUNTERFEIT COINS, OBLIGATIONS, AND OTHER SECURITIES—ILLUSTRATIONS OR REPRODUCTIONS OF COINS OR STAMPS

ART. 691. *Importation prohibited — Exceptions — Procedure.*—(*a*) Under various sections of title 18 of the United States Code, it is unlawful to import counterfeits of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of the United States or of any foreign government; or plates, dies, or other apparatus which may be used in making any of the foregoing.

(*b*) Under section 285 it is unlawful to import any "business or professional card, notice, placard, token, device, print, or impression, or any other thing whatsoever, in the likeness or similitude as to design, color, or the inscription thereon of any of the coins of the United States or of any foreign country that have been or may be issued as money, either under the authority of the United States or under the authority of any foreign government."

(*c*) Under section 264 it is unlawful to import "any obligation or other security made or executed, in whole or in part, after the similitude of any obligation or other security issued under the authority of the United States" and "any engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof", except under the authority of the Secretary of the Treasury or other proper officer of the United States.

(*d*) Under section 275 it is unlawful to import any "counterfeit plate, stone, or other thing, or engraving, photograph, print, or other impressions of the notes, bonds, obligations, or other securities of any foreign government, bank, or corportation."

(*e*) Uncanceled foreign or domestic postage or revenue stamps are obligations of the Government and facsimiles or imitations thereof are subject to forfeiture.

(*f*) United States Code, title 18, section 285:

* * * But nothing in this section shall be construed to forbid or prevent the printing and publishing of illustrations of coins and medals or the making of the necessary plates for the same to be used in illustrating numismatic and historical books and journals and school arithmetics and the circulars of legitimate publishers and dealers in the same. (Feb. 10, 1891, c. 127, sec. 3, 26 Stat. 742; Mar. 3, 1903, c. 1015, 32 Stat. 1223; Mar. 4, 1909, c. 321, sec. 171, 35 Stat. 1121; Feb. 15, 1912, c. 38, 37 Stat. 64.)

(*g*) United States Code, title 18, section 350:

Nothing in sections 275, 286, and 349 of this title shall be construed to forbid or prevent the printing or publishing of illustrations in black and white of foreign postage or revenue stamps from plates so defaced as to indicate that the illustrations are not adapted or intended for use as stamps, or to prevent or forbid the making of necessary plates therefor for use in philatelic or historical articles, books, journals, or albums, or the circulars of legitimate publishers or dealers in such stamps, books, journals, or albums. Nothing in said sections shall be construed to forbid or prevent similar illustrations, in black and white only, in philatelic or historical articles, books, journals, albums, or the circulars of legitimate publishers or dealers in such stamps, books, journals, albums, or circulars, of such portion of the border of a stamp of the United States as may be necessary to show minor differences in the stamp so illustrated, but all such illustrations shall be at least four times as large as the portion of the original United States stamp so illustrated. (Mar. 3, 1923, c. 218, 42 Stat. 1437.)

(*h*) Printed matter of the character described in paragraphs (*f*) and (*g*) of this article, containing illustrations of coins or medals or reproductions of postage or revenue stamps, executed in accordance with the exception in section 285 or section 350, as the case may be, may be admitted to entry. Printed matter containing illustrations or reproductions not executed in accordance with such exceptions shall be detained by customs officers, and treated as prohibited importations. The Department may, however, upon application by the importer, remit the forfeiture of such prohibited articles and permit their exportation under customs supervision at the expense of the importer, if satisfied that there was no willful negligence or attempt to evade the law; or, if the importer assents in writing to the forfeiture and destruction of the articles, they may be destroyed. If no application for exportation, or assent to forfeiture and destruction, is received by the collector within 30 days from the date of notification to the importer that the articles are prohibited, the articles shall be reported to the United States attorney for forfeiture.

PEPPER SHELLS

ART. 692. *Importation prohibited—Tariff Act of 1930, paragraph 781:*

* * * *Provided further*, That the importation of pepper shells, ground or unground, is hereby prohibited.

CHAPTER XI

SAMPLING, WEIGHING, AND TESTING OF SUGARS, SIRUPS, AND MOLASSES—ASCERTAINING CLEAN CONTENT OF WOOL AND HAIR

SUGARS, SIRUPS, AND MOLASSES

GENERAL INSTRUCTIONS

WEIGHING OF SUGARS

TARING OF CONTAINERS

GAUGING OF MOLASSES

SAMPLING OF SUGARS, SIRUPS, AND MOLASSES

TESTING OF SUGARS, SIRUPS, AND MOLASSES

WOOL AND HAIR

SUGARS, SIRUPS, AND MOLASSES

General Instructions

ART. 693. *Duties of customs officers.*—(*a*) *Duties of entry clerks.*—Estimated duties shall be taken on the entry of Cuban raw sugar on the basis of not less than 96° polariscopic test unless the invoice shows the sugar is of a lower grade than that of the ordinary commercial shipment.

(*b*) All customs officers and employees having duties to perform in connection with the treatment of imported sugars, sirups, and molasses are hereby instructed to use the utmost care and vigilance to insure that the work of weighing, gauging, sampling, classifying, and testing is accurately and efficiently performed.

(*c*) Each inspector, weighing officer, gauging officer, and sampler shall be furnished with a copy of the regulations relative to sugars, sirups, and molasses. The appraiser shall notify the collector of the boundaries of sugar districts and the location of the examiner's or sampler's office in each district, and such information shall be furnished by the collector to the inspectors and weighing officers. The examiners and samplers in charge shall be held responsible by the appraiser for the strict and impartial enforcement of these regulations, and to this end they shall be notified relative to the time of discharge and weighing of sugar and molasses cargoes in their respective districts by the inspector or weigher in charge of the same.

(*d*) *Duties of inspector.*—Inspectors are directed to exercise a personal supervision over the discharging of sugar cargoes. They shall have their permits indorsed by the examiner or sampler in charge after the samples have been obtained in accordance with these regulations. Dock sweepings shall be gathered up and weighed and sampled when discharging has stopped for any cause. The inspector is directed to keep, in every instance, an accurate account of the kind and number of packages of sweepings, which he shall indorse on the back of the permit or lighter manifest before it is presented to the appraiser's office for indorsement. If no sweepings are found, the inspector shall indorse the permit or manifest accordingly.

(*e*) *Duties of weighing officers.*—The weighers shall do the actual weighing and recording of the results, and shall

not permit any other person to handle the scales. They shall be required to exercise a strict scrutiny of the conditions under which the weighing is being done, shall keep the scales clean of all foreign accretion, to the end that atmospheric and other exterior influence inimical to accuracy may be avoided, and to obviate the possibility of any drafts passing over the scales unweighed or being reweighed. Scales with beam indicating 1 pound are to be employed in weighing sugar wherever possible.

ART. 694. *Separation of shipments.*—When an importation is consigned to two or more consignees, each consignee's merchandise shall be treated as a separate importation, provided separate entry is made therefor.

ART. 695. *Time of weighing and sampling.*—All sugars and sugar products requiring either weighing or sampling shall have those operations performed at the time of unlading. Merchandise requiring both weighing and sampling shall have those operations performed simultaneously whether discharged under either a regular or a special permit.

ART. 696. *Absorption of sea water.*—Inasmuch as the absorption of sea water or moisture reduces the polariscopic test of sugar, there shall be no allowance on account of increased weight of sugar importations due to unusual absorption of sea water or of moisture while on the voyage of importation. That portion of the cargo claimed by the importer to have absorbed sea water or moisture on the voyage of importation shall be weighed, sampled, classified, and tested separately. This claim must be made at the time of weighing. Special care must be taken that such sugars are sampled so as to represent the contents of the packages.

ART. 697. *Molasses not for extraction of sugar or for human consumption.*—(*a*) Tariff Act of 1930, paragraph 502:

* * * Molasses not imported to be commercially used for the extraction of sugar or for human consumption, three one-hundredths of 1 cent per pound of total sugars.

(*b*) Such molasses may be released upon the deposit of estimated duties at the rate specified above upon compliance with the following conditions:

(1) There shall be filed in connection with the entry an affidavit of the importer that the molasses is not to be used commercially for the extraction of sugar or for human consumption. For the purpose of these regulations, the phrase "molasses not imported to be commercially used for the extraction of sugar or for human consumption" shall be construed to include, in addition to molasses used in animal feed and other products not for human consumption, molasses which after importation is utilized in the production of articles such as yeast, vinegar, alcohol, rum, gin, or whisky, in such manner that fermentation or other chemical change alters its character and chemical composition so that molasses or sugar does not appear in the final product, and to exclude molasses used for the extraction of sugar, or used either in its condition as imported or after undergoing purifying or blending processes, or both, for table purposes or as a sweetening, coloring, or flavoring agent in the production of articles for human consumption.

(2) If the molasses is entered for consumption there shall also be filed in connection with the entry a bond on customs Form 7551 or 7553, with an added condition for the payment of the increased duty in the event the molasses is used contrary to the statements made in the above-mentioned affidavit. Liquidation of the entry shall be suspended pending proof of use or other disposition of the merchandise.

(3) If the molasses is entered for warehouse the regular warehouse entry bond, customs Form 7555, shall be given and withdrawals shall be made on customs Form 7506. Estimated duty at the rate specified above shall be deposited at the time of withdrawal and the liquidation of the warehouse entry shall be suspended pending proof of use or other disposition of the merchandise.

(4) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit an affidavit of the superintendent or manager of the manufacturing plant stating the use to which the molasses has been put. If the collector is satisfied that the molasses has not been used in a manufacturing plant but was sold as molasses to the ultimate user, he may accept as proof of the nature of such use an affidavit of the wholesaler or other person making the final sale of the product. Such affidavit shall state the quantity sold and the purpose for which the seller understood the purchase to be made. All affidavits as to use provided for in this subparagraph should state affirmatively the particular use, but may be accepted as sufficient if they specify alternative uses, provided each of the uses so specified is a use other than for human consumption or for the extraction of sugar as defined in subparagraph (1). If the molasses has not been used in the United States, evidence of exportation or destruction satisfactory to the collector should be required. Affidavits as to use and affidavits or other documents showing exportation or destruction should, if practicable, be filed in duplicate, one copy to be forwarded to the comptroller of customs.

(5) Upon satisfactory proof of use of the molasses for purposes other than for the extraction of sugar or for human consumption or of the exportation or destruction thereof the entry may be liquidated at the rate of three one-hundredths of 1 cent per pound of total sugars. When such proof of use or other disposition of the molasses is not made within 3 years from the date of the entry, or the use shown does not warrant the classification claimed, the entry shall be liquidated at the higher rate applicable under the first clause of paragraph 502.

(6) Entries covering blackstrap molasses, as hereinafter defined, may be accepted and liquidated with duty at the rate of three one-hundredths of 1 cent per pound of total sugars after the filing of the affidavit prescribed in subparagraph (1) without compliance with the special requirements of subparagraphs (2), (3), (4), or (5). For the purposes of these regulations, blackstrap molasses is defined as "final" molasses practically free from sugar crystals, containing not over 58 percent total sugars and having a ratio of—

$$\frac{\text{total sugars} \times 100}{\text{Brix}}$$

not in excess of 71. In the event of doubt an ash determination may be made; an ash content of not less than 7 percent indicates a blackstrap molasses within the meaning of these regulations.

(7) The rates of duty above specified are subject to a rebate of 20 percent provided for articles the growth, produce, or manufacture of Cuba, upon compliance with the provisions of article 846.

ART. 698. *Filing of affidavit for molasses in tank cars.*—When an importation of molasses is shipped in tank cars the importer shall file with the collector an affidavit showing whether there is any essential difference either in total sugars or character of the molasses in the different cars. A composite sample shall be made by the examiner to represent the importation. When, in the opinion of the appraiser, the molasses in any of the cars is not identical with that in the other cars, such cars shall be gauged, sampled, classified, and tested separately.

ART. 699. *Expense of unlading.*—No expense incidental to the unlading, transporting, sorting, or arranging of sugars and molasses for the convenient weighing, gauging, measuring, sampling, or marking thereof shall be borne by the Government. When weighing, gauging, sampling, or measuring is performed concurrently with the unlading, or while the merchandise is being transported from the vessel's side to the importer's premises, no part of the expense of the transportation or handling of the merchandise shall be borne by the Government.

ART. 700. *Standardization of weights and measures.*—In the carrying out of these regulations, all weights and meas-

ures shall fully comply with the standards established for such weights and measures by the National Bureau of Standards.

ART. 701. *Mixing classes of sugar.*—No regulations relative to the weighing, taring, sampling, classifying, and testing of imported sugars shall be so construed as to permit of mixing together sugars of different classes, such as centrifugal, beet, molasses, or any sugar different in character from those mentioned, for the purpose of weighing, taring, sampling, classifying, or testing.

WEIGHING OF SUGARS

ART. 702. *Method of weighing.*—All imported raw sugars shall be weighed without regard to mark. Raw sugars are to be weighed gross and, whenever practicable, in drafts of uniform size or of a uniform number of bags, and the tare of trucks and slings, if weighed, deducted periodically as hereinafter prescribed.

ART. 703. *Recording weights—Reports.*—(*a*) The weigher's return shall show the total weight of the cargo, and shall also show separately for each scale, each half day, the weight of all (1) wet sugar, (2) damaged sugar not wet, (3) ship sweepings, (4) dock sweepings, (5) other sugar. The weigher shall make a daily report on customs Form 5993 to the examiner or sampler in charge, which shall show separately for each scale, each half day, the total number of packages weighed of (1) wet sugar, (2) damaged sugar not wet, (3) ship sweepings, (4) dock sweepings, (5) other sugar. All ship and dock sweepings and sugar samples taken before weighing shall be weighed before the weigher completes his half day's work. In no instance shall the weigher make a return by filling in the weight from the invoice.

(*b*) For the purpose of recording and computing net weights, each working day will be divided into four periods, and the weights for each period kept separate, and recapitulated or summarized by starting a new page for each period. All weights are to be recorded in a dock book (or on adding-machine sheets if the latter are used) in the usual manner, the truck number, number of bags in each load, and gross weight being entered in one line. Actual tare of the trucks and slings, if weighed, shall be taken before commencing work in each period by weighing all trucks and all slings for each scale morning and noon and one-half the trucks and slings for each scale for the intermediate periods. The truck numbers, individual and average weight per truck, and total and average weight per sling are to be placed in the middle bottom column, right-hand side of dock book, or in designated place on adding-machine sheets. The total tare, computed according to the number of drafts weighed, shall be deducted from the summary of the gross weight for each period. In computing such tare for each period's work, if a fraction of one-half pound or less results it shall be discarded; if over one-half pound, the next higher unit shall be taken. In addition to the recapitulation each page must have denoted thereon the designating scale letter or number, date, and signature of weigher.

ART. 704. *Testing weighing implements.*—Weighers will be required to test and balance their scales or weighmaster's beams with United States standard test weights immediately before the beginning of work and every hour, on the hour, thereafter, and to record the result of balance. They will furthermore be required to see that all trucks and slings used in connection with weighing are maintained at an established uniform weight.

ART. 705. *Automatic scales.*—Wherever available, the Treasury Department automatic scales shall be used in preference to all other types of scales. They shall be under the direct supervision of the mechanical and electrical engineer in charge of scales and that official shall be held responsible for their proper operation and repair. The weigher shall operate the scales in strict accordance with instructions furnished by said official. A copy of these instructions shall be kept permanently in each scale house. All defects in operation shall be promptly reported to said official and a notation in reference to the same made in the dock book or on the adding-machine sheet.

ART. 706. *Custody of scale keys.*—The inspector or officer in charge of the station shall have charge of the keys necessary for the operation of the automatic scales. In commencing the weighing of a cargo it shall be his duty to unlock the scale houses and assign to each weigher or officer acting in that capacity the adjusting and operating keys corresponding to the designating letter of the respective scale, and to the weigher or inspector in charge one scale house key. The station inspector, or where none is assigned, the weighing officer in charge, shall retain in his custody the keys for the record compartment, and under no circumstances permit them to pass into the possession of any other person without written instructions from the collector. At the completion of the day's work it shall be the duty of the inspector in charge to see that the scale houses are locked and otherwise secured against intrusion, and that all electric power is properly switched off. Those to whom keys have been assigned will be held to a strict accountability for their safe-keeping.

ART. 707. *Reports on operation of automatic scales.*—At the end of each working day each weigher (or official acting in that capacity) shall mail to the mechanical and electrical engineer in charge of scales a time slip (customs Form 6031) stating, with the designating letter of scale, the number of hours the scale was in use, the hourly balance weights and adjustments, and the number of bags weighed on the scale in each period, together with the name of the vessel from which the cargo was discharged and a note of any defect in operation of the scales.

ART. 708. *Removal of tapes.*—Upon the completion of weighing of a cargo on an automatic scale, the designated inspector shall remove the printed tape record from the scales. He shall record on the same, legibly and permanently, name of vessel, date of arrival, designating letter of scale, and time of removal of tape; and will be held accountable for the same until properly filed with the weigher's return. Under no condition will the regularly designated inspector permit the keys for the record compartment of the scales to pass into possession of any person not designated by the collector to remove record tapes.

TARING OF CONTAINERS

ART. 709. *Taring by mark.*—(*a*) *All tare shall be taken by mark.* When sugar is in tierces, hogsheads, barrels, boxes, or irregular packages, actual tare shall be taken. When sugar is in bags (other than the standard Cuban sugar bag), baskets, and mats, the actual tare shall be taken and determined by cleaning the following percentage of the receptacles in each mark:

	Percent
Marks of less than 1,000	4
Marks of 1,000 and less than 4,000 (but in no such mark less than 40 receptacles)	3
Marks of 4,000 and less than 10,000 (but in no such mark less than 120 receptacles)	2.5
Marks of 10,000 and over (but in no such mark less than 250 receptacles)	1–2

(*b*) When sugar in the containers mentioned above is discharged and weighed at points other than refineries, actual tare shall be taken of the largest number of receptacles practicable and the percentage tare per mark shall be as nearly as possible that given above.

(*c*) When, in the opinion of the weigher, the condition of the receptacles is such as to make advisable the taring of a larger percentage than that provided above, he shall tare as many receptacles as, in his judgment, are necessary to secure a proper tare. All such receptacles are to be thoroughly cleaned by scraping and sweeping before the tare is taken.

ART. 710. *Schedule tare.*—(*a*) In general, there shall be allowed a schedule tare of 2½ pounds per bag for Cuban sugar imported in standard bags. A sugar bag having an area of 1,392 square inches when laid flat (29 inches in width by 48 inches in length) is hereby defined for tare

purposes as the standard Cuban sugar bag. When the area of sugar bags varies by more than 2 percent from the standard area of 1,392 square inches, or the bag is not of the usual textile, the schedule tare shall be increased or diminished in proportion to the amount the area or the weight of the bags varies from that of the standard bag. In determining schedule tare the percentage of the number of bags to be measured for each mark shall be the same as that for actual tare. Where the bags bearing any mark differ in size, the schedule tare allowed shall be based upon the average dimensions of the entire number of bags bearing such mark.

(*b*) In measuring the bags they shall be flattened out to their fullest extent and the folded part at the mouth of the bag shall be turned out. In determining the length, the measurement shall be taken along the seam at the side. In determining the width, the measurement shall be taken across the back at a distance of about 4 inches from the mouth.

ART. 711. *Actual tare.*—In determining actual tare, all bags shall be selected with careful discrimination as to condition and every care exercised to insure their accurately representing the mark. The bags shall be carefully dry-cleaned by sweeping and scraping and then weighed, which weight shall be taken as the actual tare.

ART. 712. *Verification of schedule tare.*—When the collector has reason to doubt the correctness of any schedule tare, he shall verify such schedule tare by taking actual tare. If the importer shall file a written application representing that there is an excessive number of damaged bags in a given importation and shall give the approximate percentage of the damaged and sound bags, and shall on that account request that actual tare be taken, the collector, if satisfied that the facts are as stated, shall determine the actual tare on the importation.

ART. 713. *Acceptance of actual tare.*—Whenever actual tare is determined on any importation and is found to differ from the schedule tare by not more than 5 percent, the schedule tare shall be allowed on such importation. In the event that the actual tare differs from the schedule tare by more than 5 percent, the actual tare shall be the accepted tare.

GAUGING OF MOLASSES

ART. 714. *Plans of storage tanks.*—Where molasses is imported in bulk in tank vessels and is to be pumped or discharged into storage tanks, the gallonage capacity of the latter, per inch in height, shall be ascertained while the storage tank is empty on the basis of 231 cubic inches to the gallon. Before the discharging is permitted, there must be on file in the customhouse a certified copy of the plans of the storage tank, showing all inlets and outlets. All outlets of the storage tank shall be sealed by the gauger before pumping begins. In the event a storage tank is partially filled with molasses, the gauger will ascertain the quantity contained therein before the pumping of the new importation is commenced. He shall also carefully examine the pump line to see that the same is in good condition.

ART. 715. *Time of Gauging.*—After the discharge is completed all inlets to the tank will be carefully sealed and the molasses left undisturbed for a period not to exceed 20 days, to allow for settling, before being gauged. When the importer requests in writing immediate gauging, the same shall be allowed by the collector.

ART. 716. *Tank gauging.*—The report of the gauging of the molasses shall show the number of gallons of molasses and the temperature of the molasses in degree centigrade determined at the time of gauging. Report as to gauge and temperature is to be made to the examiner (customs Form 5991). The depth of the molasses contained in the storage tank shall be ascertained by means of a steel rod, having a movable brass scale expressed in inches and tenths of inches. The measurement shall be taken from the bottom of the tank to the top of the liquid, deduction being made for the molasses, if any, contained in the tank before the discharge began. If there is foam present the gauging shall be made with the aid of the "foam can", which shall be in accordance with the following specifications: The foam can shall be made of heavy galvanized-iron pipe 5 feet long by 7½ inches in diameter fitted at the bottom with a wooden plug attached to the can by means of a chain, and fitted at the top with suitable hooks for attaching ropes for lowering. The method of using shall be to place the wooden plug in the bottom of the can and lower the can into the molasses by means of the ropes attached to the top. The gauging rod is passed through the can, releasing the wooden plug at the bottom, allowing the molasses to flow into the can to the level of the molasses in the tank. The gauging rod is then lowered through the can to the bottom of the tank and an accurate gauge of the molasses without foam is registered on the gauging rod. This procedure shall be followed both on immediate gauging as well as gauging after the lapse of the 20-day period in all cases where foam is present. No allowance shall be made for occluded air or other gases in the body of the molasses. The depth of the imported molasses having been ascertained in inches, the result will be multiplied by the number of gallons per inch in height previously ascertained when the storage tank was measured empty.

ART. 717. *Gauging tank cars.*—When molasses is imported in tank cars the quantity contained therein will be ascertained by gauge.

SAMPLING OF SUGARS, SIRUPS, AND MOLASSES

ART. 718. *General sample defined.*—(*a*) In sampling imported raw sugars a general sample shall be taken; that is, each importation shall be sampled without regard to marks and 100 per cent of the packages shall be sampled. A separate general sample shall also be taken of (1) wet sugar, (2) damaged sugar not wet, (3) ship sweepings, (4) dock sweepings. In order to prevent any unnecessary labor and inconvenience in obtaining the sample, the inspector shall direct that the packages when discharged from the vessel upon the wharf shall be so placed that the sampler can readily obtain a 100 percent sample. All ship and dock sweepings shall be sampled before the sampler completes his half day's work. It shall be the duty of all samplers to secure a thoroughly representative sample.

(*b*) In sampling separate importations of sirups or molasses placed in the same tank, care must be taken to get truly representative samples of each lot.

ART. 719. *Stained bags.*—In the event that bags are stained from lying in storage, or from any other cause, but the sugar not damaged, the sampler in charge, as well as all other samplers, shall exercise every precaution to see that the bags come alternately with the clean and stained sides up. When, in the opinion of the sampler in charge, the bags are not being so discharged, he shall direct the attention of the inspector to that fact, and it shall be the duty of the inspector to thereupon stop the discharge of the cargo until the instructions of the sampler are complied with. If, from any cause, in any cargo, the condition of the bags from the ground tier or any other tier shall differ markedly from the condition of the cargo as a whole, such bags shall be treated as damaged.

ART. 720. *Care of samples—Letter of transmittal—Keys.*—(*a*) In the treatment of sugars under these regulations great care shall be exercised by samplers and other appraising officers to prevent the drying out of samples, as well as their absorbing moisture. A standard sugar bucket shall be used in which to collect the samples. It shall be made of heavy galvanized iron and have a height of 31½ centimeters and a diameter of 18½ centimeters. The covers of the buckets must be kept closed, except when momentarily opened to receive the sample. All the buckets containing samples from a given half day for each cargo shall be filled, with the exception of one. The label on each bucket must identify the sugar and the particular half day on which its contents were drawn and the name of the officer responsible for the sampling of same. All buckets, after being so labeled, shall

be locked before leaving the spot where the samples are being drawn. The examiner or sampler in charge shall forward the samples to the appraiser's stores with a dock list on customs Form 6483–B, on which partially filled buckets shall be noted as one-fourth, one-half, or three-fourths. After the discharge of the cargo has been completed the examiner or sampler in charge shall forward a letter of transmittal to the appraiser on customs Form 6461.

(*b*) The keys of the locks used on sugar buckets shall be in possession of the assistant appraiser or the examiner at the appraiser's office, who shall have sole custody of such keys.

ART. 721. *Dimensions of sugar triers.*—The sugar triers used shall have the following dimensions:

	Short trier	Long trier	Barrel trier
	Centimeters	*Centimeters*	*Centimeters*
Length over all	40.6	152.4	104.0
Length to spoon	22.9	132.1	91.4
Length of shank	17.8	20.3	12.7
Length of handle	26.7	38.1	30.5
Width of spoon	2.7	2.5	2.5
Depth of spoon	0.8	1.3	1.1
Diameter of handle	3.8	3.8	3.8

ART. 722. *Receptacles—How sampled.*—Sugar in hogsheads and other wooden packages shall be sampled by putting the long trier diagonally through the package from chime to chime, one trierful to constitute a sample, except in small lots, when an equal number of trierfuls shall be taken from each package to furnish the required amount of sugar necessary to make a sufficient sample. In the sampling of baskets, bags, seroons, and mats the short trier shall be used, care being exercised to have each sample represent the contents of the package. The greatest precaution shall be taken that the samples from each class of packages shall be kept separate and be uniform in quantity.

ART. 723. *Detail of samplers.*—At ports where the number of samplers employed will permit, no sampler shall be detailed in the same sugar district or on the same dock longer than one month. A complete record of the assignment of the examiners and samplers shall be kept and shall be approved by the appraiser.

ART. 724. *Discharge from lighters.*—Sugars conveyed on lighters from the place of original discharge before samples have been taken shall not be removed therefrom until notice of the time of their proposed removal has been given by the inspector to the examiner or sampler in charge.

ART. 725. *Sampling from lighters.*—In cases where vessels discharge in one district and the sugars are lightered to another before sampling, the manifest which accompanied the lighter and is delivered to the inspector in charge of the district where such sugars are to be weighed and sampled shall be presented to the examiner or sampler in charge for his indorsement, the same as in the case of an original permit and such manifest shall show the name of the person making entry. The inspector in charge of such district shall be held responsible for the treatment of all such sugars under these regulations, the same as if working under the original permit.

ART. 726. *Transfer of samples.*—All sugar samples drawn on any given half day shall reach the examining room in the appraiser's stores not later than the close of the first official half day following, except where the place of discharge is more than 15 miles distant from the appraiser's stores. Whenever practicable the samples for each half day will be forwarded to the appraiser's stores as soon as the half day is completed. When sugars are discharged at places where the distance makes it impracticable for the regular conveyance to call for the samples, and where special provision is made by contract for other means of transportation, an official shall be detailed by the appraiser to take charge of such samples until they reach the appraiser's stores.

ART. 727. *Refined sugars.*—In sampling receptacles containing refined sugars the percentage to be sampled shall be determined by the best judgment of the examiner or sampler in charge. Every precaution shall be taken to have the sample fairly and adequately represent the shipment.

ART. 728. *Care of sampling equipment.*—The utmost care must be taken to keep all the apparatus used in the process of sampling sugar clean and absolutely dry. Suitable cleaning and polishing materials shall be supplied to the samplers, who are hereby instructed to always have their implements in perfect condition. The sampler shall frequently and thoroughly clean his trier with a scraper provided for that purpose. Failure to observe these requirements shall be reported at once to the appraiser by the examiner or the sampler in charge, and such failure will be regarded as sufficient cause for suspension.

ART. 729. *Sugar discharged during storm.*—Sugar discharged during a rain or snow storm shall be sampled under cover. When this is impracticable, or if in the judgment of the appraiser fair samples can not be obtained by reason of the stress of weather, or for any other reason, the inspector shall immediately stop the discharge of the cargo. In the absence of the inspector the appraiser shall immediately take such steps as may be necessary to stop the discharge of the cargo.

ART. 730. *Buckets for sirup and molasses samples.*—The receptacle used in collecting all molasses samples shall be the standard sugar bucket, and the regulations governing the use of this bucket in the collection of sugar shall apply with equal force when it is used for the collection of molasses.

ART. 731. *Molasses and sirups—Better grades.*—In sampling all grades of sirups and molasses other than blackstrap, 100 per cent of the packages shall be sampled. The contents of each receptacle shall be thoroughly stirred in order that any settlings shall be evenly distributed and the contents brought to as uniform a density as possible. Receptacles of the same size shall be sampled in groups of not more than 25, a sample of uniform quantity being drawn from each. A tally shall be kept and the label thereon shall show the number of packages which each bucket represents. The dock list accompanying the sample buckets shall convey the same information and shall account for every package of the mark. Packages of different size or character of contents, although invoiced and permitted under the same mark, shall be separately sampled, tested, and classified. If any package or packages shall, in the judgment of the sampling officer, have the appearance of sirup of cane juice, or of testing by the polariscope above 50 sugar degrees, a separate sample of same shall be taken.

ART. 732. *Blackstrap molasses.*—When blackstrap (frequently designated waste molasses) is imported in barrels, 10 percent of all the receptacles shall be sampled. When, in the judgment of the examiner or sampler in charge, a greater percentage is necessary to fairly represent the importation, such additional barrels shall be sampled as, in his judgment, are necessary to secure a representative sample. Blackstrap imported in tank vessels shall be sampled as it is being pumped from the vessel. Samples of uniform quantity, in general one-half liter, shall be drawn with such frequency as to insure one sample for each 5,000 gallons.

ART. 733. *Molasses in tank cars.*—Molasses in tank cars shall be sampled by drawing two similar complete samples of about 1 liter each and consisting of a continuous portion or core extending from the top to the bottom of the tank. When for any reason such a core can not be obtained, the two complete samples shall each consist of three portions: One portion from the top just below the surface to the liquid, one from the center, and one from the bottom of the tank. All samples shall be forwarded to the appraiser with the least possible delay.

ART. 734. *Sugar closets.*—Sugar closets in the sugar districts shall be substantially built, and secured by locks fur-

nished by the department. They shall be conveniently located as near as possible to the points of discharge they are intended to serve. They shall be provided by the owner of the premises on which they are located and shall be so situated that sugar, sirup, and molasses stored therein shall not be subjected to extremes of temperature or humidity.

TESTING OF SUGARS, SIRUPS, AND MOLASSES

ART. 735. *Mixing of sugar samples.*—The mixing and preparing of samples for test shall be done at the appraiser's stores under the supervision of the examiner of sugar. Samples shall be mixed and forwarded to the laboratory as soon as possible after their arrival at the appraiser's stores. Under no circumstances shall the contents of more than three sugar buckets be mixed together. The mixing shall be performed on heavy paper with a glossy surface which will not readily absorb moisture, or on a table with a metal top. The samples shall be passed through a wire screen of about ⅜-inch mesh set in a galvanized-iron frame with inclosed sides. Great care shall be exercised to obtain a uniform mixture; but the operation shall be expedited so as to avoid unnecessary exposure to the atmosphere.

ART. 736. *Sugar cans.*—The tin cans used in transmitting the samples to the laboratories for polariscopic test shall have a height of 11.5 centimeters and a diameter of 8 centimeters. They shall be practically airtight, the seamless lid fitting snugly over the rim, which is topped by a seamless band. No cans shall be used for this purpose that have not been made on the dies owned by the Department. All cans must be clean and dry before using. Frequent inspection shall be made to prevent the use of any can having loose or ill-fitting lid or broken seams on side or bottom. All damaged cans shall be discarded.

ART. 737. *Preparation of sugar samples.*—From the sample prepared by mixing the contents of not more than three buckets duplicate samples shall be prepared by closely packing two tin cans full of sugar and transmitted forthwith to the laboratories for polariscopic test. A third portion, consisting of about 3 pounds, shall be placed in a glass jar to constitute a reserve sample. In all cases the jars must be firmly packed full of sugar before closing and so sealed as to make them airtight. Such samples, after being properly labeled for identification, shall be held in safe custody by the appraiser for use when required.

ART. 738. *Identification of samples.*—In transmitting the samples from the examiner's room to the laboratory they shall be indicated only by serial numbers, the key to which shall consist of the appraisement lists, on which the same numbers must appear and the laboratory officers shall not be informed in any manner as to the identity of such samples. Appraisement lists shall be made out in duplicate, an original and carbon copy, the latter to be filed in the order of the sample serial numbers for reference if required. Sample serial numbers shall begin with no. 1 at the beginning of each year and continue throughout the year and all numbers shall be accounted for in the records specified.

ART. 739. *Recording of sugar tests.*—A complete test shall be made of each sample sent to the laboratory. The accepted tests reported by the chemist in charge shall be entered in red ink on the original appraisement lists, together with the accepted tests of the duplicate samples. Should the accepted tests of duplicate samples provided for in article 738 be 92° S. (sugar degrees) or above and should they agree within 0.2° S., the average of the two shall be taken as the true polariscopic test of the sugar. If one or both of the polarizations should be less than 92° S., and they agree within 0.3° S., the average of the two shall be taken as the true polariscopic test of the sugar.

ART. 740. *Use of reserve sugar sample.*—When the accepted tests of the two samples do not agree as provided in article 739, a third sample, to be known as the reserve sample, shall be made up from the reserve portion, and treated as a regular sample. When preparing samples for the laboratory from the reserve jars the entire contents shall be taken out and remixed in order that the moisture may again be evenly distributed throughout the sample. The tests of the reserve sample having been duly recorded, the accepted tests of the three samples shall be considered together. Of the three separate tests so recorded, the average of the two most closely corresponding shall be taken as the test of the sugar; but if one of the said tests be the average of the other two it shall be taken as the correct test.

ART. 741. *Sugar test for classification.*—(*a*) The test for classification shall be an average of tests based upon the number of packages which each accepted test represents. This number shall be determined by proportioning the number of packages weighed each half day over the different mixings for such half day, according to the number of cans of samples received, using the reports of the weigher, provided for in article 703, for that purpose. Such average shall be carried to five places of decimals.

(*b*) Wet sugar, damaged sugar not wet, ship sweepings, dock sweepings, or any other sugar required under these regulations to be sampled separately, shall be classified and the tests averaged in the same manner as the general cargo.

ART. 742. *Retests of sugar.*—(*a*) When the test of the sugar has been determined the appraiser shall immediately notify the importer of the average test of the importation and also the quantity and test of each lot from which such average test is obtained. Should the importer, within 2 official days after such notice has been sent to him by the appraiser, claim an error in the test so reported and request a retest, such retest may be granted, provided, on evidence furnished, such claim shall appear to the appraiser to be well founded. Before granting retest the appraiser shall require of the importer any information he may deem desirable relative to the samples and polarizations used in the settlement tests. Before any sugar invoice is passed the appraiser shall require the importer to furnish the settlement tests, and in no instance shall a retest be granted when the difference between the appraiser's test and the settlement test is shown to be less than 0.4° S. Samples for retest shall be made up from the reserve sample and shall be treated in all respects as provided for the original tests.

(*b*) All requests for retests of sugar shall be properly filed and a record thereof shall be kept by the appraiser on customs Form 6467.

ART. 743. *Classification when retest is made.*—In case of retest made under the provisions of article 742, the test upon which the sugar shall be classified shall be the average of the test and the retest unless it can be shown to the satisfaction of the appraiser that either the test or the retest is in error, in which event the test not in error shall be taken as the basis of classification.

ART. 744. *Error in original test.*—In all cases where in the judgment of the appraiser an error has been made the reserve sample may be resorted to by the appraiser at any time before he has made his return on the invoice for the purpose of determining and correcting such error.

ART. 745. *Molasses and sirup samples—Preparation and recording of tests.*—(*a*) All the molasses and sirup samples from an individual importation when uniform in character shall in general be represented by not more than two composite laboratory samples each sample representing one-half of the importation. Whenever practicable, a single composite sample shall be made to represent the importation. When, however, any such samples are not uniform in character, or when separate samples have been returned pursuant to article 732, as many separate samples shall be sent to the laboratory for test as, in the judgment of the examiner, shall be necessary to correctly classify the different grades of material in the importation.

(*b*) Two duplicate samples of approximately one-half liter from each composite sample shall be forwarded with the least possible delay to the laboratory for test. At least 1 liter of each composite sample shall be retained as a reserve sample. The average of the tests of the duplicate samples shall be the accepted test of the composite sample provided they do not differ by more than five-tenths percent total sugars.

(c) The contents of each bucket of molasses or sirup samples shall be stirred in such a manner as to evenly distribute any sugar sediment that may have settled to the bottom and the contents brought to as even a density as possible.

(d) The identification, recording, and averaging of accepted tests of duplicate samples shall be, unless otherwise provided in these regulations, the same as for sugar.

(f) Molasses and sirup samples shall be handled as expeditiously as possible in order that they may not be affected by fermentation and shall be given a serial number that will insure as early a test as possible.

ART. 746. *Molasses and sirup test for classification.*—The test for classification of a molasses or sirup importation shall be the average of the accepted tests for the composite samples based upon the proportion of the entire lot which each composite sample represents.

ART. 747. *Molasses and sirup—Significance of test—Retest.*—Owing to the unstable character of molasses and sirup the results of any retest can not have, from the standpoint of correctness for appraisement purposes, the same significance which the results of a retest on sugar possess. A retest shall be granted by the appraiser only when the information in his possession indicates a strong probability of an error. The regulation governing the granting of a retest shall in general be that given in article 743, with the exception that the difference between the appraiser's test and the settlement test shall be shown to be not less than 2 percent total sugars.

ART. 748. *Notice to importer.*—When an invoice of sugar, molasses or sirup has been passed, the appraiser shall at once send written notice to the importer, informing him of the test for classification of his importation.

ART. 749. *Sugar records—Filing.*—The original appraisement lists for each cargo, with dock lists, weighers' reports, letters of transmittal, and any other information relating to the same, shall be filed together as a permanent record, under serial numbers, an index to which shall be kept in a permanent form as a means of ready reference. All chemists' reports of tests shall be filed in the order of the sample serial numbers for reference when required.

ART. 750. *Procedure for exchange samples.*—In order that the results of the testing of imported sugars at the several ports may be compared, it is directed that on each alternate day, beginning with Monday, a sample of sugar shall be tested at each of the ports of Boston, New York, Philadelphia, and New Orleans, and at the same time duplicate samples of the same sugars shall be exchanged for tests between the appraisers of the said ports and the Bureau of Standards, Washington. The duplicates shall be sent in the tin can prescribed in article 736, which must be firmly packed full of sugar and sealed airtight with paraffin. The samples shall be numbered at each port of importation from 1 upward, beginning each year with the first official day in January, and the duplicates shall be marked for identification with the same number, the name of the importing port, and the date of test at such port.

ART. 751. *Testing duplicate exchange samples.*—The duplicate exchange samples must be tested as soon as they have been received and shall be sent to the laboratory under regular serial numbers, the identifying marks having been removed, after having been first entered in a special record, together with their respective serial numbers. Samples at the port of importation and those sent for exchange shall be tested and the separate tests of such samples, together with the accepted tests, shall be promptly reported every second day from each port to the Director of the Bureau of Standards, customs Form 6473, under their respective identifying marks. Complete record of all exchange tests shall be kept on customs Form 6481.

ART. 752. *Exchange tests for dry substance.*—On each alternate day, beginning with Tuesday, a sample of sugar will be tested in the dry substance at each of the ports named in article 750 and duplicate samples of the same sugar shall at the same time be exchanged, as directed in article 750. The duplicates shall be prepared, marked for identification, and forwarded in manner as provided in article 750. Such samples shall be sent to the laboratory as soon as received, under their respective identifying marks, and reports of tests shall be promptly forwarded every second day from each port to the Director of the Bureau of Standards under such marks. Such reports shall show the direct polarization, the percentage of moisture, and the test in the dry substance. When sugars are imported and tested at any port other than those named in article 750, samples shall be tested in the dry substance at the port of importation and duplicate samples shall be transmitted for like test to the Bureau of Standards. The samples shall be prepared and reports of said tests shall be made in all respects as herein prescribed for samples exchanged and tested at the said first-named ports. Reports of tests prescribed in this and the preceding paragraph shall be made on customs Form 6473. All requests by the Director of the Bureau of Standards for retests of duplicate exchange samples, Form 558, Department of Commerce, of either the polarization or the dry substance at the ports mentioned in articles 750, 753, and 754 shall be immediately complied with and the retest completed not later than the close of the first official day after the receipt of such request, and the results forwarded on customs Form 6473. When for any reason the retests requested by the Director of the Bureau of Standards are not completed by the close of the first official day after the receipt of the request, the retests shall not be made and the appraiser shall furnish the Director of the Bureau of Standards with a detailed statement why said retests were not made as herein provided.

ART. 753. *Exchange samples for Baltimore, Savannah, and San Francisco.*—The provisions of articles 750, 751, and 752, shall also be in force with respect to a similar series of exchange samples between the ports of New York, Philadelphia, Baltimore, and Savannah, and the Bureau of Standards. The appraiser at San Francisco shall forward once each week an exchange sample to the Bureau of Standards in accordance with the provisions of article 752.

ART. 754. *Molasses and sirup exchange samples.*—(a) In order that the results of the testing of imported molasses at the several ports may be compared, it is directed that the appraisers at the ports of New York, Boston, Philadelphia, Baltimore, and New Orleans shall test one sample of molasses each month and send a duplicate one-half liter sample properly numbered and labeled, to the Bureau of Standards. The sample shall be mailed in a screw-top metal container. The results of tests shall be promptly forwarded to the Director of the Bureau of Standards and shall show separately the sucrose (Clerget), the reducing sugars, and the total sugars.

(b) A reserve portion of each sample consisting of not less than one-half liter shall be retained by the examiner for retest purposes. All requests by the Director of the Bureau of Standards for retests of duplicate samples shall be immediately complied with.

ART. 755. *Adulterated refined sugars.*—Samples of all refined sugars shall be sent to the laboratory to determine whether the same, after having been refined, were tinctured, colored, or in any way adulterated. At ports where the Government has no facilities for making such expert examination, samples of all refined sugars shall be forwarded to the Bureau of Standards and the appraiser at the nearest of the following ports: New York, Boston, Philadelphia, New Orleans, Baltimore, Savannah, and San Francisco. Said appraiser will cause the necessary expert examination to be made and report thereon to the collector of the port of importation.

ART. 756. *Preservation of sugar samples.*—All samples of sugar sent to the laboratory for test must be preserved as nearly as possible in the same condition as when received, and shall be returned therefrom to the examining room in such condition. All samples tested for exchange and all exchange samples, as soon as they have been returned from the laboratory, shall be labeled with their identifying marks, securely sealed airtight, and held in safe custody in the examining room 30 days from the date of test for such

further test or investigation as may be ordered by the Director of the Bureau of Standards. In case any exchange samples have been received at any port not properly filled and sealed as herein prescribed, the appraiser at the port of receipt shall immediately notify the appraiser at the port of transmittal, and shall also report the facts to the Director of the Bureau of Standards.

ART. 757. *Care of apparatus.*—All screens used in the mixing of samples, sample buckets, sample cans, reserve jars, etc., when once used, shall be thoroughly washed, dried, and allowed to cool before being used a second time.

ART. 758. *Admission to examining rooms.*—All persons shall be denied admission to the examining rooms of the appraiser's office, except officers and employees whose duties require them to have access thereto. This provision must be strictly enforced.

ART. 759. *Interpretation of "testing by the polariscope."*—The expression "testing by the polariscope * * * sugar degrees", occurring in a tariff act, shall be construed to mean the percentage of sucrose contained in the sugar shown by direct polarimetric estimation.

ART. 760. *Total sugars defined.*—The expression "total sugars", occurring in the tariff act, shall be construed to mean the sum of the sucrose (Clerget), the raffinose, and the reducing sugars.

ART. 761. *Laboratory records.*—A permanent record of all samples received from the examiner shall be kept in the laboratory. The samples shall be identified therein by their serial numbers arranged in the order in which they are received. It shall be the duty of the chemist in charge to report the results of all tests of such samples made and recorded, severally, including the third and fourth tests, when made, to the assistant appraiser or examiner in charge of classifications.

WOOL AND HAIR

ART. 762. *Rates of duty—Regulations authorized.*—Tariff Act of 1930, paragraphs 1101 (a), 1102, 1103, and 1104:

PAR. 1101. (a) Wools: Donskoi, Smyrna, Cordova, Valparaiso, Ecuadorean, Syrian, Aleppo, Georgian, Turkestan, Arabian, Bagdad, Persian, Sistan, East Indian, Thibetan, Chinese, Manchurian, Mongolian, Egyptian, Sudan, Cyprus, Sardinian, Pyrenean, Oporto, Iceland, Scotch Blackface, Black Spanish, Kerry, Haslock, and Welsh Mountain; similar wools without merino or English blood; all other wools of whatever blood or origin not finer than 40s; and hair of the camel; all the foregoing, in the grease or washed, 24 cents per pound of clean content; scoured, 27 cents per pound of clean content; on the skin, 22 cents per pound of clean content; sorted, or matchings, if not scoured, 25 cents per pound of clean content: *Provided*, That a tolerance of not more than 10 per centum of wools not finer than 44s may be allowed in each bale or package of wools imported as not finer than 40s: * * *.

PAR. 1102. (a) Wools, not specially provided for, not finer than 44s, in the grease or washed, 29 cents per pound of clean content; scoured, 32 cents per pound of clean content; on the skin, 27 cents per pound of clean content; sorted, or matchings, if not scoured, 30 cents per pound of clean content: *Provided*, That a tolerance of not more than 10 per centum of wools not finer than 46s may be allowed in each bale or package of wools imported as not finer than 44s.

(b) Wools, not specially provided for, and hair of the Angora goat, Cashmere goat, alpaca, and other like animals, in the grease or washed, 34 cents per pound of clean content; scoured, 37 cents per pound of clean content; on the skin, 32 cents per pound of clean content; sorted, or matchings, if not scoured, 35 cents per pound of clean content.

PAR. 1103. If any bale or package contains wools, hairs, wool wastes, or wool waste material, subject to different rates of duty, the highest rate applicable to any part shall apply to the entire contents of such bale or package, except as provided in paragraphs 1101 and 1102.

The provisions of paragraph 1103 are subject to the tolerance of 10 percent provided in paragraphs 1101 and 1102.

PAR. 1104. The Secretary of the Treasury is hereby authorized and directed to prescribe methods and regulations for carrying out the provisions of this schedule relating to the duties on wool and hair. * * *

ART. 763. *Definitions.*—(*a*) Tariff Act of 1930, paragraphs 1101 (b) (1) to (4):

For the purposes of this schedule:

(1) Wools and hair in the grease shall be considered such as are in their natural condition as shorn from the animal, and not cleansed otherwise than by shaking, willowing, or burr-picking;

(2) Washed wools and hair shall be considered such as have been washed, with water only, on the animal's back or on the skin, and all wool and hair, not scoured, with a higher clean yield than 77 per centum shall be considered as washed;

(3) Scoured wools and hair shall be considered such as have been otherwise cleansed (not including shaking, willowing, burr-picking, or carbonizing);

(4) Sorted wools or hair, or matchings, shall be wools and hair (other than skirtings) wherein the identity of individual fleeces has been destroyed, except that skirted fleeces shall not be considered sorted wools or hair, or matchings, unless the backs have been removed; * * *.

(*b*) For the purpose of these regulations where the words "clean content" appear, they shall mean pure wool or hair as the case may be, free of all grease, dirt, sand, burrs, or any other vegetable or foreign material but with a moisture content of 12 percent.

ART. 764. *Grades of wool—Standards.*—(*a*) Tariff Act of 1930, paragraph 1101 (b) (5):

(5) The Official Standards of the United States for grades of wool as established by the Secretary of Agriculture on June 18, 1926, pursuant to law, shall be the standards for determining the grade of wools.

(*b*) Tariff act of 1930, paragraph 1104:

* * * The Secretary of the Treasury is further authorized and directed to procure from the Secretary of Agriculture, and deposit in such customhouses and other places in the United States or elsewhere as he may designate, sets of the Official Standards of the United States for grades of wool. He is further authorized to display, in the customhouses of the United States, or elsewhere, numbered, but not otherwise identifiable, samples of imported wool and hair, to which are attached data as to clean content and other pertinent facts, for the information of the trade and of customs officers.

ART. 765. *Invoices.*—Invoices covering importations of wool or hair provided for in paragraphs 1101 and 1102 shall show the following detailed information in addition to other information required:

(1) The number of bales and gross weight, tare, and net weight;

(2) Condition, whether in the grease, washed, pulled, on skin, scoured, carbonized, burr-picked, willowed, hand-shaken, or beaten;

(3) Whether free of vegetable matter, practically free, slightly burry, medium burry, heavy burry;

(4) Whether in the fleece, skirted, matchings, sorted;

(5) Length; whether super combing, ordinary combing, clothing, or filling;

(6) Marks and numbers on bales;

(7) Price per pound for each lot of wool or hair covered by the invoice;

(8) Country of origin—province, section, or locality of production, if possible;

(9) If wool, the quality or grade of each lot covered by the invoice, specifying the standard or basis used, that is, whether United States Official Standards or the commercial term to designate grade in country of shipment;

(10) Shippers' estimate of clean wool or hair content of each lot covered by the invoice with 12 percent moisture content.

ART. 766. *Entry—Affidavit of clean content—Examination of shipment by importer—Marking of packages.*—(*a*) On the entry or withdrawal of wool or hair on the basis of clean content under the provisions of paragraph 1101 or 1102, the importer shall be required to file with the entry or withdrawal a statement showing, in addition to other information required, the total estimated or actual weight of the wool or hair in its condition as imported, as well as the estimated percentage of clean content, as heretofore defined, for each lot.

(*b*) In the absence of a statement on the entry as to clean content, the collector shall take estimated duty on full weight as the clean content.

(c) *Affidavit on clean content.*—(1) Pursuant to the authority vested in the appraiser by sections 509 and 510 of the Tariff Act of 1930, he shall require the owner or his representative to file with him, in connection with the entry of each lot of wool or hair, an affidavit (customs Form 6449) containing the information called for by the following questions:

What is your name?

Are you the owner, buyer, consignee, agent or broker?

If not the owner, are you authorized to act in this matter?

Has this wool or hair been purchased on a guaranteed clean-contract basis?

If so, what was the guaranteed percentage of clean-content yield?

If not purchased on a clean-content basis, was the wool or hair purchased on a guaranteed hard, medium, or light scoured basis? (State which.)

If so, what was the guaranteed scoured basis yield and purchase price?

Based upon your examination of the wool or hair in the lot, what is the grade and your estimate of hard-scoured and clean-content yield?

(2) The importer shall attach to the affidavit either the original or a certified copy of the sales confirmation covering the merchandise.

(3) If in his judgment it will aid in a more accurate determination of the amount of duty the appraiser shall direct the importer to furnish such additional information and documents pertaining to the lot or lots as may be necessary. The appraiser may withhold the release of the wool or hair until the affidavit and copy of sales confirmation is received in the appraiser's office.

(d) *Examination of wool or hair by importer.*—(1) The importer, consignee, or his representative will be permitted by the appraiser to examine the wool or hair representing the importation designated by the collector for examination before executing the required affidavit on clean content.

(2) The appraiser may permit the importer, consignee, or his representative to draw samples of the wool or hair designated for examination in reasonable quantities, provided the bales or bags are repacked and repaired by the importer, consignee, or representative, for the preservation and safety of the merchandise.

(3) The samples shall be weighed and a record shall be kept by the appraiser of the amounts thus drawn from the lot or lots as samples.

(e) *Marking.*—Each bale, bag, or package containing wool or hair imported or withdrawn from bonded warehouse shall be marked as provided in section 304 of the Tariff Act of 1930 and regulations thereunder.

ART. 767. *Review of wool examiner's returns.*—(a) *Request for review.*—(1) If the clean content reported by the examiner differs from the estimate shown on the affidavit, the importer shall be immediately notified and he or his representative given the opportunity to personally inspect the bales on which there is a dispute as to clean content.

(2) If the importer or his representative, after such examination and inspection of the bale or bales of wool or hair in question as he desires to make, accepts the examiner's estimate of clean content, returns shall be made to the collector on that basis.

(3) If dissatisfied with the examiner's estimate of clean content, the importer or his representative may, within 5 days after the mailing of the notice provided for in paragraph (1), file in duplicate with the appraiser in writing a request for a review of the examiner's finding, whereupon the appraiser shall cause the bale or bales in dispute to be tested to determine their clean content. One copy of the request shall be immediately forwarded to the Wool Administrator, Bureau of Customs, Washington, D. C.

(4) The appraiser shall select a representative quantity of wool or hair for testing purposes.

(b) *Determination of clean content by scouring and carbonizing.*—(1) When practicable, wool or hair, the clean content of which is in dispute, shall be tested by the scouring and carbonizing method. In such cases the appraiser shall select a commission scouring concern (public scourer) and send the wool or hair under a Government lot number to the scouring concern for a thorough scouring test.

(2) If a Government laboratory equipped for such test purposes is established, the wool or hair shall be sent to such Government laboratory for testing purposes.

(3) The cleansing of the wool or hair for clean content shall be constantly under Government supervision under the immediate direction of the appraiser.

(4) The charges and incidental expenses attached thereto for sorting, scouring, carbonizing, and moisture-content tests shall be borne by the importer.

(5) Upon arriving at the commission scouring plant or Government laboratory, each bale shall be carefully weighed and records made of the mark, number, gross, and net weight of each bale.

(6) The grades as sorted out of each lot shall be kept separate and records made accordingly, but the sorted wool or hair of equal and uniform grade from several small lots may be intermingled and scoured at the same time to determine clean content.

(7) In cases where two or more bales representing one lot are sorted and scoured, the total weight of sorts found in the bales will be stated and the sorts scoured separately to determine clean content.

(8) If certain offgrades, sorted out of the sample bales or lot, are not used in the scouring and carbonizing test, the estimated clean content of these sorts will be included in calculating clean content as heretofore defined for the entire lot.

(9) The scoured wool or hair from such tests as outlined above shall be allowed to attain a moisture condition comparable with existing atmospheric conditions. It shall then be weighed and the yield of scoured wool or hair determined by deducting the loss of weight in scouring. The difference between the net weight of grease wool or hair and the weight of the scoured wool or hair, after it has been allowed to regain its natural condition, shall be known as the shrinkage.

(10) In order to make proper allowances for 12 percent moisture content as prescribed in these regulations, the following method will be applied:

The minimum size of the test specimen should amply fill the container. The wool or hair selected for the test should weigh not less than 500 grams. In determining the moisture present in the scoured wool or hair tested, care should be taken to select and weigh the test specimen at the same time as the bulk of the scoured wool or hair is weighed. The specimen should then be placed in the drying oven at a temperature of 212° F. Weighings should be taken at intervals. When no change in weight is noted in three consecutive weighings, the wool or hair shall be considered bone dry. Any commercially recognized drying apparatus may be used to obtain the bone-dry weight of the specimen.

(11) The percentage and nature of any straws, burs, chaff, or other vegetable or foreign material intermingled with the scoured wool or hair shall be noted and recorded. The percentage of this foreign material in the scoured wool or hair may be estimated by the examiner in making his estimates of clean content as heretofore defined. If the importer is satisfied with the examiner's findings, the appraiser shall make returns to the collector on that basis.

(12) If the importer is dissatisfied with the examiner's estimate of the amount of foreign material in the scoured wool or hair, a representative sample of the scoured wool or hair shall be selected by the appraiser for carbonizing and neutralizing test.

(13) The loss in weight between the sample of scoured wool or hair and the weight of the carbonized, neutralized,

and dusted sample shall be taken as the basis for computing the foreign material in the scoured wool or hair.

(14) The method for determining moisture content of the carbonized, neutralized, and dusted samples shall be the same as mentioned in subdivision (b) (10) of this article.

(15) If dissatisfied with the appraiser's advisory classification as to grade of wool in any lot or lots comprising an importation, the importer or his represenative may file a request for a review as provided for in subdivision (a) of this article, whereupon the appraiser shall direct that a representative quantity of the lot or lots in dispute shall be selected by agreement between the appraiser and the importer, and the wool selected shall be sorted under Government supervision at the expense of the importer.

(c) *Determination of clean content by combing.*—(1) When the scouring and carbonizing method is impracticable, wool or hair the clean content of which is in dispute may be tested by the combing method.

(2) The combing test shall be conducted at a combing establishment to be selected by the appraiser.

(3) The combing concern shall follow instructions of the appraiser and be responsible for the accurate and careful performance of the test.

(4) All combing tests will be conducted under the supervision of the appraiser and the test charges and incidental expenses shall be paid by the importer.

(5) The report on each combing test must be submitted under oath on a prescribed form furnished or approved by the Commissioner of Customs. The report must contain a declaration to the effect that the test has been carefully conducted in accordance with instructions and that the wool or hair has been scoured, carded, combed, and gilled in the usual commercial way and that the weights of top and all byproducts were accurately recorded and reported.

(6) The appraiser shall have authority at any time during the test or after the test has been completed to examine the records of each department of the combing establishment, and, upon request, receive from the combing concern certified copies of all weight slips. The appraiser shall designate a customs officer to be present while the tests are being made and while the products are being weighed.

(7) In computing the clean content from the results shown on the combing report, the weight of top, noil, and all wastes will be taken into account. Allowance will be made in computing the clean content on the top, noil, and waste tests for oil present in the top, and foreign material in the comb, burr, and card wastes, card strips, card fly, and noils.

(8) If the importer is dissatisfied with the examiner's estimate of the percentage of oil in the top, a Soxhlet extraction or scouring test to determine the percentage of oil content of the top shall be made from a representative sample of the top selected by the appraiser.

(9) If the importer is dissatisfied with the examiner's estimate of the percentage of foreign material in the noils, comb, burr, and card wastes, card strips, and card fly, the appraiser shall direct that tests for percentage of foreign material in each of the products shall be made. Representative samples shall be drawn by the appraiser from each byproduct and each separately carbonized, neutralized, and dusted.

(10) The total cold weight of dry clean scoured top from which the oil has been scoured or extracted, cold weight of carbonized noils, comb, burr, and card wastes, and card strips, and card fly shall be taken, and an allowance made for 12 percent moisture content which shall be the basis for computing clean content, as heretofore defined, for the entire lot. The moisture test shall be conducted in the same manner as that prescribed in subdivision (b) (10) of this article.

(11) If certain offgrades, sorted out of the sample bales or lot, are not used in the combing test, the estimated clean content for these sorts will be added to the clean content, top and all byproducts, and the total shall be the basis for calculating the clean content as heretofore defined for the entire lot.

(d) *Determination of clean content of wool or hair on skin.*—(1) The weight of wool or hair on the skin shall be determined on the basis of the quantity obtainable by pulling.

(2) If dissatisfied with the examiner's estimate of wool or hair on the skin, the importer or his representative may, within 5 days after the mailing of the notice provided for in subdivision (a) of this article, file in duplicate with the appraiser in writing a request for a review of the examiner's finding.

(3) Upon receipt of a request for a review of the examiner's finding, the appraiser shall select a sufficient number of skins to represent fully each lot comprising the importation.

(4) The selected skins shall be tested for quantity of wool or hair by pulling the wool or hair from the skin.

(5) Commercial methods in pulling of the wool or hair from the skins shall be followed.

(6) The entire operation of pulling will be conducted, either in a wool-pulling establishment or in a Government laboratory, under the direct supervision of the appraiser and in the presence of a customs officer who shall keep close observation of the operations, check all the weights, and keep complete records for the appraiser.

(7) If the importer is dissatisfied with the examiner's estimate of clean content of the wool or hair pulled from the skins, he may request a review of the examiner's finding in the manner provided in subdivision (a) (3) of this article, whereupon the appraiser shall direct that the wool or hair be scoured and carbonized in a manner prescribed in subdivision (b) of this article to determine the clean content, as heretofore defined. The results of such test or tests shall be used as a basis for calculating clean content of the entire importation.

(8) The same procedure will be followed in determining the moisture content of 12 percent as outlined in subdivision (b) (10) of this article.

(9) All test charges and incidental expenses shall be borne by the importer.

(e) *Reports of tests.*—(1) Reports on all tests shall be submitted in quadruplicate, on forms prescribed and furnished or approved by the Bureau of Customs, and sworn to before a notary public or officer authorized to administer oaths.

(2) One copy of the report on the test shall be retained by the concern conducting the test, one held by the appraiser, one presented to the importer, and another sent to the Bureau of Customs, Washington, D. C.

(f) *Retests.*—If the appraiser is not satisfied with the results of any test, he may demand that a retest be made. The appraiser shall select a bale or bales of the wool or hair or wooled skins, representative of the importation, and cause the same to be tested in the same manner and method as followed in the first test, but the expense of such test shall be borne by the Government.

(g) *Release of products tested.*—Upon completion of the test and receipt of the reports by the appraiser, he shall advise the testing concern as to the name of the individual, firm, company, or corporation to whom to bill the test and incidental charges. The appraiser shall, in writing, after the duty is paid on the wool or hair tested, notify the testing concern to whom the wool or hair products of the test should be released.

(h) *Duty on products of tests.*—The duty on products of all scouring, carbonizing, combing, and pulling tests, made to determine clean content, shall be the same as if such product had been withdrawn in the original condition as imported.

ART. 768. *Reports by appraiser and examiner.*—(1) The appraiser shall file with the Wool Administrator a complete record covering each report for review of the examiner's finding, including the following information: The entry number; date entered; name of actual purchaser; consignee; consignor; number of bales and total gross weight and number of lots involved in the dispute; number of bales examined; grade, country, and point of shipment; country of origin; kind of wool or hair; whether in grease, scoured, etc.; whether fleece, sorted, etc.; whether super, strict, or

ordinary combing, etc.; whether free of vegetable matter, practically free, etc.; the estimated scoured yield and clean content as shown on the consular invoice and affidavit and the examiner's estimate of the scoured yield and clean content; together with any other pertinent information.

(2) The appraiser shall notify the Wool Administrator, Bureau of Customs, Washington, D. C., as to the number of bales and weight of wool selected for testing purposes, the name and address of the concern conducting the test, and the date of the shipment of the bale or bales selected for test purposes to the testing concern.

(3) A report as to each importation of wool or hair on the form entitled "Daily Report for the Wool Administrator" shall be made by the examiner in accordance with instructions heretofore given.

CHAPTER XII

APPRAISEMENT

GENERAL PROCEDURE

COAL-TAR PRODUCTS

PROCEDURE UNDER ANTIDUMPING ACT

GENERAL PROCEDURE

ART. 769.—*Order of appraisement—Designation of packages for examination.*—(*a*) Tariff Act of 1930, section 488:

The collector within whose district any merchandise is entered shall cause such merchandise to be appraised.

Customs Form 6417 with the invoice attached shall be deemed the order of appraisement.

(*b*) Tariff Act of 1930, section 499:

* * * The collector shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise and shall order such packages or quantities to be sent to the public stores or other places for such purpose. Not less than one package of every invoice and not less than one package of every ten packages of merchandise, shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation permit a less number of packages to be examined. The collector or the appraiser may require such additional packages or quantities as either of them may deem necessary. * * *

ART. 770. *Examination of merchandise—Procedure.*—(*a*) The appraiser shall cause to be examined all merchandise designated by the collector and such additional quantities, packages, or parts thereof as he may deem necessary. Such merchandise, except matches and other inflammable, explosive, and dangerous articles, shall be examined at the public stores, but with the consent of the appraiser any merchandise for which entry has been made, the examination of which at the public stores is impracticable, may be examined on the wharf or at the importer's premises or other suitable place.

(*b*) When upon the request of the importer merchandise is examined elsewhere than at the public stores, or at a place other than a port of entry or a customs station at which a customs officer is permanently located, the additional expense, if any, shall be paid by such importer. The expenses chargeable to the importer in such cases shall include actual expenses of travel and subsistence, but not the per diem compensation of the examining officer.

(*c*) Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place in charge of a customs officer, the collector shall require the importer to stipulate in writing that he will not contest the validity of the appraisement because examination is made elsewhere than at the public stores, and to execute a bond on customs Form 7551 or 7553 or other appropriate form conditioned for the redelivery of the merchandise after its release from customs custody upon the completion of final examination for purposes of appraisement (article 1079 (*f*)) if demand for redelivery is made in accordance with article 316. The bond shall contain added conditions providing that the importer shall hold the merchandise at the place to which it has been removed for examination until it has been released from customs custody and that he shall transfer the merchandise, at any time before such release, to such place as the collector may direct. The collector may also require the importer to deposit an amount sufficient to cover the additional expense of such examination.

(*d*) Except as provided in paragraph (*f*), the packages before being removed from the place of unlading, shall be corded and sealed by a customs officer, a caution notice, customs Form 6087, shall be securely affixed thereto, and the packages shall be opened only in the presence of the appraiser, assistant appraiser, examiner, or other person designated by the appraiser, and shall be opened and closed by labor furnished by the importer.

(*e*) Merchandise entered free of duty which is found on examination to be dutiable, shall be immediately recorded and resealed by a customs officer and, unless the estimated duties are promptly deposited, the collector shall order the merchandise transferred to such place as he may direct, there to be held in the same manner as other dutiable merchandise pending final action.

(*f*) Machinery, altars, shrines, and other articles which must be set up and assembled prior to examination, may, upon application by the importer or owner, be examined and appraised at the mill, factory, or other suitable place, after being set up or assembled. In such cases the filing of a bond on customs Form 7551 or 7553 and the deposit of the estimated additional expense (except the per diem compensation of the examining officer, which is not exacted in such cases) shall be required, as well as the stipulation not to contest the validity of the appraisement. The packages need not be corded and sealed, but the appraiser shall make such preliminary examination as may be necessary to identify the merchandise with the invoice. After the bond has been filed and the preliminary examination has been made, the collector may permit the merchandise to be removed to the place at which it is to be set up or assembled for examination. Within 90 days after such removal, unless an extension has been applied for and granted by the collector or appraiser, the importer must notify the collector or appraiser that the machinery or other articles have been set up or assembled and are ready for examination, where-

upon final examination shall be made and the appraisement completed. (See art. 1079 (*f*).)

(*g*) Matches and other inflammable, explosive, and dangerous articles shall be examined at the importer's premises or other suitable place, but not at the public stores.

(*h*) When examination is made elsewhere than at the public stores, the appraiser shall state the fact and place of such examination in his report of the appraisement.

(*i*) The appraiser should submit to the chief chemist of the laboratory to which his district is assigned samples of all articles requiring technical analysis, such as textile fabrics, chemicals, minerals, etc., for a report as to any facts necessary to proper classification and appraisement of such articles.

(*j*) When additional cases are desired for examination, requisition for redelivery shall be made on customs Form 3483, mailed or sent by special messenger to the importer.

ART. 771. *Appraisement on samples.*—(*a*) The appraiser may make appraisement on samples of such merchandise as is, by commercial usage, bought and sold by sample.

(*b*) Representative samples shall be selected by a customs sampler, or other authorized customs officer, from the merchandise or packages designated by the collector for examination, and shall be properly marked to insure identification, and retained as long as the appraiser shall deem it necessary.

(*c*) Should the appraiser require for the purpose of appraisement samples from packages not designated for examination, he may request the importer to submit the same under oath that such samples were drawn from a specified case or cases covered by the invoice and that they are in the same condition as when drawn.

ART. 772. *Duties of appraising officers.*—(*a*) Tariff Act of 1930, section 500 (a):

(a) *Appraiser.*—It shall be the duty of the appraiser under such rules and regulations as the Secretary of the Treasury may prescribe—

(1) To appraise the merchandise 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 cost of production in any invoice, affidavit, declaration, or other document to the contrary notwithstanding;

(2) To ascertain the number of yards, parcels, or quantities of the merchandise ordered or designated for examination;

(3) To ascertain whether the merchandise has been truly and correctly invoiced;

(4) To describe the merchandise in order that the collector may determine the dutiable classification thereof; and

(5) To report his decisions to the collector.

(*b*) Tariff Act of 1930, section 499:

* * * If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the collector. * * *

(*c*) Appraisers shall include in their returns on invoices, customs Form 6417, a report as to the correctness of the invoice upon which entry was made. If they find the merchandise correctly invoiced, they will return "invoice correct." If they find the invoice incorrect either as to prices or values stated, entered rates, or as to the form of invoice, they shall return "invoice incorrect in the following respects", specifying the particulars, and shall hold the examination packages until released by the collector.

(*d*) They shall report all prohibited articles found in importations and hold the package in which found pending the receipt of instructions from the collector.

(*e*) Conventional gauges are hereby authorized for distilled spirits imported in bottles of the following standard sizes established by Regulations 13 of the Bureau of Internal Revenue and Regulations 5 of the Federal Alcohol Administration (see T. D. 6 of the Federal Alcohol Administration):

12 ⅘-quart bottles per case, 2.40 gallons.
24 ⅘-pint bottles per case, 2.40 gallons.
12 quart bottles per case, 3 gallons.
24 pint bottles per case, 3 gallons.
48 ½-pint bottles per case, 3 gallons.
144 ⅛-pint bottles per case, 2.25 gallons.
96 1/10-pint bottles per case, 1.20 gallons.
144 1/10-pint bottles per case, 1.80 gallons.
192 1/10-pint bottles per case, 2.40 gallons.
216 1/10-pint bottles per case, 2.70 gallons.
300 1/16-pint bottles per case, 2.34375 gallons.

Tests should be made from time to time, and if it is found that there is a material discrepancy between the actual gauge and the established conventional gauge, the actual gauge should be taken.

ART. 773. *Unusual coverings and containers.*—(*a*) Tariff Act of 1930, section 504:

If there shall be used for covering or holding imported merchandise, whether dutiable or free of duty, any unusual material, article, or form designed for use otherwise than in the bona fide transportation of such merchandise to the United States, additional duties shall be levied upon such material, article, or form at the rate or rates to which the same would be subjected if separately imported.

(*b*) The appraiser shall report any unusual coverings and containers in such descriptive terms as will enable the collector to properly classify the same for duty.

ART. 774. *Value.*—Tariff Act of 1930, section 402:

(a) *Basis.*—For the purposes of this act the value of imported merchandise shall be—

(1) The foreign value or the export value, whichever is higher;

(2) If the appraiser determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value;

(3) If the appraiser determines that neither the foreign value the export value, nor the United States value can be satisfactorily ascertained, then the cost of production;

(4) In the case of an article with respect to which there is in effect under section 336 a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article.

* * * * *

(c) *Foreign value.*—The foreign value of imported merchandise shall be the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, including the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

(d) *Export value.*—The export value of imported merchandise shall be the market value or the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

(e) *United States value.*—The United States value of imported merchandise shall be the price at which such or similar imported merchandise is freely offered for sale, packed ready for delivery, in the principal market of the United States to all purchasers, at the time of exportation of the imported merchandise, in the usual wholesale quantities and in the ordinary course of trade, with allowance made for duty, cost of transportation and insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission not exceeding 6 per centum, if any had been paid or contracted to be paid on goods secured otherwise than by purchase, or profits not to exceed 8 per centum and a reasonable allowance for general expenses, not to exceed 8 per centum on purchased goods.

(f) *Cost of production.*—For the purpose of this title the cost of production of imported merchandise shall be the sum of—

(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing such or similar merchandise, at a time preceding the date of ex-

portation of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

(2) The usual general expenses (not less than 10 per centum of such cost) in the case of such or similar merchandise;

(3) The cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2) of this subdivision) equal to the profit which ordinarily is added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the production or manufacture of merchandise of the same class or kind.

(g) *American selling price.*—The American selling price of any article manufactured or produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for delivery, at which such article is freely offered for sale to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities in such markets, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise when sold in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article.

ART. 775. *Charges—Dutiable and nondutiable.*—(a) Dutiable charges are such costs and other expenses as are incidental to placing the merchandise in condition, packed ready for shipment to the United States. Such charges must represent the actual cost and be confined solely to merchandise exported to the United States. If such elements of cost enter into the value of the merchandise when sold in the ordinary course of trade for domestic consumption in the country of exportation, they no longer are charges but become a part of the value of the merchandise.

(b) Nondutiable charges are such items of cost and expense as constitute no part of the value of the merchandise when sold in the ordinary course of trade in the country of exportation, and are no part of the expense of placing it in condition packed ready for shipment to the United States.

ART. 776. *Returns by appraiser.*—Appraising officers will observe the following rules in making returns on invoices:

(a) The value returned by the appraiser should be in the unit of quantity in which the merchandise is usually bought and sold in the ordinary course of trade, subject to the usual commercial terms and should not be expressed as a total unless the total is the trade unit of value.

(b) Except as modified in this article, the value shall be expressed in the currency of the country of exportation in which merchandise identical with or similar to that under appraisement is usually bought and sold in the ordinary course of trade, notwithstanding that two or more currencies of different character may circulate in that country.

(c) The value shall be expressed in United States currency if appraisement is made on the basis of United States value or American selling price, or in the currency of the country of exportation if appraisement is on the basis of cost of production.

(d) If there is more than one basis for the currency in which the appraiser's return is expressed, such as gold, silver, or paper, the particular basis of the currency adopted by the appraiser should be stated in the return; for example, paper lira, silver lira, gold lira.

(e) When merchandise identical with or similar to that under appraisement is sold for domestic consumption and for exportation in different currencies in the country of exportation, the currencies involved should, for the purpose of comparison to determine whether the foreign or export value is the higher, be converted into United States currency at the rate certified by the Federal reserve bank for the date of exportation of the merchandise involved; but the currency expressed in the appraiser's return should be the currency in which identical or similar merchandise is usually bought and sold in the ordinary course of trade for domestic consumption in the country of exportation or for exportation to the United States, depending upon whether the foreign or export value is adopted as the basis of appraisement.

(f) The conversion of currency, being a function of the collector, is not related to the determination of the unit values of merchandise or of the costs, charges, etc., entering into the determination of dutiable values, and it is not the duty of appraising officers to find or state the value of currency.

(g) Opposite each item or group of similar items on the invoice the examiner shall write or stamp in red ink a description of the merchandise sufficient to enable the collector to properly classify the same for duty, unless the invoice description is sufficiently specific for that purpose, indicating the paragraph and rate of duty applicable. A notation on the invoice as to the paragraph and rate applicable is not a sufficient description when the paragraph covers more than one class of merchandise or prescribes more than one rate of duty. If the merchandise is specifically provided for, the return should be in the language of the tariff act.

(h) If the appraised value be not the same as the entered value, the appraiser's return on the face of the invoice should be a direct statement of his appraisement, and not an expression of differences between appraised and entered values.

(i) When there is a uniform general advance in value, the appraisement may be indicated by bracketing all of the items involved, plus the uniform percent of advance.

(j) When the appraiser's advisory classification agrees with the entered classification, it need not be set forth upon the invoice unless more detailed information than is shown in the entered classification is required for statistical purposes.

(k) When the action of more than one examiner is involved, each entered rate and paragraph set forth in the margin of the invoice at the time of entry should be initialed by the examiner concerned, if correct. If incorrect, he should note the correct rate and paragraph over his initials.

(l) When a commission is deducted on entry so that the entered value of the merchandise per se is lower than the correct dutiable value, the appraiser's return on the face of the invoice should be a direct statement of his appraisement without mention of the commission.

(m) Discounts as such should not be disallowed. If the appraisement is net or involves a discount differing from that deducted on entry, a direct statement of appraised value should be made including the discount, if any, viz:

"Appraised value 6 francs per dozen net"; or

"Appraised value 6 francs per dozen less 5 and 2½ percent."

(n) Discounts and charges should be returned in such manner as definitely to indicate to the collector whether or not the amount thereof is included in the appraised unit value, and the return must show all discounts and charges deducted from the unit value as well as all packing charges or other dutiable costs or items added thereto to make dutiable value.

(o) Returns relating to such charges may be made dependent on the manner in which the charges are invoiced and the conditions surrounding appraisement, by use of the following expressions: "Not included in appraised value"; "Appraised at invoiced or entered unit values, plus items marked X"; "Appraised at invoiced or entered unit values, less items marked X"; "Appraised value (stating value in figures and terms), plus items marked X"; "Appraised value (stating figures and terms) less items marked X." In such instances the charges should be bracketed and marked X.

(p) No report need be made on such charges in the body of the invoice, if believed to be correct, as such report is included in the certification of the appraising officer in the summary sheet.

(*q*) When the cost of packing is included in the invoiced units, the merchandise will be returned "Packed", if the packing is part of the appraised value. If the packing is not part of the appraised value the per se value and the packing should be reported separately and the packing charges set forth.

(*r*) The following are illustrative examples of the form and substance of such statements:

Appraised value: 6 francs per dozen, net, packed.

Appraised value: 6 francs per dozen, net, plus cases and packing.

Appraised value: 6 francs per dozen less 5 per cent discount, packed.

Appraised value: 6 francs per dozen less 5 per cent discount, plus cases and packing.

Appraised value: 6 francs per dozen, net, packed, less ——— N. D. charges.

Appraised value: 6 francs per dozen less 5 per cent discount, packed, less ——— N. D. charges.

Appraised value: 6 francs per dozen, net, plus cases and packing, less ——— N. D. charges.

Appraised value: 6 francs per dozen less 5 per cent discount, plus cases and packing, less ——— N. D. charges.

(*s*) All official reports of examiners shall be in red ink.

(*t*) When the appraised value of the merchandise exceeds the entered value the method used in determining the value as provided in section 402 of the Tariff Act of 1930 shall be indicated by the following symbols:

F. M. V.—Foreign market value.

Ex. V.—Export value.

U. S. V.—U. S. value.

C. P.—Cost of production.

A. S. P.—American selling price.

(*u*) The appraiser shall make a return of each invoice on customs Form 6417.

(*v*) If the appraised value be the same as the entered value, the signature of the appraising officer to the certificate on the summary sheet without any notations on the invoice will so indicate.

(*w*) The appraising officer will note only exceptions upon the summary sheet, in the various columns relating to value, rate, quantities, and dutiable packing charges.

(*x*) When there are no changes in the entered value, classifications, quantities, etc., and the action of only one examiner is involved, each column should be checked to indicate that proper action has been taken as expressed in the certification of the appraising officer.

(*y*) When exceptions are noted, the cases returned correct should be marked "C" (correct) in addition to setting forth the exceptions expressed by the abbreviations set forth in the summary sheet.

ART. 777. *Invoice return—Finality of.*—(*a*) After inspection, examination, and appraisal by the appraiser he shall transmit the invoice to the collector with his report.

(*b*) The return of the appraiser as to value can not be reconsidered or modified by him after the report of appraisement has been lodged with the collector but if within 60 days thereafter the appraiser shall have reason to believe that his appraisement was too low, he shall notify the collector so that an appeal to reappraisement may be taken if the collector deems it advisable.

ART. 778. *Papers to be sent by messenger.*—All communications and papers, whether invoices, appraisement orders, or others, passing between the customhouse and the appraiser must be transmitted by an officer of the customs or an official messenger, except where otherwise specially authorized by the Bureau.

ART. 779. *Examiner's value record.*—The examiner's record of value shall be maintained on customs Forms 6303, 6305, 6307, 6309, and 6311.

ART. 780. *Furnishing information as to values.*—The appraiser may, in his discretion, furnish to importers the latest information as to values in his possession, subject to the following conditions:

(*a*) Information shall be given only in response to a specific request therefor by an importer, and in no circumstances shall be volunteered by a customs employee.

(*b*) Information shall be given only on merchandise to be entered at his port, and after its arrival, or upon satisfactory evidence that it has been exported and is en route to the United States, and then only on presentation of invoices and all papers, documents, or other information in the possession of the importer or available to him relative to the value of the merchandise.

(*c*) The request for information may be made orally or in writing (if in writing it shall be in duplicate on such form as the appraiser may prescribe) and the information shall be given only if the appraiser is satisfied that the importer is unable to obtain any definite information as to market value on the date of exportation due to unusual conditions, and with the understanding and agreement that the information, if given, is in no sense an appraisement nor binding upon the appraiser's action on appraisement, as appraisement of merchandise must be made at the market value prevailing on the date of exportation, in accordance with the law, irrespective of any information given before the invoice or the merchandise has come under the observation of the appraiser for the purpose of appraisement.

(*d*) The privilege of securing information from the appraiser before the invoice or the merchandise has come under his observation for the purpose of appraisement is predicated on cooperation by the importer. When the appraiser suspects that the importer is withholding information in his possession, or that the importer has not exercised due diligence to obtain the information requested, or otherwise questions the importer's good faith, he shall, prior to furnishing any information, request the importer to call at his office for questioning. If, after such questioning, and after such other investigation as he deems necessary, the appraiser is still not satisfied as to the importer's good faith, he shall refuse to give any information to such importer.

(*e*) Upon receipt of a request for information, the examiner shall give the latest information in his possession effective on the date of exportation, stating also the basis of his conclusion, or, in the absence of information as to values on or about the date of exportation of the shipment, shall advise the importer to that effect. If the request is in writing, a copy containing the conclusion of the examiner, if approved by the appraiser, or such other officer as he may designate for that purpose, shall be retained in the appraiser's files for consideration by the examiner when examining the merchandise, and the other copy given to the importer.

(*f*) If the appraiser does not have the information requested, he may, if the importer so desires, refer the request to the Customs Information Exchange for advice.

ART. 781. *Loss of weight—Increase in value.*—When merchandise subject to an ad valorem rate of duty has decreased in weight by reason of evaporation or otherwise, and the value of the unit of quantity has correspondingly increased, the appraiser should appraise the merchandise in the condition in which imported and such appraisement shall not be deemed an advance in value for the purpose of assessing additional duty.

ART. 782. *Country and principal markets.*—The term "country" as used in the law is to be regarded as embracing all the possessions of a nation, however widely separated, which are subject to the same supreme executive and legislative authority and control.

ART. 783. *Diversion to another country.*—Merchandise imported from one country, being the growth, production, or manufacture of another country, will be appraised at its value in the principal markets of the country from which immediately imported. If it appears by the invoice, bill of lading, or other evidence that the merchandise was destined for the United States at the time of original shipment, it will be appraised at its value in the principal markets of the country from which originally exported.

ART. 784. *Time of exportation.*—(*a*) The time of exportation shall be the date on which the merchandise actually leaves the country of exportation for the United States.

(*b*) If the merchandise is shipped directly by water from the country of export, the date of the sailing of the vessel shall be the date of exportation. At ports where the appraiser does not receive customs Form 3167, "Daily report of arrival of vessels", the collector shall note on the summary sheet, customs Form 6417, for the information of the appraiser, the date of sailing of the vessel. If the merchandise arrives in bond, the date of sailing shall be obtained from the lists circulated by the customs information exchange.

(*c*) Since the act of exportation is not complete until the merchandise finally leaves the jurisdiction of the exporting country, if a vessel with the merchandise on board sails from two or more ports, or more than once from the same port, of the exporting country, whether or not stopping on the intervening voyage at a port of another jurisdiction, or, if the merchandise is transshipped in another jurisdiction and subsequently reenters the jurisdiction of the exporting country on another vessel, or if the merchandise is transshipped to another vessel in the same jurisdiction, the date the vessel on which the merchandise finally leaves the exporting country sails from the last port thereof, is the date of exportation.

(*d*) When the merchandise is shipped from an interior country through the ports of another country or from a country contiguous to the United States, the date of exportation shall be the date on which the merchandise crosses the border of the country of exportation and passes beyond the control of the government of such country.

(*e*) If the merchandise is not exported directly by water and no positive evidence is at hand as to the date of exportation, the date of the invoice certification shall be considered the date of exportation, unless the invoice appears to have been certified after the date the merchandise actually left the country of exportation; otherwise the date shown as the date the invoice was prepared shall be taken, unless it also appears to be later than the actual date of exportation. In the absence of a certified invoice, the date of the pro forma invoice will be taken unless it appears to be dated after the actual date of export. If a pro forma invoice covers several individual bills of different dates, the latest of such dates, unless it appears to be later than the actual date of export, will be taken.

(*f*) In the case of indirect shipments exported from one country through another, if the invoice is post certified and post dated, the date of the bill of lading may be used in the absence of other evidence, if the bill of lading was issued in the country of export.

(*g*) Merchandise may be appraised as of the date of actual shipment when there is presented a bill of lading showing the date of shipment, provided such bill of lading has been certified in accordance with the provisions of section 2904 of the Revised Statutes.

COAL-TAR PRODUCTS

ART. 785. *Procedure.*—(*a*) Tariff Act of 1930, paragraphs 27 and 28 (c) and (d):

(c) The ad valorem rates provided in this paragraph shall be based upon the American selling price (as defined in subdivision (g) of section 402, title IV), of any similar competitive article manufactured or produced in the United States. If there is no similar competitive article manufactured or produced in the United States then the ad valorem rate shall be based upon the United States value, as defined in subdivision (e) of section 402, title IV.

(d) For the purposes of this paragraph any coal-tar product provided for in this act shall be considered similar to or competitive with any imported coal-tar product which accomplishes results substantially equal to those accomplished by the domestic product when used in substantially the same manner.

(*b*) Tariff Act of 1930, paragraph 28 (e) and (h):

(e) The specific duties provided for in this paragraph on colors, dyes, or stains, whether soluble or not in water, color acids, color bases, color lakes, leuco compounds, indoxyl, and indoxyl compounds, shall be based on standards of strength which shall be established by the Secretary of the Treasury, and upon all importations of such articles which exceed such standards of strength the specific duty shall be computed on the weight which the article would have if it were diluted to the standard strength, but in no case shall any such articles of whatever strength be subject to a less specific duty than that provided in subparagraph (a) or (b), as the case may be. * * *

(h) In the enforcement of the foregoing provisions of this paragraph the Secretary of the Treasury shall adopt a standard of strength for each dye or other article which shall conform as nearly as practicable to the commercial strength in ordinary use in the United States prior to July 1, 1914. If a dye or other article has been introduced into commercial use since said date then the standard of strength for such dye or other article shall conform as nearly as practicable to the commercial strength in ordinary use. If a dye or other article was or is ordinarily used in more than one commercial strength, then the lowest commercial strength shall be adopted as the standard of strength for such dye or other article.

(*c*) An importer may, under proper supervision, be permitted to take samples prior to entry from his own importations of articles dutiable under paragraphs 27 and 28, and appraising officers may take samples of such articles prior to entry when deemed necessary by them.

(*d*) When an importer seeks information from the appraising officer prior to entry, or, for the importer's convenience, formal entry is withheld as hereinafter provided, in return therefor the importer shall furnish to the appraising officer such relevant information as he may request.

(*e*) An imported article which is or may be used for the same purpose as a domestic article not freely offered for sale, but used in the manufacture of another domestic article freely offered for sale, shall be considered a similar competitive article.

(*f*) The appraiser at New York shall from time to time issue lists of articles which he believes to be competitive and noncompetitive, and add articles thereto or remove articles therefrom as investigation shall justify. This list is advisory only and in no manner relieves appraising officers from the duty of independent appraisement required by law. The appraiser shall furnish copies of such lists and amendments thereof to the Customs Information Exchange for circulation among other appraising officers and the public upon request.

(*g*) In the case of an actual importation of a similar competitive article or of a noncompetitive article, the appraising officer may furnish to the importer upon application in writing information of the American selling price or United States value, as the case may be, provided the appraising officer shall be satisfied that the importer, after exercising due diligence, has not himself been able to obtain such information and that he has submitted to the appraising officer all relevant information in his possession. All information furnished by the appraising officer shall be advisory only. In communicating such American selling price or United States value, however, the appraising officer shall not disclose the source of his information.

(*h*) The appraiser at New York upon application of an importer having an invoice of an article not named on either the competitive or the noncompetitive list shall proceed immediately to ascertain to which list the article belongs, and upon such ascertainment shall add the article to such list, pending which the importer may withhold formal entry. The appraiser shall inform the importer of his action.

(*i*) When an imported article is of different strength from a similar competitive article manufactured or produced in the United States, the value of the imported article shall be adjusted in relation to the selling price of the domestic article in the proportion which the strength of the imported article bears to that of the domestic.

(*j*) When an article is a similar competitive article as defined in paragraph (*e*) of this article, the value of the imported article shall be the American selling price of the domestic article freely offered for sale adjusted in the relation that it bears to the domestic article not freely offered for sale.

(*k*) When the appraising officer shall be satisfied after investigation that a similar competitve domestic article is

offered for sale at an arbitrary and unreasonable price not intended to secure bona fide sales and which does not secure bona fide sales, such price shall not be considered as the American selling price, and such officer shall use all reasonable ways and means to ascertain the price that the manufacturer, producer, or owner would have received, within the meaning of section 402 (g) of the Tariff Act of 1930.

(*l*) Where two or more domestic articles are considered similar competitive articles as compared with an imported article, the American selling price of the domestic article which accomplishes results most nearly equal to those of the imported article shall be taken as the basis for the assessment of the ad valorem rate.

(*m*) The words "similar competitive articles" in paragraphs 27 and 28 shall not be construed as relating exclusively to coal-tar products. An imported coal-tar product may be compared with a domestic non-coal-tar product, or an imported non-coal-tar product dutiable under paragraph 27 or 28 with a domestic coal-tar product, for the purpose of determining whether they are similar competitive articles. The rule provided in paragraphs 27 and 28 for the determination of similar competitive articles and the regulations herein provided shall be applied in such cases.

(*n*) Instructions for the ascertainment of United States value are to be found in T. D. 42215.

(*o*) Tests which are necessary in the appraisement of imported articles shall be made under conditions approximating as closely as practicable the conditions in which the articles will be actually used in trade or manufacture.

(*p*) Appraising officers may consult the trade papers, but the weight to be given to the quotations and other information therein is for the determination of the officers themselves.

(*q*) Appraising officers at ports other than New York when in doubt on any question arising under paragraphs 27 and 28 shall take the question up direct with the appraiser at New York through the Customs Information Exchange, which will give immediate attention thereto and expedite the return of information. If the appraising officer shall be dissatisfied with the advice of the appraiser at New York, or the latter shall be in doubt on the inquiry, the question shall be submitted to the Bureau for an expression of its views, article 1402 to be complied with at all times.

(*r*) When an article not previously imported is found to be noncompetitive and no United States value can be ascertained, the article shall be appraised in accordance with section 402 (a) of the Tariff Act of 1930.

(*s*) Standards of strength for coal tar products adopted by the Secretary of the Treasury will be published from time to time and such standards heretofore adopted and published will continue in force until changed or revoked.

ART. 786. *Marking of containers and coverings of coal-tar products.*—(*a*) Tariff Act of 1930, paragraph 28 (f) and (g):

(f) It shall be unlawful to import or bring into the United States any such color, dye, stain, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound unless the immediate container and the invoice shall bear a plain, conspicuous, and truly descriptive statement of the identity and percentage, exclusive of diluents, of such color, dye, stain, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound contained therein.

(g) On and after the passage of this Act it shall be unlawful to import or bring into the United States any such color, dye, stain, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound, if the immediate container or the invoice bears any statement, design, or device regarding the article or the ingredients or substances contained therein which is false, fraudulent, or misleading in any particular.

(*b*) Such containers shall be marked plainly and conspicuously with a descriptive statement which discloses the following particulars:

1. Trade name of the article and manufacturer's name.
2. Percentage of color, dye, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound contained therein, exclusive of diluents.
3. Schultz or color index number, if any. If none, the chemical, classification of the dye (whether azo, anthraquinone, sulphur etc.), and the method of application (whether acid, basic, direct, etc., with after treatment, if any), together with a statement of the chemical composition of the intermediates from which the finished dye is made.
4. In the absence of a Schultz or color index number of a dye consisting of a mixture of two or more dyes, then the information required by paragraphs 1, 2, and 3 (except the method of application), for each component dye in the mixture shall be given, together with the method of application of the mixture.

PROCEDURE UNDER ANTIDUMPING ACT

ART. 787. *Finding of dumping by Secretary.*—Antidumping Act, 1921, section 201 (a):

That whenever the Secretary of the Treasury (hereinafter in this act called the "Secretary"), after such investigation as he deems necessary, finds that an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than its fair value, then he shall make such finding public to the extent he deems necessary, together with a description of the class or kind of merchandise to which it applies in such detail as may be necessary for the guidance of the appraising officers.

ART. 788. *Publication of findings.*—Findings of the Secretary of the Treasury made in accordance with the provisions of section 201 (a) of the Antidumping Act, 1921, will be published in the Treasury Decisions with a description of the class or kind of merchandise to which they apply in such detail as may be necessary for the guidance of customs officers.

ART. 789. *Fair value.*—Merchandise is sold at less than its fair value within the meaning of section 201 (a) of the act if the purchase price or exporter's sales price of such merchandise is less than its foreign-market value (or in the absence of such value, than the cost of production).

ART. 790. *Action by appraiser when not finding of dumping has been published.*—(*a*) Antidumping Act, 1921, section 201 (b):

Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the appraiser or person acting as appraiser has reason to believe or suspect, from the invoice or other papers or from information presented to him, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the cost of production) he shall forthwith, under regulations prescribed by the Secretary, notify the Secretary of such fact and withhold his appraisement report to the collector as to such merchandise until the further order of the Secretary, or until the Secretary has made public a finding as provided in subdivision (a) in regard to such merchandise.

(*b*) When the appraiser has reason to believe or suspect that merchandise is imported in violation of the antidumping act, he shall immediately request the importer thereof or his authorized agent to appear before him in order that he may obtain whatever information the importer or his agent may have relative to the matter.

(*c*) Upon the appearance of the importer or his agent, he shall be questioned in order to ascertain—

First. The person by whom or for whose account the merchandise is imported.

Second. The facts necessary to establish whether such person is or is not the exporter within the meaning of section 207.

Third. The nature and amount of each item to be added to or deducted from the basic price in accordance with section 203 or section 204, in order to determine the purchase price or the exporter's sales price, as the case may be.

Fourth. His knowledge, if any, of the wholesale foreign-market value, the price to countries other than the United States, or the cost of production.

Fifth. The reason for the price differential.

Sixth. The relative wholesale quantities, if the difference in such quantities is claimed in whole or in part as the reason for the price differential.

(*d*) If the appraising officer is then satisfied that there is no reasonable ground for his belief or suspicion, he may pass the merchandise in the usual manner without giving notice to the Secretary.

(*e*) If the appraiser is not satisfied, he shall require the importer or his agent to file an affidavit on one of the following forms, according to the circumstances of the case:

[Form 1]

NONEXPORTER'S AFFIDAVIT

ANTIDUMPING ACT OF 1921

Re: Entry No_____ Consular Invoice No_____
Certified at_____ on_____
Import vessel or carrier_____ Arrived_____, 193__

I, _____, do solemnly swear that I am not the exporter as defined in section 207 of the act of May 27, 1921, of the merchandise covered by the aforesaid entry. I further declare that the merchandise was purchased on_____ _____and that the purchase price is_____.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 193 .

_____
_____

[Form 2]

EXPORTER'S AFFIDAVIT WHERE SALES PRICE IS KNOWN

ANTIDUMPING ACT OF 1921

Re: Entry No_____ Consular Invoice No_____
Certified at_____ on_____
Import vessel or carrier_____ Arrived_____, 193__

I, _____, do solemnly swear that I am the exporter as defined in section 207 of the act of May 27, 1921, of the merchandise covered by the aforesaid entry; that the merchandise is sold or agreed to be sold at the prices stated in the attached statement; that, if any or all of the aforesaid items are actually sold at prices different from those set forth in the attached statement, I will immediately notify the appraiser in detail.

The merchandise was acquired by me in the following manner: _____
and has been sold or agreed to be sold to_____at_____
(State price)

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 193 .

_____
_____

[Form 3]

EXPORTER'S AFFIDAVIT WHERE SALES PRICE IS NOT KNOWN

ANTIDUMPING ACT OF 1921

Re: Entry No_____ Consular Invoice No_____
Certified at_____ on_____
Import vessel or carrier_____ Arrived_____, 193__

I, _____, do solemnly swear that I am the exporter as defined in section 207 of the act of May 27, 1921, of the merchandise covered by the aforesaid entry, and that the prices at which the various items will be sold in the United States are not known. I hereby stipulate that I will keep a record of the sales and furnish the appraiser with a sworn statement showing the detailed prices of the various items, within 30 days after the sale thereof. I further stipulate that at the end of six months from the date of entry if the merchandise has not been sold or agreed to be sold, in whole or in part, I will so report to the appraiser.

This merchandise was acquired by me in the following manner: _____

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 193 .

_____
_____

[Form 4]

EXPORTER'S AFFIDAVIT WHERE MERCHANDISE IS NOT SOLD AND WILL NOT BE SOLD

ANTIDUMPING ACT OF 1921

Re: Entry No_____ Consular Invoice No_____
Certified at_____ on_____
Vessel or carrier_____ Arrived_____, 193__

I, _____, do hereby solemnly swear that I am the exporter as defined in section 207 of the act of May 27, 1921, of the merchandise covered by the aforesaid entry, and that such merchandise will not be sold in the United States for the following reasons: _____

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 193 .

_____
_____

(*f*) On all subsequent importations by the same person of merchandise of the same class or kind as that under investigation the appraiser may waive any further appearance by the importer, provided the importer or his agent attaches to the invoice at time of entry the necessary affidavit.

(*g*) The appraiser shall use the facilities at his disposal to secure the appearance of importers, the filing of affidavits, and when necessary, proof of exporter's sales prices, or proof of nonsales, referring such of these matters as he may deem advisable to the customs agent in charge of the district for investigation.

(*h*) Whenever an affidavit (Form 4) has been filed by an exporter showing that merchandise of a class or kind under investigation will not be sold in the United States, the appraiser may pass the merchandise in the usual manner without giving notice of suspected dumping, if he is satisfied that no evidence to the contrary can be obtained.

(*i*) If the appraiser or person acting as appraiser has reason to believe or suspect that the purchase price is less or that the exporter's sales price is less or is likely to be less than the foreign-market value (or in the absence of such value, than the cost of production), he shall inform the Commissioner of Customs of all the facts upon which his belief or suspicion is based including the source of his information. If it shall affirmatively appear (although it may not be conclusively established), after receipt from the Commissioner of any data in the Bureau of Customs bearing on the matter, that the purchase price is less or that the exporter's sales price is less or is likely to be less than the foreign-market value or cost of production, as the case may be, the appraiser shall immediately send notice of such fact on customs Form 6439 to the Secretary of the Treasury, setting forth the reasons for his belief or suspicion and withhold his appraisement report until the further order of the Secretary or until the Secretary has made public a finding in respect to such merchandise as provided for in section 201 (a) of the antidumping act. Copies of such notice on customs Form 6439 shall be sent to the importer, the collector, and the Customs Information Exchange.

(*j*) A separate notice shall be given by the appraiser for each importation of each class or kind of merchandise and copies thereof shall be sent to the collector of customs at the port of importation, the importer and to the Customs Information Exchange. The notice shall contain the prices and value of the merchandise and a description of the merchandise sufficient for its identification and comparison with products of American industry, giving trade designation, construction material, quality, size and use, and how packed and prepared. Whenever practicable the copy of the notice sent to the Customs Information Exchange should be accompanied by samples, cuts, prints, or photographs. The notice shall also specify what allowance, if any, has been made for difference in quantities. The advisory classification and rate of duty applying shall also be shown. In the event that the foreign-market value or cost of production of the merchandise is not definitely known by the appraising officer, the copies of the notice of suspected dumping sent to the Secretary, the collector and the Customs Information Exchange shall indicate the source of his information and what further investigation abroad is required.

(*k*) If, after the issuance of a dumping notice by an appraiser, new evidence is submitted to him, which satisfies him that the purchase price or the exporter's sales price is not less than the foreign-market value (or, in the absence of such value, than the cost of production), and that in consequence thereof no dumping exists, he may, with the

approval of the Secretary, withdraw his notice. When requesting the Secretary's approval the appraiser shall state the reasons for the withdrawal and notify the collector and the antidumping unit of his action.

(*l*) No appraisement report shall be made to the collector in the case of any merchandise of a class or kind as to which any appraising officer has given notice to the Secretary until the Secretary issues further instructions, approves the withdrawal of the notice, or makes public a finding in respect to such merchandise as provided in section 201 (a), provided that if in the case of any importation the appraiser believes that no dumping exists, he may, with the approval of the Commissioner, pass the merchandise in the usual manner.

(*m*) Appraisement reports may be withheld pending investigation to determine whether or not the purchase price or the exporter's sales price, as the case may be, is less than the foreign-market value (or, in the absence of such value, than the cost of production). When appraisement reports are withheld pending investigation, and no notice of suspected dumping has been issued, the appraiser shall advise the Commissioner, the collector, the importer, and the Customs Information Exchange, in the following form:

NOTICE OF WITHHELD APPRAISEMENT

_____
(Port) (Date)

Appraisement is being withheld on _____
(Merchandise)

_____
(Invoice No.) (Entry No.) (Date) (Country of exportation) pending investigation as to whether or not the said merchandise is being imported in violation of the Antidumping Act, 1921.

_____
Appraiser.

In the copies of this form sent to the Commissioner, the collector, and the Customs Information Exchange, the appraiser should indicate the nature and extent of the foreign investigation desired. The appraising officer shall at the same time supply the Customs Information Exchange with all necessary information with respect to invoices to enable that agency to draft appropriate instructions to Treasury attachés and representatives abroad.

ART. 791. *Preliminary report of suspected dumping.*—Upon receipt of information from an appraising officer of his belief or suspicion that the purchase price or exporter's sales price of a class or kind of imported merchandise is less than the foreign-market value (or in the absence of such value, than the cost of production) as provided for in article 790 (*i*) of these regulations, the Commissioner of Customs shall communicate to such appraising officer any information pertinent to the matter which may be available to him together with such comment or suggestions as he may deem appropriate. The Commissioner may also direct that there shall be made such additional investigation or investigations as he may deem necessary.

ART. 792. *Investigation as to injury to domestic industry.*—Should the Commissioner of Customs concur in the belief or suspicion of the appraising officer or should such appraising officer issue a notice of suspected dumping after completion of any additional investigations directed by the Commissioner, the Commissioner shall order or conduct, with the aid of the personnel of the Bureau of Customs and the customs field service, such investigation or investigations as he may deem necessary for the purpose of collecting such information, data, and facts as may be obtainable bearing on the question of whether an industry in the United States is being injured or is likely to be injured or is being prevented from being established by reason of the importation of merchandise of the class or kind involved. Upon completion of such investigation or investigations, the Commissioner shall submit to the Secretary of the Treasury, for the purpose of a decision, all reports, affidavits, data, and information in the files of the Bureau of Customs having a bearing on the case together with a brief analysis of the same and any comment or recommendation in respect thereto which he may deem appropriate.

ART. 793. *Special dumping duty.*—(*a*) Antidumping Act, 1921, section 202 (a):

That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been made public, if the purchase price or the exporter's sales price is less than the foreign-market value (or, in the absence of such value, than the cost of production) there shall be levied, collected, and paid, in addition to the duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

(*b*) Special dumping duty will attach when the conditions outlined in article 842 of the regulations are present.

(*c*) The method of computing dumping duty shall be as set forth in article 844 of the regulations.

ART. 794. *Action by appraiser when Secretary has made public a finding.*—(*a*) Antidumping Act, 1921, section 202 (b):

If it is established to the satisfaction of the appraising officers that the amount of such difference between the purchase price and the foreign-market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers for exportation to the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign-market value for the purposes of this section.

(*b*) Antidumping Act, 1921, section 202 (c):

If it is established to the satisfaction of the appraising officers that the amount of such difference between the exporter's sales price and the foreign-market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign-market value for the purposes of this section.

(*c*) In the case of imported merchandise of a class or kind as to which the Secretary has made public a finding as provided for in section 201 (a), the provisions of article 790 relating to appearance of the importer and requiring affidavits shall be followed. If the appraiser is satisfied that the purchase price or the exporter's sales price is not less than the foreign-market value (or cost of production), he may pass the merchandise in the usual manner and make his report to the collector on the form provided for in this article.

(*d*) Antidumping Act, 1921, section 209:

That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, it shall be the duty of each appraiser or person acting as appraiser, by all reasonable ways and means, to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of cost of production to the contrary notwithstanding) and report to the collector the foreign market value or the cost of production, as the case may be, the purchase price and the exporter's sales price and any other facts which the Secretary may deem necessary for the purposes of this title.

(*e*) The report of the appraiser shall be made in the following form:

APPRAISEMENT REPORT UNDER ANTIDUMPING ACT, 1921

Finding of the Secretary dated _____, T. D. _____ applies.

The importer of this merchandise is an {importer / exporter} under the law.

Foreign-market value on date of purchase _____

Purchase price (section 203) _____

Foreign-market value on date of exportation _____

Exporter's sales price (section 204) _____

Cost of production _____

(*f*) Whenever merchandise has been purchased by a person who is not an exporter within the meaning of section 207 of the act, the appraiser shall report the purchase price and the foreign-market value on the date of purchase (or, in the absence of such value, the cost of production).

(*g*) Whenever merchandise is imported by a person who is an exporter within the meaning of section 207 of the act, the appraiser shall report the exporter's sales price and the foreign-market value on date of exportation (or, in the absence of such value, the cost of production).

(*h*) Whenever an importer has filed an affidavit on Form 4 that the merchandise will not be sold in the United States, the appraiser, if he has no evidence to the contrary, shall report "Merchandise will not be sold in the United States."

(*i*) Whenever an importer has filed an affidavit on Form 3 and no report of the exporter's sales price has been received within 6 months after the date of entry, the appraiser shall ascertain whether the merchandise has been sold or freely offered for sale, and if so at what price, or the disposition or probable disposition of such merchandise if not sold. If the appraiser ascertains that no sale of the merchandise has been made and that no likelihood of a sale exists, he shall return the invoice to the collector with a statement of the facts as he finds them.

ART. 795. *Action by the collector.*—(*a*) Affidavits filed at the time of entry as required by article 790 of these regulations shall be attached to the invoices for transmission to the appraiser, who shall return them with his appraisement report to the collector.

(*b*) When the appraiser has returned an invoice with a report that the merchandise has not been sold within 6 months from the date of entry the collector shall refer the matter to the Commissioner of Customs for his instructions pending the liquidation of the entry.

(*c*) Antidumping Act, 1921, section 208:

That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person has made oath before the collector, under regulations prescribed by the Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector, in an amount equal to the estimated value of the merchandise, conditioned: (1) That he will report to the collector the exporter's sales price of the merchandise within 30 days after such merchandise has been sold or agreed to be sold in the United States, (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by this title upon such merchandise, and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.

(*d*) The oaths and affidavits required or authorized under the antidumping act or regulations thereunder may be executed before any customs officer designated to administer oaths under the provisions of section 486 (a) of the Tariff Act of 1930.

(*e*) The bond required by section 208 of the antidumping act shall be on customs Form 7591. A separate bond shall be given for each importation or withdrawal and such bond shall be in addition to any other bond required by law or regulations. When the collector has received a notice of withheld appraisement under the Antidumping Act, 1921, as provided in article 790 (*m*) of these regulations, no merchandise of the class or kind covered by the notice, whether in examination packages, nonexamination packages, in bulk, or otherwise, shall be released from the warehouse, appraiser's stores or any other place unless a single consumption entry bond, customs Form 7551, covering each shipment, is executed. The penalty of the single consumption entry bond in such cases shall be an amount equal to the value of the articles described on the entry plus the estimated duties thereon, except that, in the case of merchandise which appears to the satisfaction of the collector to be otherwise unconditionally free of duty and not prohibited from admission into the commerce of the United States, the penalty may be in such lesser amount (disregarding the value of the articles) as in the opinion of the collector will be sufficient to accomplish the purpose for which the bond is given, but in no case less than $100.

(*f*) The records of sales required under the conditions of the bond required by section 208 shall show the entry number of the merchandise, the importing vessel or vehicle, the date of arrival, the sale price or prices of the merchandise, and the date or dates of sale thereof.

ART. 796. *Appeals and protests.*—(*a*) Antidumping Act, 1921, section 210:

That for the purposes of this title the determination of the appraiser or person acting as appraiser as to the foreign market value or the cost of production, as the case may be, the purchase price, and the exporter's sales price, and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; and the general appraisers, the Board of General Appraisers, and the Court of Customs Appeals shall have the same jurisdiction, powers, and duties in connection with such appeals and protests as in the case of appeals and protests relating to customs duties under existing law.

NOTE.—The name of the Board of General Appraisers has been changed by subsequent legislation to "United States Customs Court" and that of the Court of Customs Appeals to "United States Court of Customs and Patent Appeals."

(*b*) Notice of appraiser's returns should be sent by the collector to the importer, consignee, or agent, as in cases of advances in value.

ART. 797. *Conversion of currencies.*—Whenever it is necessary to convert currencies for the purpose of determining the difference between the purchase price or the exporter's sales price and the foreign-market value as outlined in sections 201 (b) and 202 (a) of the antidumping act, the following method will be followed:

(1) Where the purchase price is in United States currency and the foreign-market value is in a foreign currency, then the foreign-market value shall be converted into United States currency as of the date of purchase or agreement to purchase.

(2) Where the purchase price is in a foreign currency, and the foreign-market value is in the same foreign currency, then both the purchase price and the foreign-market value shall be converted into United States currency as of the date of purchase or agreement to purchase.

(3) Where the purchase price is in a foreign currency, and the foreign-market value is in a different foreign currency, then both the purchase price and the foreign-market value shall be converted into United States currency as of the date of purchase or agreement to purchase.

(4) Where the exporter's sales price is in United States currency and the foreign-market value is in a foreign currency, then the foreign-market value shall be converted into United States currency as of the date of exportation.

(5) Where the exporter's sales price is in a foreign currency and the foreign-market value is in the same foreign currency, then both the exporter's sales price and the foreign-market value shall be converted into United States currency as of the date of exportation.

(6) Where the exporter's sales price is in a foreign currency and the foreign-market value is in a different foreign currency, then both the exporter's sales price and the foreign-market value shall be converted into United States currency as of the date of exportation.

ART. 798. *Drawback.*—Antidumping Act, 1921, section 211:

That the special dumping duty imposed by this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

ART. 799. *Definitions.*—Antidumping Act, 1921:

(a) SEC. 203. *Purchase price.*—That for the purposes of this title, the purchase price of imported merchandise shall be the

price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

(b) SEC. 204. *Exporter's sales price.*—That for the purpose of this title the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

(c) SEC. 205. *Foreign market value.*—That for the purposes of this title the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

(d) SEC. 206. *Cost of production.*—That for the purposes of this title the cost of production of imported merchandise shall be the sum of—

(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing, identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

(2) The usual general expenses (not less than 10 per centum of such cost) in the case of identical or substantially identical merchandise;

(3) The cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration.

(e) SEC. 207. *Exporter.*—That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States;

(1) If such person is the agent or principal of the exporter, manufacturer, or producers; or

(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person; or

(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

(f) SEC. 406. *Persons—United States.*—That when used in title II or title III or in this title—

The term *person* includes individuals, partnerships, corporations, and associations; and

The term *United States* includes all territories and possessions subject to the jurisdiction of the United States, except the Philippine Islands, the Virgin Islands, the islands of Guam and Tutuila, and the Canal Zone.

CHAPTER XIII

RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPPED

CASUALTY LOSS AND THEFT

PERISHABLE MERCHANDISE CONDEMNED

ABANDONMENT

EXCESSIVE MOISTURE AND OTHER IMPURITIES

SHORTAGES

LOSS OF WINES AND LIQUORS IN TRANSIT

NONIMPORTATION

CASUALTY LOSS AND THEFT

ART. 800. *Abatement or refund of duty authorized.*—(a) Tariff Act of 1930, section 563 (a):

In no case shall there be any abatement or allowance made in the duties for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in customs custody, except that the Secretary of the Treasury is authorized, upon production of proof satisfactory to him of the loss or theft of any merchandise while in the appraiser's stores, or of the actual injury or destruction, in whole or in part, of any merchandise by accidental fire or other casualty, while in bonded warehouse, or in the appraiser's stores, or while in transportation under bond, or while in the custody of the officers of the customs, although not in bond, or while within the limits of any port of entry and before having been landed under the supervision of the officers of the customs, to abate or refund, as the case may be, the duties upon such merchandise, in whole or in part, and to pay any such refund out of any moneys in the Treasury not otherwise appropriated, and to cancel any warehouse bond or bonds, or enter satisfaction thereon in whole or in part, as the case may be, but no abatement or refund shall be made in respect of injury or destruction of any merchandise in bonded warehouse occurring after the expiration of three years (or ten months in the case of

grain) from the date of importation. The decision of the Secretary of the Treasury as to the abatement or refund of the duties on any such merchandise shall be final and conclusive upon all persons.

The Secretary of the Treasury is authorized to prescribe such regulations as he may deem necessary to carry out the provisions of this subdivision and he may by such regulations limit the time within which proof of loss, theft, injury, or destruction shall be submitted, and may provide for the abatement or refund of duties, as authorized herein, by collectors of customs in cases in which the amount of the abatement or refund claimed is less than $25 and in which the importer has agreed to abide by the decision of the collector. The decision of the collector in any such case shall be final and conclusive upon all persons.

Any case pending before the United States Customs Court upon the effective date of this Act, under the provisions of section 563 of the Tariff Act of 1922, may, with the consent of the parties and the permission of the court, be transferred to the Secretary of the Treasury, or to the collector, for consideration and final determination in accordance with the provisions of this subdivision. * * *

(*b*) Tariff Act of 1930, paragraph 398:

No allowance or reduction of duties for partial loss or damage in consequence of rust or of discoloration shall be made upon any description of iron or steel, or upon any article wholly or partly manufactured of iron or steel, or upon any manufacture of iron or steel.

ART. 801. *Application—Evidence—Report.*—(*a*) No abatement or refund will be made unless there shall be filed within 30 days from the date of discovery of the loss, theft, injury, or destruction an application in duplicate on customs Form 4315, and within 90 days from the said date the evidence of such loss, theft, injury, or destruction hereinafter required is submitted.

(*b*) The application and evidence shall be filed with the collector of customs at the port where the loss, theft, injury, or destruction occurred, except that in the case of total loss by fire or other casualty of merchandise while in transportation under bond, the application and evidence shall be filed at the port at which the transportation entry was made; and in the case of partial destruction of or injury to such merchandise, they shall be filed with the collector at the port of destination unless the merchandise is returned to the port at which the transportation entry was made, in which case the application shall be filed at that port. In the case of partial destruction or injury no application will be entertained unless the appraiser shall have had an opportunity to examine the merchandise or the remainder thereof for the purpose of fixing the percentage of injury or destruction.

(*c*) The collector will submit the application to the appraiser for the appraisement of the merchandise and a report as to all facts in the case within the knowledge of his office. The collector will cause such further investigation to be made as he may deem necessary and will forward to the Bureau of Customs a report thereof, accompanied by the application and evidence and the appraiser's report. The collector's report shall include a statement as to the date of maturity of the bond, if any, the amount due thereon, and the amount of duty paid or due.

(*d*) All applications and documents in support thereof shall be stamped with the date of receipt in the customhouse.

(*e*) No allowance will be made for any injury, deterioration, loss, or damage occurring after a permit for the release of the merchandise has been presented to the customs officer having custody thereof and accepted by him.

ART. 802. *Evidence of loss, theft, injury, or destruction.*—(*a*) In the case of alleged loss or theft while in the appraiser's stores, there shall be filed an affidavit of the importer, owner, or ultimate consignee that he did not receive the merchandise and that to the best of his knowledge and belief it was lost or stolen as alleged in the application; and, in case the alleged loss or theft consists of only a part of an examination package and was discovered after the release of the package from customs custody, the following evidence shall be submitted:

(1) An affidavit of each cartman, lighterman, or other carrier handling the package between the appraiser's stores and the place of delivery, setting forth the condition of the package at the time of receipt and delivery by him, and whether or not there was any abstraction of the merchandise while the package was in his possession.

(2) An affidavit of the employee of the importer, owner, or consignee who first received the package as to whether or not he examined the same at the time of receipt, and, if so, as to its condition at that time.

(3) An affidavit of the employee who opened the package that the alleged missing merchandise was not found by him in the said package or in any other package.

(*b*) In the case of injury or destruction by accidental fire or other casualty, the following evidence shall be submitted by the applicant:

(1) An affidavit of the master of the vessel, the conductor or driver of the vehicle, the proprietor of the warehouse, or other person (except a customs officer) having charge of the merchandise at the time of the casualty, stating the time, place, and nature of such casualty; that the merchandise was on board the vessel or vehicle, in the warehouse, or otherwise in his charge, as the case may be, at the time of the casualty; and that it was totally destroyed and there is no probability of recovering or saving any part thereof, or that it was injured as the result of the casualty.

(2) The bill of lading, the entry, and the invoice, or certified copies thereof, covering the merchandise, unless such documents are already in the possession of the collector at the port where the claim is filed.

(3) A sworn copy of the insurance appraiser's report, if any.

ART. 803. *Allowance by the collector.*—(*a*) When the amount of the abatement or refund found due by the collector is less than $25, the abatement or refund may be made by the collector and the entry liquidated or reliquidated accordingly, without submitting the claim to the Bureau of Customs, provided the claimant shall have agreed in writing to abide by the collector's decision.

(*b*) In such cases the collector may waive the production of any of the evidence above required, provided the validity of the claim is otherwise established to his satisfaction.

PERISHABLE MERCHANDISE CONDEMNED

ART. 804. *Allowance authorized.*—(*a*) Tariff Act of 1930, section 506 (2):

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

* * * * *

(2) Where fruit or other perishable merchandise has been condemned at the port of entry, within 10 days after landing, by the health officers or other legally constituted authorities, and the consignee, within 5 days after such condemnation, files with the collector written notice thereof, an invoiced description and the location thereof and the name of the vessel or vehicle in which imported.

(*b*) The date of landing is held to be the date of arrival at the port of destination in the case of merchandise forwarded in bond without appraisement.

ART. 805. *Notice—Investigation—Allowance.*—(*a*) Upon the receipt of a notice of condemnation the collector shall stamp thereon the date of receipt thereof in the customhouse, and shall cause an investigation to be made by two customs officers, who shall make a report to the collector in writing as to the identity and quantity of the fruit or perishable articles condemned and whether or not the same were condemned within 10 days after landing.

(*b*) If it appears from the evidence submitted by the importer and the report of the investigating officers that the merchandise was condemned within 10 days after the landing thereof, and a timely notice was filed, allowance for the articles so condemned may be made in the liquidation of the entry.

ABANDONMENT

ART. 806. *Allowance authorized.*—(*a*) Tariff Act of 1930, section 506 (1):

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) Where the importer abandons to the United States, within 30 days after entry in the case of merchandise not sent to the appraiser's stores for examination, or within 30 days after the release of the examination packages or quantities of merchandise in the case of merchandise sent to the appraiser's stores 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 in which the item appears, and delivers, within the applicable 30-day period, the portion so abandoned to such place as the collector directs unless the collector is satisfied that the merchandise is so far destroyed as to be nondeliverable;

(*b*) Tariff Act of 1930, section 557:

* * * * *

Merchandise entered under bond, under any provision of law, may, upon payment of all charges other than duty on the merchandise, be destroyed, at the request and at the expense of the consignee, within the bonded period under customs supervision, in lieu of exportation, and upon such destruction the entry of such merchandise shall be liquidated without payment of duty and any duties collected shall be refunded.

(c) Tariff Act of 1930, section 563 (b):

Under such regulations as the Secretary of the Treasury may prescribe and subject to any conditions imposed thereby the consignee may at any time within 3 years (or 10 months in the case of grain) from the date of original importation, abandon to the Government any merchandise in bonded warehouse, whereupon any duties on such merchandise may be remitted or refunded as the case may be, but any merchandise so abandoned shall not be less than an entire package and shall be abandoned in the original package without having been repacked while in a bonded warehouse (other than a bonded manipulating warehouse).

ART. 807. *Abandonment under section 506 (1).*—(*a*) A written notice of abandonment must be filed with the collector of customs at the port where the consumption entry is filed within 30 days after the date of entry as defined in article 286 or, in the case of examination packages, within 30 days after release, whether or not delivery is taken by the importer immediately after entry or release as the case may be. All such notices shall be stamped with the date of receipt in the customhouse.

(*b*) The collector shall cause the abandoned merchandise to be examined and identified with that described in the invoice used in making the entry. Merchandise abandoned under section 506 (1) must be identified to the satisfaction of the collector; and when repacking is necessary to segregate it from the balance of the shipment, such repacking should be done at the expense of the importer under customs supervision.

ART. 808. *Abandonment or destruction of merchandise in bond.*—(*a*) Applications for the abandonment or destruction of merchandise in bond must be made in writing to the collector by the consignee or his duly qualified representative, and shall be stamped with the date of receipt in the customhouse. When an application is for permission to destroy, the proposed method of destruction must be stated and approved by the collector. Applications to abandon or destroy merchandise in warehouse must be concurred in by the warehouse proprietor.

(*b*) When, in the opinion of the collector, the abandonment of merchandise under section 563 (b), Tariff Act of 1930, will involve any expense or cost to the Government, or the merchandise is worthless or unsalable, or cannot be sold for a sum sufficient to pay the expenses of sale, the applicant may elect to destroy such merchandise under customs supervision, pursuant to the provisions of section 557, and should be so informed. If the applicant does not so elect, he should be required to advance a sum which, in the opinion of the collector, will be sufficient to save the Government harmless from any expense or cost resulting from such abandonment. The sum so advanced will be placed in special deposit account and expended to cover the cost of destruction or to meet any deficit should the merchandise be sold and the proceeds of sale be less than the expenses of such sale. After meeting such expenses or deficit, any balance remaining will be refunded to the applicant.

(*c*) Where the above conditions are met, collectors of customs may grant applications without reference to the Bureau of Customs. In any case where doubt exists the case should be referred to the bureau for instructions.

ART. 809. *Disposition of abandoned merchandise and proceeds of sale.*—Sale of abandoned merchandise will be made in accordance with the provisions of chapter XVIII so far as applicable. No part of the proceeds shall be returned to the importer. After paying, first, the expenses of sale, and, second, carriers' lien for freight, charges, or contribution in general average, the net proceeds, if any, shall be deposited under "Miscellaneous Receipts from Customs." If the abandoned merchandise or any part thereof is entirely worthless, or if the expenses of sale probably would exceed the proceeds, the merchandise shall be destroyed or otherwise disposed of as the collector may direct, but no abandonment claim relating to such merchandise shall be certified by a customs officer who has not satisfied himself as to the quantity of the abandoned portion of the shipment and that the entire quantity of the goods covered by the collector's instructions as to disposition has been actually destroyed or removed from the control of the claimant so that there is no possibility of its being made the subject of another claim.

EXCESSIVE MOISTURE AND OTHER IMPURITIES

ART. 810. *Allowance authorized.*—Tariff Act of 1930, section 507:

The Secretary of the Treasury is hereby 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 in no case shall there be any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise.

ART. 811. *Application—Procedure.*—(*a*) Application for an allowance for excessive moisture or other impurities shall be made on customs Form 4317 and filed with the collector of customs within 10 days after the return of weight has been received by him. The collector shall stamp the application with the date of receipt in the customhouse.

(*b*) The collector shall cause such investigation to be made as may be necessary to determine whether or not the merchandise contains excessive moisture or other impurities not usually found in or upon such or similar merchandise, together with the amount thereof, and may, if necessary, refer the application to the appraiser for such determination.

(*c*) If the collector shall be satisfied from the reports received that the claim is valid, due allowance shall be made in the liquidation of the entry.

SHORTAGES

ART. 812. *Packages.*—No allowance will be made in the assessment of duties for lost or missing packages appearing on the entry, unless shown by the report of the discharging officer not to have been landed, and unless the importer shall make affidavit on customs Form 4311 and file same with the collector within 30 days after the date of written notice of shortage (customs Form 4311), which the collector shall mail to the importer immediately upon report of the shortage to him. Such affidavits must be stamped with the date of receipt at the customhouse. The foregoing shall not apply in the case of merchandise arriving under an I. T. entry when the shortage is one for which the bonded carrier is responsible under its bond.

ART. 813. *Deficiencies in contents of packages.*—(*a*) Tariff Act of 1930, section 499:

* * * * *

If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the collector, who shall make allowance therefor in the liquidation of duties.

(*b*) When a deficiency in any package is reported to the collector by the appraiser or other customs officer, allowance

shall be made, unless it shall appear upon inquiry which shall be made by the collector that the missing merchandise was actually received by the importer in some other package of the importation or otherwise.

(c) There shall be no allowance for shortage in an unexamined package unless claim of shortage is filed with the collector within ten days from its discovery and evidence satisfactory to the collector is produced that the missing articles were not landed within the United States. Such evidence shall consist of (1) affidavit of the cartman, lighterman, or other carrier handling the shipment between the place of landing and the place of delivery, that the packages were in good order at the time of receipt and delivery by him and there was no abstraction of the merchandise while the packages were in his possession; (2) affidavit of the employee of the importer who opened the package that the shortage was found by him, the date of its discovery, and that he did not find the missing articles in any other package; (3) affidavit of the importer, owner, or ultimate consignee that the goods claimed short were not received by him or for his account, and that he believes that they were not imported; (4) a copy of the claim, if any, made upon the shipper for credit on account of the shortage, and the reply thereto, if any has been received.

LOSS OF WINES AND LIQUORS IN TRANSIT

ART. 814. *Allowance authorized.*—Tariff Act of 1930, paragraph 813:

There shall be no constructive or other allowance for breakage, leakage, or damage on wines, liquors, cordials, or distilled spirits, except that when it shall appear to the collector of customs from the gauger's return, verified by an affidavit by the importer to be filed within 5 days after the delivery of the merchandise, that a cask or package has been broken or otherwise injured in transit from a foreign port and as a result thereof a part of its contents, amounting to 10 per centum or more of the total value of the contents of the said cask or package in its condition as exported, has been lost, allowance therefor may be made in the liquidation of the duties.

ART. 815. *Definitions—Outages.*—(a) "Delivery" shall be construed to be effected at the time when merchandise is actually delivered by the carrier or on its order either directly to the importer or to the storekeeper in charge of a bonded warehouse. Where gauging is delayed until after the merchandise has been deposited in a bonded warehouse, date of delivery shall be construed to be the date of the completion of the gauging. Allowance shall be made only for such losses as occurred prior to the gauging of the merchandise.

(b) When merchandise is forwarded under an immediate transportation entry delivery shall be construed to be effected at the port of destination under the above conditions.

(c) The use of the term "broken or otherwise injured" precludes an allowance for loss resulting from ordinary leakage. Unlading inspectors should particularly note whether casks or packages which are in bad order are broken or injured. When a cask or package arrives with loose staves or headpieces breakage or injury will be presumed. Losses out of a package which has been plugged, but is otherwise in good condition, will be considered to be due to causes other than breakage or other injury.

(d) "Contents in condition as exported" is held to mean the invoiced quantities, provided specifications are given for each individual package, otherwise the "contents exported" shall be held to be the gross capacities returned by the gauger.

(e) Outages not within the scope of the preceding subdivisions of this article by reason of being under 10 percent or not being the kind of loss provided in the law, or by failure to file timely affidavit, will be subject to an allowance of 2½ percent for normal outage from the capacity as shown by the gauger's return or the invoice quantity, according to the circumstances.

NONIMPORTATION

ART. 816. *Articles damaged and worthless at the time of importation.*—When a shipment of merchandise, whether perishable or nonperishable, or any portion thereof which shall have been segregated from the remainder of the shipment under customs supervision at the expense of the importer, is found by the appraising officer to be entirely without commercial value by reason of damage or deterioration and is so reported to the collector in the appraisement return, an allowance in duties on such merchandise on the ground of nonimportation should be made in the liquidation of the entry.

CHAPTER XIV

LIQUIDATION OF DUTIES

REGULAR DUTIES

SPECIAL DUTIES

REGULAR DUTIES

ART. 817. *Liquidation required.*—(a) Tariff Act of 1930, section 505:

The consignee shall deposit with the collector, at the time of making entry, unless the merchandise is entered for warehouse or transportation, or under bond, the amount of duty estimated to be payable thereon. Upon receipt of the appraiser's report and of the various reports of landing, weight, gauge, or measurement the collector shall ascertain, fix, and liquidate the rate and amount of duties to be paid on such merchandise as provided by law and shall give notice of such liquidation in the form and manner prescribed by the Secretary of the Treasury, and collect any increased or additional duties due or refund any excess of duties deposited as determined on such liquidation.

(b) All entries, except those for transportation in bond, shall be liquidated in accordance with the following procedure.

ART. 818. *Definition of liquidation—Procedure.*—(a) Liquidation of entries is the final computation or ascertainment of the duties accruing thereon.

(b) The collector should see that the report of the appraisement on customs Form 6417 is dated and signed by the appraiser, the chief assistant appraiser or an acting appraiser.

(c) The collector should determine whether the advisory classification of the appraiser is correct, and if it is not, he should so inform that officer. Where such classification is made under a paragraph providing a minimum or a maximum rate, the appraiser's duty is performed by properly describing the merchandise in tariff terms and citing the paragraph under which he advises classification (e. g., "men's gloves, chief value leather, 15 inches long, lined with wool, par. 1532 (a)"); it then becomes the duty of the collector to decide whether the advisory classification is cor-

rect, and if so, to calculate and determine whether the minimum or maximum rate of duty applies to each item of the invoice. In the case of mail and informal entries, a description of the merchandise in tariff terms and the paragraph under which the merchandise is dutiable should appear on the entry.

(*d*) (1) In the computation of duty on entries, ad valorem rates will be applied to the value in even dollars, fractional parts of a dollar less than 50 cents being disregarded and if 50 cents or more being considered as $1; all merchandise in the same invoice subject to the same dutiable classification and the same rate of duty to be treated as a unit. When necessary, fractional parts of a dollar, whether more or less than 50 cents, may be dropped or taken up as whole dollars in order not to increase or decrease the total dutiable value of the invoice. If in such cases it is necessary to drop fractional parts of a dollar amounting to 50 cents or more, the lower fractions shall be dropped, and if it is necessary to take up as whole dollars fractional parts less than 50 cents, the larger fractions shall be taken. In the case of two equal fractions, the one subject to the lower rate of duty shall be dropped or taken up as the case may be. In determining a rate of duty dependent upon value, fractional parts of a dollar will be considered. If the rate of duty upon such entries is specific and $1 or less per unit, fractional quantities if less than one-half will be disregarded, and if one-half or more will be treated as a whole unit. If the specific rate is more than $1 per unit, duty will be assessed upon the exact quantity and the fractional part thereof, if any, expressed in the form of a decimal extended to two places.

(2) In the computation of internal-revenue taxes on distilled spirits imported in barrels, kegs, or similar containers the quantity shall be ascertained in accordance with the Internal Revenue Regulations; that is, the hundredths of a gallon less than one-tenth, or the second decimal figure, will be excluded on each package in determining the amount of tax due. Where distilled spirits are imported in bottles, jugs or similar containers, the internal-revenue taxes should be collected on the exact amount contained in each case or other outer container, fractional parts of a gallon being carried to three decimal places. The procedure for collecting internal-revenue taxes on still wines will be the same except that fractional parts of a gallon shall be carried to two decimal places for each package or other outer container.

(*e*) When the amount of duty assessed by the collector in a tentative liquidation of an entry, other than an informal mail entry, customs Form 3419, does not differ by so much as $1 from the total estimated duties (including any supplemental estimated duties deposited), the liquidator shall endorse the entry "as entered" over his initials in red ink. If there is a difference of $1 or more between the duties so assessed and the total estimated duties the liquidator shall make a new statement of duties over his initials in red ink. The same procedure shall be followed with respect to internal-revenue taxes, but the assessment of duties and internal-revenue taxes shall be separately stated when both accrue on the same importation. The duties and internal-revenue taxes assessed and stated on an informal mail entry, customs Form 3419, by a customs officer when he prepares the entry shall be the assessment by the collector for tentative liquidation purposes. In the case of mail entries, duty and internal revenue tax shall be exactly assessed, when the importer so requests, even though the change between the estimated and liquidated amounts be less than $1.

(*f*) Tariff Act of 1930, section 523, paragraph 3:

> Comptrollers of customs shall verify all assessments of duties and allowances of drawbacks made by collectors in connection with the liquidation thereof. In cases of disagreement between a collector and a comptroller of customs, the latter shall report the facts to the Secretary of the Treasury [Commissioner of Customs] for instructions.

(*g*) After tentative liquidation by the collector, he shall transmit to the comptroller of customs for the district in which the port of entry is located, all entries of imported merchandise, together with the invoices, returns of officers, including returns of weighers, gaugers, and measurers, if any, on customs Form 5985–A or 5985–B, and all evidence required by law or regulations, or the official waiver thereof with the reason therefor clearly stated, necessary for the verification of the collector's tentative liquidation.

(*h*) The comptroller shall ascertain by original computation the amount of duties and internal-revenue taxes due. When there is a disagreement between the tentative liquidation by the collector and the verification thereof by the comptroller which involves an error in computation manifest in the duty statement, the rate of duty assessed on any merchandise, or a difference of $1 or more, verification of the tentative liquidation shall be suspended until the disagreement is disposed of locally or after reference to the Bureau of Customs as provided for in paragraph (*f*) above. When there is no such disagreement the tentative liquidation shall be verified as submitted and the comptroller's liquidator shall endorse the entry "verified" and with the date of verification over his initials in red ink. The comptroller's copy of the entry shall be endorsed "as entered" or with a new statement of duties (and a new statement of internal-revenue taxes, if required) over the liquidator's initials and date of verification in red ink.

(*i*) Upon the return of entries to the collector after the assessment of duties and internal-revenue taxes has been verified by the comptroller, formal entries shall be immediately scheduled on a bulletin notice of liquidation, customs Form 4333. In the case of appraisement, baggage, informal, and mail entries a copy of the schedule of such entries, customs Form 5171, shall be used as the bulletin notice of liquidation as provided for in article 830. The bulletin notice of liquidation shall be posted as soon as possible in a conspicuous place in the customhouse for the information of importers and shall be dated with the date of posting. The entries for which the bulletin notice of liquidation has been posted shall be stamped "liquidated" and with the date of liquidation which shall be the same as the date of the bulletin notice of liquidation. Such stamping is the legal evidence of liquidation.

ART. 819. *Importations at ports of entry.*—(*a*) When an importation is made at a port of entry, the original copy of the entry, together with all documents necessary for the liquidation thereof, will be forwarded to the headquarters port as soon as practicable after examination and appraisement. (See art. 355.)

(*b*) All entries will be liquidated at the headquarters port. After verification and return by the comptroller, the entries with all related papers will, after the date of liquidation has been stamped thereon, be returned to the port of entry for filing.

(*c*) The bulletin notice of liquidations (customs Form 4333) will be prepared at the headquarters port, bearing the date of liquidation stamped on the entries, and will be forwarded to the port of entry with the liquidated entries, and there posted.

(*d*) In stamping the date of liquidation on entries and bulletin notices, sufficient allowance shall be made for the time required for such documents to reach the port of entry, so that the date stamped will, as nearly as possible, be the date of actual posting of the notice.

ART. 820. *Liquidation, suspension of.*—(*a*) The liquidation of entries involved in reappraisement, or on which bonds are open for the production of documents affecting the rate of duty, will be suspended pending a final decision of the reappraisement or a performance or nonperformance under the bond. (See art. 1270.)

(*b*) The liquidation of entries covering articles entered at a conditionally reduced rate under paragraph 1530 or 1551 of the Tariff Act of 1930, or conditionally free of duty under paragraph 1691 or 1752, shall be suspended pending the production of the proof of use required by the regulations (art. 497 to 502). Upon the production of such proof or failure

to do so within the required time, the entries shall be liquidated accordingly.

ART. 821. *Dutiable value.*—(*a*) *General rule.*—Tariff Act of 1930, section 503 (a):

Except as provided in section 562 of this Act (relating to withdrawal from manipulating warehouses) and in subdivision (b) of this section, the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty shall be the entered value or the final appraised value, whichever is higher.

(*b*) *Entry pending reappraisement.*—Tariff Act of 1930, section 503 (b):

If the importer certifies at the time of entry that he has entered the merchandise at a value higher than the value as defined in this Act because of advances by the appraiser in similar cases then pending on appeal for reappraisement or re-reappraisement, and if the importer's contention is such pending cases shall subsequently be sustained, wholly or in part, by a final decision on reappraisement or re-reappraisement, and if it shall appear that such action of the importer on entry was taken in good faith, the collector shall liquidate the entry in accordance with the final appraisement.

When the above conditions concur, the collector shall liquidate the entry in accordance with the final appraisement.

(*c*) *Basis of rate.*—Tariff Act of 1930, section 503 (c):

For the purpose of determining the rate of duty to be 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 shall (except as provided in sec. 562 of this Act) be taken to be the value of the merchandise.

(*d*) *Merchandise manipulated in warehouse.*—Tariff Act of 1930, section 562:

* * * The basis for the assessment of duties on such merchandise so withdrawn for consumption shall be the entered value or the adjusted final appraised value, whichever is higher, and if the rate of duty is based upon or regulated in any manner by the value of the merchandise such rate shall be based upon or regulated by such adjusted final appraised value; but for the purpose of the ascertainment and assessment of additional duties under section 489 of this Act adjustments of the final appraised value shall be disregarded. * * *

ART. 822. *Conversion of currency.*—(*a*) Tariff Act of 1930, section 522 (b):

For the purpose of the assessment and collection of duties upon merchandise imported into the United States on or after the day of the enactment of this Act, wherever it is necessary to convert foreign currency into currency of the United States, such conversion, except as provided in subdivision (c), shall be made at the values proclaimed by the Secretary of the Treasury under the provisions of section 25 of such Act of August 27, 1894, as amended, for the quarter in which the merchandise was exported.

(*b*) Tariff Act of 1930, section 522 (c):

If no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate. If the date of exportation falls upon a Sunday or holiday, then the buying rate at noon on the last preceding business day shall be used. For the purposes of this subdivision such buying rate shall be the buying rate for cable transfers payable in the foreign currency so to be converted; and shall be determined by the Federal Reserve Bank of New York and certified daily to the Secretary of the Treasury, who shall make it public at such times and to such extent as he deems necessary. In ascertaining such buying rate such Federal reserve bank may, in its discretion, (1) take into consideration the last ascertainable transactions and quotations, whether direct or through exchange of other currencies, and (2) if there is no market buying rate for such cable transfers, calculate such rate from actual transactions and quotations in demand or time bills of exchange.

(*c*) In determining the percentage of variation between the proclaimed rate and the Federal reserve rate, the difference between the two rates shall be divided by the Federal reserve rate.

(*d*) Rates of exchange for the principal foreign currencies as certified daily by the New York Federal Reserve Bank will be furnished daily by the customs information exchange to customs officers in the number of copies required, and liquidation will not be made until such Federal reserve bank rates are received. In special cases, or where a rate of currency does not appear on the daily list furnished, the collector will request such rate from the customs information exchange.

(*e*) The date of exportation for currency conversion shall be fixed as follows:

(1) The date of exportation shall be the date on which the merchandise actually leaves the country of exportation for the United States.

(2) If the merchandise is shipped directly by water from the country of export, the date of the sailing of the vessel shall be the date of exportation. In such cases a copy of customs Form 3167, "Daily report of arrival of vessels", giving the dates of sailing from each port, shall be daily supplied by the marine division to the entry and liquidating divisions, the comptroller of customs and such officers as may have need therefor, and a copy shall be posted or made available to the public in the port of arrival; but if the merchandise arrives in bond, the date of sailing shall be obtained from the lists circulated by the customs information exchange.

(3) Since the act of exportation is not complete until the merchandise finally leaves the jurisdiction of the exporting country, if a vessel with the merchandise on board sails from two or more ports, or more than once from the same port, of the exporting country, whether or not stopping on the intervening voyage at a port of another jurisdiction, or, if the merchandise is transshipped in another jurisdiction and subsequently reenters the jurisdiction of the exporting country on another vessel, or if the merchandise is transshipped to another vessel in the same jurisdiction, the date the vessel on which the merchandise finally leaves the exporting country sails from the last port thereof is the date of exportation.

(4) When the merchandise is shipped from an interior country through the ports of another country or from a country contiguous to the United States, the date of exportation shall be the date on which the merchandise crosses the border of the country of exportation and passes beyond the control of the government of such country.

(5) If the merchandise is not exported directly by water and no positive evidence is at hand as to the date of exportation, the date of the invoice certification shall be considered the date of exportation, unless the invoice appears to have been certified after the date the merchandise actually left the country of exportation; otherwise the date shown as the date the invoice was prepared shall be taken, unless it also appears to be later than the actual date of exportation. In the absence of a certified invoice, the date of the pro forma invoice will be taken unless it appears to be dated after the actual date of export. If a pro forma invoice covers several individual bills of different dates, the latest of such dates, unless it appears to be later than the actual date of export, will be taken.

(6) In the case of indirect shipments exported from one country through another, if the invoice is post certified and post dated, the date of the bill of lading may be used in the absence of other evidence, if the bill of lading was issued in the country of export.

(7) The date of actual shipment may be taken when there is presented a bill of lading showing the date of shipment, provided such bill of lading has been certified in accordance with the provisions of section 2904 of the Revised Statutes.

ART. 823. *Weight, gauge, or measure.*—(*a*) Tariff Act of 1930, section 315:

* * * That when duties are based upon the weight of merchandise deposited in any public or private bonded warehouse, said duties shall, except as provided in section 562 of this Act (relating to manipulating warehouses), be levied and collected upon the weight of such merchandise at the time of its entry.

(*b*) "Entry" in the sense used in this provision of law is held to be the time of landing. The same rule applies to merchandise entered for consumption.

(c) If merchandise has been cleaned, sorted, repacked, or otherwise changed in condition under section 562 of the Tariff Act of 1930, the liquidation shall be made on the weight, gauge, or measure of such merchandise in its condition at the time of landing. Upon the withdrawal of such merchandise after manipulation, the duty shall be adjusted according to its condition, quantity, and weight at the time of withdrawal.

(d) When, in the case of merchandise not weighed by the weighing inspector, the invoice shows only the net weight, liquidation may be made on such weight if it is impracticable to obtain actual net weight without injury to the goods.

(e) Where goods are subject to an ad valorem rate of duty and it appears from the invoice, bill of lading or other source of information that the merchandise was bought on the basis of the gross weight or quantity, the appraiser's report should show whether the appraisement was made on the basis of the gross or net weight or quantity, and the liquidation should be made upon the same basis as that upon which the appraisement was made.

(f) Internal-revenue taxes on alcoholic beverages imported in barrels, casks, or similar containers shall be collected only on the number of proof gallons (or wine gallons if below proof) and fractional parts thereof actually entered or withdrawn for consumption. The quantity determined on the basis of the original customs gauge shall be considered the quantity actually entered or withdrawn and no regauge shall be made for the purpose of assessing internal-revenue taxes, unless the lapse of time or the condition of the containers prior to entry or withdrawal indicates that the quantity shown by such original gauge has been substantially reduced by evaporation or leakage, or unless prior to entry or withdrawal the person making the entry or withdrawal makes a written request for a regauge and, if less than 90 days have elapsed since the date of such original gauge, states in such request his reasons for believing that such original gauge does not correctly indicate the quantity to be withdrawn. Ordinary customs duties shall be collected on the gallonage determined on the basis of the original customs gauge.

(g) When imported distilled spirits upon which collectors of customs are required to collect internal-revenue taxes under the provisions of section 1150 (f), title 26, United States Code, and article 1189, of these regulations, or imported wines upon which collectors of customs are required by the said article to collect such taxes, are regauged in accordance with paragraph (f) of this article in order that the internal-revenue taxes may be collected on the gallonage actually withdrawn from warehouse for consumption, as contemplated by sections 1150 (a) (1) and 1300 (a), title 26, United States Code, the internal-revenue taxes shall be adjusted on the warehouse withdrawal according to the gauge at the time of withdrawal. A notation shall be made on the withdrawal that the adjustment has been made in accordance with the provisions of this paragraph. No adjustment of ordinary customs duties shall be made as a result of a regauge for internal-revenue purposes, in view of the provisions of section 563 (a) of the Tariff Act of 1930.

(h) Applications for refund of internal-revenue taxes paid on imported distilled spirits or wines in excess of the quantity actually withdrawn from warehouse for consumption, should be filed by the claimant with the Commissioner of Internal Revenue through the collector of internal revenue for the district concerned.

ART. 824. *Articles in examination packages not specified in the invoice.*—(a) Tariff Act of 1930, section 499:

* * * If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. * * *

(b) When any article not corresponding with the description given in the invoice is found by the appraiser, duties will be assessed on the goods actually found, and, if the discrepancy appears conclusively to be the result of a mistake and not of an intent to defraud, no proceedings for forfeiture will be taken: *Provided*, That when the entire shipment does not agree with the invoice a new entry should be required and the estimated duty paid on the original entry refunded on liquidation as in the case of a nonimportation.

ART. 825. *Excess of merchandise.*—Increased duty only is incurred by a simple excess of quantity over the quantity stated in the invoice, but when the unit value of the goods as declared in the entry is less than the appraised value thereof, both increased and additional duties accrue upon the quantity of like goods found in excess.

ART. 826. *Commingling of goods.*—Tariff Act of 1930, section 508:

Whenever dutiable merchandise and merchandise which is free of duty or merchandise subject to different rates of duty are so packed together or mingled that the quantity or value of each class of such merchandise can not be readily ascertained by the customs officers, the whole of such merchandise shall be subject to the highest rate of duty applicable to any part thereof, unless the importer or consignee shall segregate such merchandise at his own risk and expense under customs supervision within 10 days after entry thereof, in order that the quantity and value of each part or class thereof may be ascertained.

ART. 827. *Supplemental report by appraiser.*—Whenever the collector or comptroller of customs needs additional information for the liquidation of an entry, he should return the invoice to the appraiser for review and further report.

ART. 828. *Change in classification—Higher or lower rate—Effective date.*—(a) When a collector or appraiser is of the opinion that the classification of any merchandise should be advanced to a higher or reduced to a lower rate than it has been the well-established practice to assess thereon, he should so report to the Bureau, in order that general instructions in the matter may be issued.

(b) If the practice at the various ports has been uniform for a considerable time, a change in classification to a higher rate of duty, except as the result of a court decision, will be made only upon the Bureau's instructions and will be applicable only to merchandise entered for consumption after 30 days from the date of the publication of the Bureau's instructions in the weekly Treasury Decisions or, if entered for warehouse, withdrawn for consumption after the expiration of such 30-day period, provided the warehouse entry is unliquidated or, if liquidated, that reliquidation thereof can be completed within 60 days from the date of liquidation.

(c) If the practice at the various ports has not been uniform for a considerable time, a change to a higher rate of duty may be made either upon the Bureau's instructions or upon information from the Customs Information Exchange, or otherwise, and will be applicable to all unliquidated entries, whether for consumption or warehouses, and also to liquidated warehouse entries covering merchandise remaining in warehouse after the date of the Bureau's instructions or, if published, the date of publication thereof in the weekly Treasury Decisions, or after the receipt of the information, provided the reliquidation thereof can be completed within 60 days from the date of liquidation.

(d) A change in classification to a lower rate of duty, except as the result of a court decision, will be made only upon the Bureau's instructions or upon the receipt of a Customs Information Exchange report showing the higher classification to be clearly erroneous and contrary to the present practice at the various ports. A change to a lower rate of duty, when decided upon, will be applicable to all unliquidated entries and to all protested entries involving the same issue which have not been forwarded to the Customs Court.

(e) The principles of decisions of the Customs Court or Court of Customs and Patent Appeals favorable to the Gov-

ernment shall be applied to merchandise identical with that passed on by the court, if such merchandise is covered by unliquidated entries, whether for consumption or warehouse, or by liquidated warehouse entries which can be reliquidated within 60 days from the date of liquidation, provided that, in the latter case, the merchandise remains in warehouse after the date of the publication of the decision in the weekly Treasury Decisions.

(*f*) The principles of such favorable decisions shall be applied to merchandise, though not identical with the merchandise the subject of the court's decision, if its classification is affected by such principle, provided that it has been entered for consumption or withdrawn from warehouse for consumption after 30 days from the date of publication of the court's decision in the weekly Treasury Decisions, and that, in the case of liquidated warehouse entries, the reliquidation can be completed within 60 days from the date of liquidation.

(*g*) In the event that the overruling of a protest is accompanied by a definite statement that a higher rate than that assessed by the collector was properly chargeable, such higher rate, when applicable, should be made effective as to merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days from the date of the publication of the court's decision in the weekly Treasury Decisions, provided that, in the case of liquidated warehouse entries, reliquidation thereof can be completed within 60 days from the date of liquidation.

(*h*) The principles of decisions of the Customs Court or Court of Customs and Patent Appeals adverse to the Government shall be applied to unliquidated entries and protested entries which have not been forwarded to the Customs Court, in which the same issue is involved, provided the time within which an application for a rehearing or review may be filed has expired without such application having been made.

NOTE.—See article 870 relative to reliquidations under court decisions pursuant to protests filed under section 516 (b) of the tariff act.

(*i*) Tariff Act of 1930, section 315:

On and after the day when this Act shall go into effect all goods, wares, and merchandise previously imported, for which no entry has been made, and all goods, wares, and merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued, shall be subjected to the duties imposed by this Act and to no other duty upon the entry or the withdrawal thereof; * * *

(*j*) Tariff Act of 1930, section 336 (c) and (d):

(c) The President shall by proclamation approve the rates of duty and changes in classification and in basis of value specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

(d) Commencing thirty days after the date of any presidential proclamation of approval, the increased or decreased rates of duty and changes in classification or in basis of value specified in the report of the commission shall take effect.

(*k*) When the rate of duty is changed by act of Congress or by proclamation of the President, entries covering the classes of goods enumerated in section 315 should be liquidated or reliquidated, as the case may be, on the basis of the new rate. The reliquidation in such cases shall be made in the district where the merchandise is in customs custody on the date of the change of rate.

(*l*) Merchandise upon which any duties or charges are unpaid, remaining in warehouse 3 years (or 10 months in the case of grain) from the date of importation, is deemed to be abandoned to the Government and, if withdrawn for consumption thereafter, is subject to duty at the rate applicable at the time of the expiration of the 3 years (or 10 months in the case of grain).

(*m*) Unclaimed merchandise becomes abandoned to the Government at the expiration of 1 year and, if entered for consumption thereafter, is subject to the rates applicable at the expiration of the year.

(Merchandise upon which all duties and charges have been paid remaining in bonded warehouse beyond 3 years (or 10 months in the case of grain) from the date of importation shall be held to be no longer in the custody or control of the officers of the customs.) (Tariff Act of 1930, sec. 559.)

ART. 829. *Warehouse entries.*—Warehouse entries shall be liquidated by single packages when necessary for the purpose of withdrawal.

ART. 830. *Appraisement, baggage, informal, and mail entries.*—(*a*) Appraisement entries, customs Form 7500, baggage entries, customs Form 6059 or 6063, informal entries, customs Form 5119, and mail entries, customs Form 3419 or 3420, shall be formally liquidated after return by the comptroller, and a carbon copy of the bulletin, customs Form 5171, covering such entries, posted as the notice of liquidation. All such entries ready for liquidation during any one month may be liquidated on any convenient day during that month. The date of posting shall be stamped on the bulletin as the date of liquidation of all liquidated entries covered thereby.

(*b*) Entries liquidated subsequent to the posting of the bulletin on which they originally appear, shall be listed on a new bulletin which shall be stamped liquidated as of the date of posting. The fact and date of liquidation shall be shown on the office copy of the bulletin on which the entries were originally scheduled.

ART. 831. *Record of liquidations and filing of papers.*—(*a*) A record of liquidations on customs Form 5151 shall be kept at the headquarters port for its own transactions as well as those at each port of entry in the district, and such record shall also be kept at each port of entry for its own transactions.

(*b*) Invoices, weigher's and gauger's returns, and all papers upon which the liquidation is based, should be filed with the entry after the liquidation is completed.

ART. 832. *Importations not exceeding $1 in value.*—Collectors may pass free of duty and without the preparation of an entry importations (except those subject to internal-revenue tax) having a value not exceeding $1. Entry will be required for such importations if subject to internal-revenue tax and both duty and tax shall be assessed.

ART. 833. *Errors, correction of.*—Clerical errors in the returns of weight, gauge, or measure, errors in extension and other mathematical calculations, the inclusion of uniformly nondutiable charges in the entered value, and other clerical errors apparent from the papers, dock books, or other records may be corrected upon liquidation of the entry. Such errors claimed or discovered after liquidation of the entry, unless covered by protest, can be corrected only on instructions from the Bureau.

ART. 834. *Limitation upon reliquidation.*—(*a*) In the absence of protest no entry shall be reliquidated after the expiration of the protest period (see art. 848), except that, tariff Act of 1930, section 520 (a) (3) and (4):

(a) The Secretary of the Treasury is hereby authorized to refund duties and correct errors in liquidation of entries in the following cases:

(3) Whenever a clerical error is discovered in any entry or liquidation within 1 year after the date of entry, or within 60 days after liquidation when liquidation is made more than 10 months after the date of entry; and

(4) Whenever duties have been paid on household or personal effects which by law were not subject to duty, notwithstanding a protest was not filed within the time and in the manner prescribed by law.

and, tariff Act of 1930, section 521:

If the collector finds probable cause to believe there is fraud in the case, he may reliquidate an entry within 2 years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation.

(*b*) Errors in the liquidation of entries covering personal and household effects not involving a question of compliance

with the regulations may, without reference to the Bureau, be corrected by collectors of customs within the protest period, or thereafter if a timely protest was filed; otherwise applications for the correction of errors in the liquidation of such entries should be forwarded to the Bureau for instructions.

SPECIAL DUTIES

ART. 835. *Additional duty arising from undervaluation.*—(*a*) Tariff Act of 1930, section 489:

If the final appraised value of any article of imported merchandise which is subject to an ad valorem rate of duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the entered value, there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of 1 per centum of the total final appraised value thereof for each 1 per centum that such final appraised value exceeds the value declared in the entry. Such additional duty shall apply only to the particular article or articles in each invoice that are so advanced in value upon final appraisement and shall not be imposed upon any article upon which the amount of duty imposed by law on account of the final appraised value does not exceed the amount of duty that would be imposed if the final appraised value did not exceed the entered value, and shall be limited to 75 per centum of the final appraised value of such article or articles. * * * All additional duties, penalties, or forfeitures applicable to merchandise entered in connection with a certified invoice shall be alike applicable to merchandise entered in connection with a seller's or shipper's invoice or statement in the form of an invoice.

* * * * *

(*b*) No fractional parts of a rate per centum shall be assessed, e. g., if the advance is 10¼ or 10⅞, the additional duty to be assessed will be 10 percent.

ART. 836. *Additional duty for false claim of antiquity.*—Tariff Act of 1930, section 489:

* * * If any article described in paragraph 1811 and imported for sale is rejected as unauthentic in respect to the antiquity claimed as a basis for free entry, there shall be imposed, collected, and paid on such article, unless exported under customs supervision, a duty of 25 per centum of the value of such article in addition to any other duty imposed by law upon such article.

ART. 837. *Additional duty on articles not legally marked.*—(*a*) Tariff Act of 1930, section 304 (b):

If at the time of importation any article or its container is not marked, stamped, branded, or labeled in accordance with the requirements of this section, there shall be levied, collected, and paid on such article, unless exported under customs supervision, a duty of 10 per centum of the value of such article, in addition to any other duty imposed by law, or, if such article is free of duty, there shall be levied, collected, and paid a duty of 10 per centum of the value thereof.

(*b*) Such additional duty does not accrue if either the article or its immediate container is legally marked at the time of importation. When there is only one container of an article it is the immediate container.

(*c*) The liquidation of warehouse entries should not be suspended because the merchandise covered thereby is reported to be not legally marked.

ART. 838. *Duty on articles imported under agreement in restraint of trade.*—United States Code, title 15, section 73:

If any article produced in a foreign country is imported into the United States under any agreement, understanding, or condition that the importer thereof or any other person in the United States shall not use, purchase, or deal in, or shall be restricted in his using, purchasing, or dealing in, the articles of any other person, there shall be levied, collected, and paid thereon, in addition to the duty otherwise imposed by law, a special duty equal to double the amount of such duty: *Provided*, That the above shall not be interpreted to prevent the establishing in this country on the part of a foreign producer of an exclusive agency for the sale in the United States of the products of said foreign producer or merchant, nor to prevent such exclusive agent from agreeing not to use, purchase, or deal in the article of any other person, but this proviso shall not be construed to exempt from the provisions of this section any article imported by such exclusive agent if such agent is required by the foreign producer, or if it is agreed between such agent and such foreign producer, that any agreement, understanding, or condition set out in this section shall be imposed by such agent upon the sale or other disposition of such article to any person in the United States. (Sept. 8, 1916, c. 463, sec. 802, 39 Stat. 799.)

ART. 839. *Discriminating duties.*—The discriminating duties provided by subsection 1 of paragraph J of section IV of the Tariff Act of October 3, 1913, as amended by the act of March 4, 1915, and the discriminating duties and penalties provided for in section 338, Tariff Act of 1930, will be imposed only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury.

ART. 840. *Countervailing duties by reason of foreign export bounty.*—(*a*) Tariff Act of 1930, section 303:

Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated. The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of such additional duties.

(*b*) The net amount of such bounties or grants will be published from time to time by the Bureau, with instructions for the collection of the countervailing duties.

ART. 841. *Duties contingent upon foreign export duties, charges, or restrictions.*—Paragraph 1401 of the Tariff Act of 1930 provides in part for the imposition under certain conditions of additional duties on articles covered thereby. The assessment of these additional duties is dependent upon action by the President, and notice of such action, if taken, will be published in the weekly Treasury Decisions.

ART. 842. *Dumping duty.*—(*a*) Special dumping duty attaches to all importations of merchandise, whether dutiable or free, as to which the Secretary of the Treasury has made public a finding of dumping, provided no appraisement report, as required by article 772, has been made on the particular importation prior to the publication of such finding, and the appraiser reports that the purchase price or exporter's sales price is less than the foreign market value or cost of production, as the case may be.

(*b*) Such findings by the Secretary will be published in the Treasury Decisions and will contain a description of the merchandise of the kind or class to which they apply, in such detail as may be necessary for the guidance of customs officers.

(*c*) If, in the case of consigned goods, the appraiser returns an invoice with a report that the merchandise has not been sold within 6 months after the date of entry, or that the merchandise will not be sold in the United States, the collector shall refer the matter to the Bureau for instructions, pending the liquidation of the entry.

ART. 843. *Notice to importer before assessment of dumping duty.*—Before dumping duty is assessed the collector will notify the importer of the appraiser's return as in the case of an advance in value; and if the importer files an appeal to reappraisement, liquidation will be suspended until the final reappraisement is decided.

ART. 844. *Method of computing dumping duty.*—(*a*) After the Secretary's finding the appraiser's subsequent report to the collector, the collector's notice to the importer, and the decision of the reappraisement appeal, if any, above referred to, (1) if it appears that the merchandise has been purchased by a person not the exporter within the meaning of section 207, antidumping act, the special dumping duty shall equal the difference between the purchase price and the foreign market value on the date of purchase, or, if there is no foreign market value, between the purchase price and

the cost of production, the currency of the purchase price, or of the foreign market value, or of both, being converted into United States money as of the date of purchase or agreement to purchase; (2) if it appears that the merchandise is imported by a person who is the exporter within the meaning of section 207, antidumping act, the special dumping duty shall equal the difference between the exporter's sales price and the foreign market value on the date of exportation, or, if there is no foreign market value, between the exporter's sales price and the cost of production, the currency of the exporter's sales price, or of the foreign market value, or of both, being converted to United States money as of the date of exportation.

(*b*) The fact that the importer has added on entry the difference between the purchase price or the exporter's sales price and the foreign market value or cost of production and the appraiser has approved the resulting entered value, does not prevent the assessment of the special dumping duty. But a mere difference between the purchase price or exporter's sale price and the foreign market value or cost of production, without a finding by the Secretary of the Treasury, as above referred to, is not sufficient for the assessment of the special dumping duty.

(*c*) If the necessary conditions are present, special dumping duty will attach even to samples imported for the purpose of taking orders and making sales in this country.

ART. 845. *Quarterly report of dumping duty.*—The collector will report to the Bureau of Foreign and Domestic Commerce at Washington, D. C., within 10 days all special dumping duties collected at all the ports in his district during the quarter. In order that the statisticians may be enabled to make such a report, the liquidator will insert after the regular summary or statement of liquidation:

(1) A notation indicating that special dumping duty has been assessed.

(2) A description of the merchandise subject to such duty.

(3) The country from which imported.

(4) The Treasury decision authorizing the special dumping duty.

(5) The amount of such special duty.

ART. 846. *Cuban preference.*—(*a*) The operation of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902 (T. D. 24836), has been suspended for the effective period of the trade agreement concluded between the United States and the Republic of Cuba on August 24, 1934 (T. D. 47232).

(*b*) Under article I of the Cuban Trade Agreement (49 Stat., pt. 2, Executive Agreements, pp. 17–107), articles the growth, produce, or manufacture of the Republic of Cuba, which would have been admitted free of duty on August 24, 1934, are entitled to free entry during the effective period of the agreement.

(*c*) Under article III of the Cuban Trade Agreement every article the growth, produce, or manufacture of Cuba not entitled to free entry under the provisions of the tariff act or article I of the agreement is entitled to admission into the United States with an allowance of an exclusive and preferential reduction in the ordinary customs duty assessable, such allowance to be made with respect to the lowest rate of ordinary customs duty payable on the like article the growth, produce, or manufacture of any other foreign country. The minimum per centum of exclusive preference and maximum rates of duty are separately stated with respect to certain articles enumerated and described in schedule 2 of the agreement, and with respect to other articles the preference is 20 per centum.

(*d*) Duties assessed on imports on special occasions, such as marking duties (sec. 304, Tariff Act of 1930) and additional duties for undervaluation (sec. 489, Tariff Act of 1930), internal-revenue taxes imposed on imported articles, and other special exactions (as distinguished from ordinary customs duties such as are imposed under the provsions of the dutiable list of the tariff act and sec. 601 of the Revenue Act of 1932), are not subject to any reduction under the trade agreement.

(*e*) The total and partial exemptions from duty provided for in the trade agreement apply only to direct shipments from Cuba, including shipments via other countries for which there is furnished proof that the merchandise was destined to the United States at the time of exportation from Cuba, and also a certificate of the proper customs officer of each foreign country through which the merchandise passed enroute to the United States, showing continuous customs custody of the shipment while in such foreign country.

(*f*) No evidence of origin will be required for any Cuban merchandise which is unconditionally free of duty under the tariff laws. Consular invoices will be required for merchandise of Cuban origin embraced within the classes enumerated in article 299 (*b*) of these regulations, as amended, if the right of the merchandise to any total or partial exemption from duty is dependent upon its Cuban origin and the value of the shipment exceeds $100. In the case of every shipment of Cuban articles for which any total or partial exemption from duty is sought under the provisions of articles I or III of the Cuban Trade Agreement, there shall be filed in connection with the entry, preferably on the invoice filed with the entry, a declaration of the shipper, or other person having actual knowledge of the facts, that the articles for which the exemption is sought are of the growth, produce, or manufacture of Cuba.

ART. 847. *Tariff rate quotas.*—(*a*) Under provisions of Schedule II of the Canadian Trade Agreement (T. D. 48033), reduced rates of duty are provided for the articles enumerated below, such reduced rates to apply only to the quantities respectively indicated:

Sawed timber and lumber not specially provided for, of Douglas fir or western hemlock—an aggregate quantity of 250,000,000 feet board measure (determined in the manner described in par. 401, Tariff Act of 1930) in any calendar year after 1935.

Cattle, weighing less than 175 pounds each—51,933 head in any calendar year after 1935.

Cattle, weighing 700 pounds or more each and not specially provided for—155,799 head in any calendar year after 1935.

Cows, weighing 700 pounds or more each and imported specially for dairy purposes (see art. 484)—20,000 head in any calendar year after 1935.

Cream, fresh or sour—1,500,000 gallons in any calendar year after 1935.

White or Irish certified seed potatoes (see art. 462)—750,000 bushels of 60 pounds each in the 12-month period beginning on December 1 in any year.

(*b*) The tariff rate quotas and reduced rates mentioned above do not apply to products of a country in respect of whose products the President has suspended, pursuant to the provisions of section 350 of the tariff act (T. D. 47117), the tariff changes proclaimed by him in connection with the Canadian Trade Agreement.

(*c*) Collectors of customs shall report to the Commissioner of Customs, Washington, D. C. (attention Division of Statistics and Research), on Monday of each week for the week ending the previous Saturday, the entry number, date, and port of entry, and quantity in respect of each importation of any commodity specified above which is the product of a country whose products are entitled to entry at the reduced duties. Whenever any tariff rate quota approaches fulfillment, special instructions will be issued by the Commissioner of Customs to require more frequent reports and, when appropriate, to require the deposit of estimated duties and import tax at the full rate pending the determination of the application of the reduced rate to particular importations.

CHAPTER XV

PROTESTS AND REAPPRAISEMENTS

PROTESTS

REAPPRAISEMENT AND REVIEW

REMISSION OF ADDITIONAL DUTY

ANTIDUMPING—PROTESTS AND APPEALS

AMERICAN PRODUCERS' APPEALS AND PROTESTS

PROTESTS

ART. 848. *Protest.*—(*a*) Tariff Act of 1930, section 514:

Except as provided in subdivision (b) of section 516 of this act (relating to the protests by American manufacturers, producers, and wholesalers), all decisions of the collector, including the legality of all orders and findings entering into the same, as to the rate and amount of duties chargeable, and as to all exactions of whatever character (within the jurisdiction of the Secretary of the Treasury), and his decisions excluding any merchandise from entry or delivery, under any provision of the customs laws, and his liquidation or reliquidation of any entry, or refusal to pay any claim for drawback, or his refusal to reliquidate any entry for a clerical error discovered within one year after the date of entry, or within 60 days after liquidation or reliquidation when such liquidation or reliquidation is made more than 10 months after the date of entry, shall, upon the expiration of 60 days after the date of such liquidation, reliquidation, decision, or refusal, be final and conclusive upon all persons (including the United States and any officer thereof), unless the importer, consignee, or agent of the person paying such charge or exaction, or filing such claim for drawback, or seeking such entry or delivery, shall, within sixty days after, but not before such liquidation, reliquidation, decision, or refusal, as the case may be, as well in cases of merchandise entered in bond as for consumption, file a protest in writing with the collector setting forth distinctly and specifically, and in respect to each entry, payment, claim, decision, or refusal, the reasons for the objection thereto. The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the collector upon any question not involved in such reliquidation.

(*b*) Tariff Act of 1930, section 520 (a) (4):

(a) The Secretary of the Treasury is hereby authorized to refund duties and correct errors in liquidation of entries in the following cases:

(4) Whenever duties have been paid on household or personal effects which by law were not subject to duty, notwithstanding a protest was not filed within the time and in the manner prescribed by law.

(*c*) The "date of liquidation" is the date of liquidation stamped upon the entry, and the posting of the same in a conspicuous place in the customhouse is held to be sufficient notice thereof.

(*d*) Section 514 applies to drawback entries and all liquidations thereof or refusals to pay drawback claims shall be posted in the same manner as the liquidation of import entries.

(*e*) The date of the decision of the collector excluding any merchandise from entry or delivery, under any provision of the customs revenue laws, will be the date of his written notice to the importer. This does not refer to his action in seizing or directing the seizure of merchandise.

(*f*) Protests may be filed against the assessment of special dumping duty in the same manner as against the assessment of regular duty.

(*g*) Tariff Act of 1930, section 518:

* * * Under such rules as the United States Customs Court may prescribe, and in its discretion the court may permit the amendment of a protest * * *.

ART. 849. *Form of protest.*—(*a*) Protests (except protests by American manufacturers, producers, and wholesalers (see art. 870)) shall be in duplicate and in writing, addressed to the collector and signed by the party protesting or his agent or attorney. A protest signed by an agent or attorney shall be rejected by the collector unless there is filed with the collector a power of attorney (customs Form 5295) authorizing such agent or attorney to make, sign, and file the protest or protests, which power shall be limited to a period not to exceed two years from the date thereof, and shall be acknowledged. Each protest shall show the addresses of the protestant and his agent or attorney, the entry number, importing vessel, date of arrival, and date of liquidation of the entry and shall set forth distinctly and specifically in respect to each entry, payment, claim, or decision the reasons for the objection, citing the rate or rates of duty claimed to be applicable, and the paragraph or section of the law, if any, under which relief is claimed.

(*b*) Partnership powers of attorney to file protests may be executed by one member in the name of the partnership, provided said powers recite the names of all the members. Corporate powers of attorney to file protests shall be signed by a duly authorized officer or employee of the corporation, and if the collector is otherwise satisfied as to the authority of such corporate officer or employee to grant such power of attorney, compliance with the requirements of article 301 (*e*) may be waived with respect to such power.

ART. 850. *Procedure at time of filing.*—(*a*) Protests shall be filed with the collector, who will give them serial numbers and stamp or write thereon the dates of receipt. The name of the protestant, entry number, and issue must be indorsed on each protest. A permanent record of all protests shall be kept on customs Form 4365 at headquarters ports only. Such record may be kept in either numerical or alphabetical order.

(*b*) Protests lodged at ports of entry will be forwarded to the headquarters port and will be numbered in the same series with the protests lodged at the headquarters port.

ART. 851. *Samples.*—(*a*) Appraising officers should retain samples of the merchandise when returning an invoice at a rate of duty higher than the entered rate, or when, for any other reason, it is probable that a protest will be filed, keeping a record of the entry number, vessel, and date of entry. When no samples have been retained they shall be furnished collectors by the protestant and transmitted to the appraisers for verification.

(*b*) Samples will not be required where the question involved is one of law, which does not necessitate an inspection of the merchandise by the court, or where the merchandise is heavy, bulky, or otherwise of such character as to make the retention of samples impracticable. In such cases the report of the collector or appraising officer should contain a full and accurate description of the merchandise.

ART. 852. *Appraiser's special report on protest.*—(*a*) If the collector shall be of the opinion that any claim in a protest requires further review of an advisory classification or return in order to complete the record necessary to a proper consideration of the issue involved, he shall forward the invoice papers to the appraiser for a special report as to the character and description of the merchandise and all other facts relevant to the case.

(*b*) The appraiser will return all papers to the collector with his report, customs Form 6437, together with the samples, if any, of the merchandise under consideration.

ART. 853. *Collectors' review on protest.*—(*a*) Tariff Act of 1930, section 515:

Upon the filing of such protest the collector shall within ninety days thereafter review his dicision, and may modify the same in whole or in part and thereafter remit or refund any duties, charge, or exaction found to have been assessed or collected in excess, or pay any drawback found due, of which notice shall be given as in the case of the original liquidation, and against which protest may be filed within the same time and in the same manner and under the same conditions as against the original liquidation or decision. If the collector shall, upon such review, affirm his original decision, or if a protest shall be filed against his modification of any decision, and, in the case of merchandise entered for consumption, if all duties and charges shall be paid, then the collector shall forthwith transmit the entry and the accompanying papers, and all the exhibits connected therewith, to the United States Customs Court for due assignment and determination, as provided by law. Such determination shall be final and conclusive upon all persons, and the papers transmitted shall be returned, with the decision and judgment order thereon, to the collector, who shall take action accordingly, except in cases in which an appeal shall be filed in the United States Court of Customs and Patent Appeals within the time and in the manner provided by law.

(*b*) Reliquidations shall be submitted to the comptroller of customs for verification in the same manner as original liquidations.

ART. 854. *Transmission of protests and samples to the United States Customs Court.*—(*a*) If the comptroller of customs does not concur, or if the collector shall affirm his original decision, or upon the filing of a protest against his modification of any decision, one copy of the protest and accompanying papers shall be immediately transmitted to the United States Customs Court by the collector, provided that in the case of a consumption entry the duties shall have been paid.

(*b*) The collector, in his letter of transmittal, customs Form 4295, shall list the protests transmitted and identify the entries covered by each such protest. Whenever practicable, he shall forward a sample of the merchandise with an identification card (customs Form 6433) attached thereto. Any information which, in the judgment of the collector, may be of assistance to the Assistant Attorney General in defending the action or decision of the collector which has been protested, shall be stated by indorsement on the protest or in a memorandum enclosed therewith. Any objection to the validity of the protest perceived by the collector should be specially mentioned in such indorsement or memorandum. Each such indorsement or memorandum shall be identified as not a part of the protest.

(*c*) Two or more protests of one importer on the same subject may be covered by one letter of transmittal, but protests of different importers, or on different subjects, should not be so combined.

(*d*) If samples are needed to sustain the Government's case, they should be sent to the United States Customs Court, 201 Varick Street, New York City. They should, if possible, be sent by mail under Government frank; otherwise they should be forwarded under Government bill of lading.

(*e*) Upon transmittal of records from ports other than New York to the United States Customs Court in cases in which local hearings are to be had, the samples will, after being properly identified with such records, be retained in the local office for use at such hearings, and thereafter be immediately stamped with the court numbers and transmitted with such records to the court.

(*f*) If samples are sent to the court at the importer's request, the transportation charges must be paid by him.

ART. 855. *Frivolous protests.*—Tariff Act of 1930, section 517:

The United States Customs Court shall, upon motion of counsel for the Government, and may, upon its own motion, decide whether any appeal for reappraisement or protest filed under the provision of section 501, 514, 515, or 516 of this act is frivolous, and, if said court shall decide that such appeal or protest is frivolous, a penalty of not less than $5 nor more than $250 shall be assessed against the person filing such appeal or protest: *Provided*, That all appeals for reappraisement or protests filed by the same person and raising the same issue shall, if held frivolous by said court, be consolidated and deemed one proceeding for the purpose of imposing the penalty provided in this section: *Provided further*, That the person against whom such penalty is assessed may have a review by the Court of Customs and Patent Appeals of the decision of the United States Customs Court by filing an appeal within the time and in the manner provided by section 198 of the Judicial Code, as amended.

ART. 856. *Reliquidation of entries under decisions of the United States Customs Court.*—Entries which are the subject of such decisions will be reliquidated in harmony with the judgment order thereon at the expiration of 60 days from the date of the decision, or 90 days in the case of merchandise imported into Alaska or the insular possessions of the United States, unless an appeal or petition for a rehearing is filed, except that entries the subject of decisions of the court, which follow a decision of the Court of Customs and Patent Appeals involving the same issue, will be reliquidated immediately upon receipt of orders from the United States Customs Court.

ART. 857. *Collector's recommendation for rehearing or appeal.*—(*a*) On the receipt of a decision from the court the collector will immediately examine it, together with the protest, and all papers connected therewith.

(*b*) If in his opinion a rehearing should be had on said protest, he will as soon as practicable transmit his reasons to the Assistant Attorney General at New York, with recommendation, in order that such rehearing may be applied for within 30 days from the date of the court's decision.

(*c*) If the collector is of the opinion that the court's decision should be reviewed by the Court of Customs and Patent Appeals, he will promptly submit his reasons therefor to the Bureau in order that, if deemed advisable, an appeal may be filed for such review within 60 or 90 days, as the case may be (see following article), at the same time forwarding a copy of his letter to the Assistant Attorney General for his information.

ART. 858. *Appeals to the Court of Customs and Patent Appeals.*—(*a*) United States Code, title 28, section 310:

If the importer, owner, consignee, or agent of any imported merchandise, or the collector or Secretary of the Treasury shall be dissatisfied with the decision of the United States Customs Court as to the construction of the law and the facts respecting the classification of such merchandise and the rate of duty imposed thereon under such classification, or with any other appealable decision of said court, they, or either of them, may, within 60 days next after the entry of such decree or judgment, and not afterward, apply to the Court of Customs and Patent Appeals for a review of the questions of law and fact involved in such decision. In Alaska and in the insular and other outside possessions of the United States ninety days shall be allowed for making such application to the Court of Customs and Patent Appeals. Such application shall be made by filing in the office of the clerk of said court a concise statement of errors of law and fact complained of; and a copy of such statement shall be served on the collector, or on the importer, owner, consignee, or agent, as the case may be. Thereupon the court shall immediately order the United States Customs Court to transmit to said court the record and evidence taken by them, together with the certified statement of the facts involved in the case and their decision thereon; and all the evidence taken by and before said United States Customs Court shall be competent evidence before said Court of Customs and Patent Appeals. The decision of said Court of Customs and Patent Appeals shall be final, and such cause shall be remanded to said United States Customs Court for further proceedings to be taken in pursuance of such determination. (Aug. 5, 1909, c. 6, sec. 28, 36 Stat. 91, 105; Mar. 3, 1911, c. 231, sec. 198, 36 Stat. 1146; May 28, 1926, c. 411, sec. 1, 44 Stat. 669; Mar. 2, 1929, c. 488, sec. 1, 45 Stat. 1475.)

(*b*) Jurisdiction over appeals from decisions of the United States Customs Court was transferred from the Secretary of the Treasury to the Department of Justice by Executive order dated June 10, 1933, effective August 10, 1933.

ART. 859. *Reliquidation under decisions of the Court of Customs and Patent Appeals.*—Entries covering the merchandise the subject of such decisions will be reliquidated only upon receipt of orders from the United States Customs Court, unless an appeal is taken to the Supreme Court.

ART. 860. *Appeal to Supreme Court.*—United States Code, title 28, section 308:

* * * In any case in which the judgment or decree of the Court of Customs and Patent Appeals is made final by the pro-

visions of this title, it shall be competent for the Supreme Court, upon the application of either party, duly made as required by section 350 of this title, to require, by certiorari or otherwise, such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal to the Supreme Court. * * *

ART. 861. *Refund of duties.*—(*a*) Refunds of duties on reliquidation by reason of any ruling or decision of the Bureau, the United States Customs Court or the United States Court of Customs and Patent Appeals will be made in accordance with chapter XXII.

(*b*) The refunding of moneys in compliance with such decisions is the function of the Secretary of the Treasury, and there is no foundation for a suit against the collector of customs to restrain him from disposal of such moneys.

(*c*) Payments of costs and interest in customs cases upon such refunds is not allowed.

REAPPRAISEMENT AND REVIEW

ART. 862. *Notice of advance.*—(*a*) Tariff Act of 1930, section 501:

The collector shall give written notice of appraisement to the consignee, his agent, or his attorney, if (1) the appraised value is higher than the entered value, or (2) a change in the classification of the merchandise results from the appraiser's determination of value. * * *

(*b*) The collector at the headquarters port or the deputy collector in charge at a port of entry shall immediately give notice on customs Form 4301. The notice should be prepared in duplicate and the retained copy, with date of mailing or delivery noted thereon, securely attached to the invoice.

(*c*) In the case of so-called "duress" entries notice of appraisement to importer shall be on customs Form 4321.

ART. 863. *Appeal, method of—Time limit.*—(*a*) Tariff Act of 1930, section 501:

* * * The decision of the appraiser shall be final and conclusive upon all parties unless a written appeal for a reappraisement is filed with or mailed to the United States Customs Court by the collector within sixty days after the date of the appraiser's report, or filed by the consignee or his agent with the collector within thirty days after the date of personal delivery, or if mailed the date of mailing of written notice of appraisement to the consignee, his agent, or his attorney. No such appeal filed by the consignee or his agent shall be deemed valid, unless he has complied with all the provisions of this act relating to the entry and appraisement of such merchandise. * * *

(*b*) When the collector appeals to reappraisement he shall use customs Form 4325 and at once forward a copy of the appeal to the consignee, his agent or attorney. Such appeal should specify the particular items in the invoice affected if it does not apply to all items of merchandise in the invoice.

(*c*) Tariff Act of 1930, section 518:

* * * Under such rules as the United States Customs Court may prescribe, and in its discretion, the court may permit the amendment of * * * [an] appeal, or application for review. * * *

(*d*) The appeal of the consignee or agent shall be on customs Form 4313 and filed with the collector in triplicate. The date of receipt by the collector shall be noted thereon.

(*e*) Collectors shall require the street, number, town, or city constituting the postoffice address of the consignee or his agent to be disclosed in all appeals.

(*f*) The collector shall keep a record of all appeals on customs Form 4339 at headquarters ports only. Such record may be kept in either numerical or alphabetical order.

ART. 864. *Appeal, disposition of—Samples.*—(*a*) Tariff Act of 1930, section 501:

* * * Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court and shall be assigned to one of the judges, who shall, after affording the parties an opportunity to be heard, determine the value of the merchandise. * * *

(*b*) When the appeal to reappraisement has been completed the collector shall transmit the invoices and all papers pertaining to reappraisement (except advance reports, customs Form 6445, and documentary evidence attached thereto) with customs Form 3085 to the United States Customs Court, 201 Varick Street, New York City.

(*c*) Importers' appeals shall be examined by the collector to determine if they have been presented to his office within 30 days after date of personal delivery, or, if mailed, the date of mailing of written notice of appraisement to the consignee, his agent, or attorney.

(*d*) If it is the opinion of the collector that an appeal placed with him has not been received within the statutory time and the importer or his agent or attorney upon notice of the collector's opinion requests transmittal of the appeal to the United States Customs Court in the usual manner, the collector shall comply with the request. In such cases the collector shall transmit to the Assistant Attorney General, 201 Varick Street, New York City, a statement showing (1) the port, number, and date of entry; (2) that he does not consider the appeal to have been received in his office within the statutory time; (3) the date of personal delivery or of mailing written notice of appraisement; (4) the name, address, and relationship to the importer, if any, of the person to whom the notice of appraisement was given; (5) whether the notice of appraisement was given by personal delivery or mail; and (6) the date on which the appeal was received in the office of the collector.

(*e*) Tariff Act of 1930, section 402 (b):

* * * A decision of the appraiser that foreign value, export value, or United States value can not be satisfactorily ascertained shall be subject to review in reappraisement proceedings under section 501; but in any such proceeding, an affidavit executed outside of the United States shall not be admitted in evidence if executed by any person who fails to permit a Treasury attaché to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise.

(*f*) The appraiser will, when practicable, retain samples of all merchandise subject to reappraisement.

(*g*) When the importer waives the right to have the hearing held at the port of entry and requests on customs Form 4305 that it be held in New York, samples needed to sustain the Government's case should be forwarded to the United States Customs Court. In all other cases they should be held at the port of entry.

(*h*) When forwarded to the court the samples should, if possible, be sent by mail under Government frank; otherwise they should be forwarded under Government bill of lading.

(*i*) When samples are sent to the court at the importer's request the transportation charges shall be paid by him.

ART. 865. *Advance reports for reappraisement appeals.*—(*a*) Whenever an appraising officer advances the entered value or appraises an importation entered under so-called "duress" or makes a return entailing a special dumping duty, he shall make complete records of his appraisement on customs Form 6445.

(*b*) Whenever an appeal to reappraisement is filed by the importer or by the collector, the collector shall immediately forward a copy thereof to the appraiser. Upon receipt of such notice of appeal, or when recommending an appeal to reappraisement, the appraiser shall prepare an advance report on customs Form 6445. In the case of so-called "duress" entries, when the initial advance cited by the importer was made at his port, the appraiser shall note on the summary sheet (customs Form 6417) that the importer's citation is correct, or, if not, state the correct one. When the initial advance was made at another port no such notation need be made.

(*c*) The name of the port at which the merchandise is entered, the number and date of the entry and the information required in section A (save in the cases specified in paragraphs (*j*) and (*k*) this article) and section B must be supplied in all advance reports.

(*d*) If the advance report concerns the appraised value, columns D1, 2, 3, 4, 5, 6, and 7 must be completed; if an antidumping return, columns D1, 2, 3, 4, 8, and 9. If the issue is confined to an element or elements of value which

apply equally to all the items of merchandise in question, it will be sufficient to describe in section D one representative item and to specify the others as "balance—same issue"; otherwise all the items of merchandise in question must be described.

(*e*) The particular respect in which the appraised value differs from the value claimed by the importer, or the value claimed by the appraising officer or collector upon appeal differs from the appraised value, should be stated concisely in item 15, so that the Assistant Attorney General, in the event of litigation, may readily ascertain the point of contention. What the appraising officer or collector claims to be the fact about the issue should be stated briefly in item 16, if it is not apparent in the answer in item 15.

(*f*) If the appraising officer is satisfied that the difference between the price and the foreign market value is partly due (in the case of purchase price) to greater wholesale quantities to all purchasers for exportation to the United States or (in the case of exporter's sale price) to greater wholesale quantities to all purchasers in the United States and makes due allowance therefor in determining the foreign market value as provided for in paragraphs (*b*) and (*c*) respectively, of section 202 of the antidumping act, he must specify such wholesale quantities for or in the United States in item 25a. If such quantities are compared for the purpose of the allowance with the usual wholesale quantities for home consumption, the latter quantities must be specified in item 25b. If (in the absence of sales or offers to sell in wholesale quantities for home consumption) the wholesale quantities for or in the United States are compared with the usual wholesale quantities for exportation to countries other than the United States, the latter quantities must be specified in item 25c. If any allowance, by reason of the difference in the quantities compared, is made in determining foreign market value, it should be specified in the analysis of value in column D9.

(*g*) If the appraising officer relies upon prices paid by other importers, item 30 should be completed. If the appraising officer is of the opinion that his appraisement should be substantiated by trade testimony, samples of the merchandise may be submitted by him at the time of appraisement to other importers or persons in the trade and their valuations on customs Form 6429 attached to the advance report.

(*h*) The names and addresses of the persons who may be relied upon to give oral or documentary testimony in support of the contention of the Government should be inserted in item 31, if such particulars are not disclosed elsewhere in the advance report or in a document attached thereto.

(*i*) If the appraising officer or collector relies upon evidence of a character not indicated in section G, the source and nature of such evidence must be stated in item 32. If the evidence consists of a document procured at the port of entry, the original or a copy should be attached or a summary of its evidentiary value inserted in item 32.

(*j*) If the action in the present case conforms with that taken on a previous entry at the same port, the name of the port at which the merchandise is entered, the number and date of the present entry, and the information required in sections B and C only are required in the advance report.

(*k*) In the case of further information on which a revision of values is found necessary, a second advance report, with the numeral 2 inserted in the circle at the top of the title page, shall be forwarded; in such a report only such information is required as will disclose the name of the port at which the merchandise is entered, the number and date of the entry, the sender, and the changes in the status of the case since the first report.

(*l*) In the case of an advance report prepared upon an entry filed at a port other than New York, the appraising officer who made the return upon the invoice shall, when so requested, furnish the sender with the information necessary to complete section E or any other part of the report. In the case of an advance report transmitted by the collector at the port of New York, upon an entry filed at that port, the examiner who made the return upon the invoice shall insert the necessary information when he receives the report from the Customs Information Exchange.

(*m*) Whenever an appraising officer recommends to the collector that he file an appeal for reappraisement and the invoice is not available, he shall complete the advance report as far as possible and write the words "invoice unavailable" below item 9.

(*n*) Whenever a customs agent recommends to the collector that he file an appeal for reappraisement, such agent shall at the same time deliver to the collector for each entry an advance report for transmission by him to the Customs Information Exchange. If the agent deems it advisable to withhold any of his information until he may transmit it directly to the Assistant Attorney General, such fact should be indicated by the agent in item 32.

(*o*) Whenever the Assistant Attorney General recommends to a collector that he file an appeal for reappraisement, such fact and the date of the recommendation should be inserted by the collector in item 32.

(*p*) Unless formal (regular) entry was made, no advance report is required in the case of merchandise imported in packed packages, special-delivery packages, parcel post, or regular mail. If the appraising officer in any instance, however, is of the opinion that the facts of the case should be circulated by the Customs Information Exchange for the information of other appraising officers, an advance report should be forwarded.

(*q*) Appraisers will arrange to have two copies of a notice list on customs Form 6447 prepared daily.

(*r*) When the advance reports and copies of the notice list are assembled they shall be stamped with the current date. The original of the notice list and the corresponding advance reports shall be sent to the Customs Information Exchange and the carbon copy of the notice list retained as a record.

(*s*) The cards forwarded by the Customs Information Exchange in pursuance of paragraph (*f*) of article 866, disposition of advance reports, shall be filed in numerical order as an index of pending reappraisements and as a ready means, upon receipt of a docket notice from the court, of notifying the proper examiners of the date of hearing, or the Assistant Attorney General if the appraiser is not ready to proceed in any particular case.

(*t*) Collectors will cause all advance reports prepared in or delivered to their offices to be assembled and transmitted to the Customs Information Exchange, 201 Varick Street, New York, with a notice list on customs Form 6447.

ART. 866. *Disposition of advance reports.*—(*a*) The Customs Information Exchange, upon the receipt of an advance report, shall, if it deems it advisable, notify appraising officers at other ports; the customs representative, if any, in charge of the district in which the merchandise was invoiced or, if none, the United States consul at the place where the invoice was certified; and customs agents in charge of districts; of any advance in value or any other information given therein which in its judgment should be so communicated.

(*b*) Whenever a collector forwards to the United States Customs Court the entries, invoices, and other papers involved in appeals for reappraisement he shall inclose therewith a notice list on customs Form 6447. It has been arranged that all such notice lists, after the insertion therein of the corresponding reappraisement numbers by the clerk of the court will be delivered to the Customs Information Exchange.

(*c*) Upon the receipt of a notice list of appeals for reappraisement from the United States Customs Court the Customs Information Exchange shall attach the reappraisement numbers and the words "Collector's appeal", if such is the fact, to the corresponding advance reports and send such as were not prepared in the office of the appraiser at New York to the examiners of like merchandise in that office.

(*d*) In reports prepared elsewhere than in his office the New York examiner will note in red ink any information he may have which will aid in disclosing the facts, in defining the issue, or in proving what is claimed by the appraising officer or collector. Whether or not the examiner supplies any additional information, he will cause the date and his name to be inserted in the place indicated in the form and promptly return the report to the Customs Information Exchange.

(*e*) The Customs Information Exchange will attach a copy of any report, circular, or letter cited by the sender and deliver the advance report when so completed to the office of the Assistant Attorney General in charge of customs cases. If the copy attached is of an official report, it should be a signed carbon or certified.

(*f*) Whenever an advance report which was prepared in the office of an appraiser is delivered to the Assistant Attorney General the Customs Information Exchange shall forward to such appraiser a file card, customs Form 6455, denoting the date of such action, the reappraisement and entry numbers, and the date of the advance report for his use as an index and record of pending reappraisements.

(*g*) On the first of each month the Customs Information Exchange shall deliver to the Assistant Attorney General for his use in remission proceedings all unwithdrawn advance reports which are dated 3 months or more prior to such action.

(*h*) An advance report is in every respect a confidential document of the United States Treasury Department. The disclosure to or the failure to withhold from any unauthorized person any of the contents of an advance report will constitute sufficient cause for discipline.

ART. 867. *Notice to importer of reappraisement decision—Review of.*—(*a*) Tariff Act of 1930, section 501:

* * * The judge shall, * * * render his decision in writing together with a statement of the reasons therefor and of the facts on which the decision is based. Such decision shall be final and conclusive upon all parties unless within thirty days from the date of the filing of the decision with the collector an application for its review shall be filed with or mailed to the United States Customs Court by the collector or other person authorized by the Secretary of the Treasury, and a copy of such application mailed to the consignee, or his agent or attorney, or filed by the consignee, or his agent or attorney, with the collector, by whom the same shall be forthwith forwarded to the United States Customs Court. * * * The decision of the United States Customs Court shall be final and conclusive upon all parties unless an appeal shall be taken by either party to the Court of Customs and Patent Appeals upon a question or questions of law only within the time and in the manner provided by section 198 of the Judicial Code, as amended.

(*b*) The collector, on receipt of notice of a reappraisement decision, shall immediately issue to the consignee or his agent notice of any advance over the entered value on customs Form 4309.

(*c*) The collector's application for review shall be prepared in triplicate on customs Form 4327. The original shall be forwarded to the court with a notation thereon of date of mailing a copy thereof to the consignee, or his agent or attorney, such notation being over the signature of the person actually mailing same. The remaining copy shall be retained in the office of the collector.

(*d*) The application of the consignee for review shall be filed in duplicate on customs Form 4307 with the collector, who shall note thereon the date of receipt.

(*e*) Should the collector decide not to appeal for a review of a decision on the record made but to make a new case on subsequent importations, he shall notify the Customs Information Exchange so that the appraising officers at other ports may be advised.

REMISSION OF ADDITIONAL DUTY

ART. 868. *Procedure.*—(*a*) Tariff Act of 1930, section 489:

* * * Such additional duties shall not be construed to be penal and shall not be remitted nor payment thereof in any way avoided, except in the case of a clerical error, upon the order of the Secretary of the Treasury [Commissioner of Customs], or in any case upon the finding of the United States Customs Court, upon a petition filed at any time after final appraisement and before the expiration of 60 days after liquidation and supported by satisfactory evidence under such rules as the court may prescribe, that the entry of the merchandise at a less value than that returned upon final appraisement was without any intention to defraud the revenue of the United States or to conceal or misrepresent the facts of the case or to deceive the appraiser as to the value of the merchandise. If the appraised value of any merchandise exceeds the value declared in the entry by more than 100 per centum, such entry shall be presumptively fraudulent, and the collector shall seize the whole case or package containing such merchandise and proceed as in case of forfeiture for violation of the customs laws; and in any legal proceeding other than a criminal prosecution that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud; and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he rebuts such presumption of fraud by sufficient evidence.

Upon the making of such order or finding, the additional duties shall be remitted or refunded, wholly or in part, and the entry shall be liquidated or reliquidated accordingly. Such additional duties shall not be refunded in case of exportation of the merchandise, nor shall they be subject to the benefit of drawback. * * *

(*b*) Petitions for the remission of additional duty shall be in writing and duly verified by the petitioner; or if the petitioner be a partnership or corporation, by a member thereof or by anyone knowing the facts. Every such petition shall be addressed to the United States Customs Court, and filed in the office of the chief clerk thereof. It shall set forth in concise form the facts desired to be proved at the hearing on said petition. A copy thereof shall also be filed with the collector of the port where the case arose, and the collector shall immediately upon receipt of such copy forward the entry and all other papers connected therewith to the court. The collector shall forward his copy of the petition to the supervising agent in charge of the district, for investigation and report to the Assistant Attorney General, the copy of the petition to be returned to the collector for his files.

(*c*) Notice of the filing of any such petition, together with a copy thereof, shall be served upon the Assistant Attorney General in charge of customs litigation at the port of New York within 5 days after such filing.

(*d*) Applications to the Bureau for remission of forfeiture should be held by the collector pending the court's action on the petition for remission of the additional duties, if such petition has been filed, or, if not, until the expiration of the time within which such petition may be filed.

ANTIDUMPING—PROTESTS AND APPEALS

ART. 869. *Procedure.*—(*a*) Antidumping Act of 1921, section 210:

* * * The determination of the appraiser or person acting as appraiser as to the foreign market value or the cost of production, as the case may be, the purchase price and the exporter's sales price and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; * * * as in the case of appeals and protests relating to customs duties under existing law. (U. S. Code, title 19, sec. 169.)

(*b*) Appeals to reappraisement, review of reappraisements and protests under the antidumping act shall be made in the same manner as appeals and protests relating to customs duties under the existing law.

AMERICAN PRODUCERS' APPEALS AND PROTESTS

ART. 870. *Procedure.*—(*a*) Tariff Act of 1930, section 516:

(a) *Value.*—Whenever an American manufacturer, producer, or wholesaler believes that the appraised value of any imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him is too low, he may file with the Secretary of the Treasury a complaint setting forth the value at which he believes the merchandise should be appraised and the facts upon which he bases his belief. The Secretary shall thereupon transmit a copy of such complaint to the appraiser at each port of entry where the merchandise is usually imported. Until otherwise directed by the Secretary, the appraiser shall report each subsequent importation of the merchandise giving the entry number, the name of the importer, the appraised value, and his reasons for the appraisement. If the Secretary does not agree with the action of the appraiser, he shall instruct the collector to file an appeal for a reappraisement as provided in section 501 of this act, and such manufacturer, pro-

ducer, or wholesaler shall have the right to appear and to be heard as a party in interest under such rules as the United States Customs Court may prescribe. The Secretary shall notify such manufacturer, producer, or wholesaler of the action taken by such appraiser giving the port of entry, the entry number, and the appraised value of such merchandise and the action he has taken thereon. If the appraiser advances the entered value of merchandise upon the information furnished by the American manufacturer, producer, or wholesaler, and an appeal is taken by the consignee, such manufacturer, producer, or wholesaler shall have the right to appear and to be heard as a party in interest, under such rules as the United States Customs Court may prescribe. If the American manufacturer, producer, or wholesaler is not satisfied with the action of the Secretary, or the action of the appraiser thereon, he may file, within thirty days after the date of the mailing of the Secretary's notice, an appeal for a reappraisement in the same manner and with the same effect as an appeal by a consignee under the provisions of section 501 of this act.

(b) *Classification.*—The Secretary of the Treasury shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification of and the rate of duty, if any, imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the proper rate of duty is not being assessed, he may file a complaint with the Secretary of the Treasury setting forth a description of the merchandise, the classification, and the rate or rates of duty he believes proper, and the reasons for his belief. If the Secretary decides that the classification of or rate of duty assessed upon the merchandise is not correct, he shall notify the collectors as to the proper classification and rate of duty and shall so inform such manufacturer, producer, or wholesaler, and such rate of duty shall be assessed upon all such merchandise imported or withdrawn from warehouse after 30 days after the date of such notice to the collectors. If the Secretary decides that the classification and rate of duty are correct, he shall so inform such manufacturer, producer, or wholesaler, and shall, under such regulations as he may prescribe, cause publication to be made of his decision, together with notice that the classification of and the rate of duty on all such merchandise imported or withdrawn from warehouse after the expiration of 30 days after such publication will be subject to the decision of the United States Customs Court in the event that a protest is filed under the provisions of this subdivision. If dissatisfied with the decision of the Secretary, such manufacturer, producer, or wholesaler may file with him a notice that he desires to protest the classification or the rate of duty imposed upon the merchandise, and upon receipt of such notice the Secretary shall furnish him with such information as to the entries and consignees of such merchandise, entered after the expiration of 30 days after the publication of the decision of the Secretary, at the port of entry designated by the manufacturer, producer, or wholesaler in his notice of desire to protest, as will enable him to protest the classification of or the rate of duty imposed upon such merchandise when liquidated at such port. The Secretary shall direct the collector at such port to notify such manufacturer, producer, or wholesaler immediately upon the liquidation of the first of such entries to be liquidated. Such manufacturer, producer, or wholesaler may file, within 30 days after the date of such liquidation, with the collector of such port a protest in writing setting forth a description of the merchandise and the classification and the rate of duty he believes proper. Upon the filing of any such protest the collector shall notify the Secretary of the Treasury who shall order the suspension, pending the decision of the United States Customs Court upon such protest, of the liquidation, at all ports, of all unliquidated entries of such merchandise imported or withdrawn from warehouse after the expiration of 30 days after the publication of the Secretary's decision. All entries of such merchandise so imported or withdrawn shall be liquidated, or if already liquidated, shall, if necessary, be reliquidated, in conformity with such decision of the United States Customs Court.

If, upon appeal to the Court of Customs and Patent Appeals, the decision of the United States Customs Court is reversed, the classification of the merchandise and the rate of duty imposed thereon shall be in accordance with the decision of the Court of Customs and Patent Appeals, and any necessary reliquidation shall be made. The provisions of this subdivision shall apply only in the case of complaints filed after the effective date of this act.

(c) *Hearing and determination.*—A copy of every appeal and every protest filed by an American manufacturer, producer, or wholesaler under the provisions of this section shall be mailed by the collector to the consignee or his agent within 5 days after the filing thereof, and such consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court. The collector shall transmit the entry and all papers and exhibits accompanying or connected therewith to the United States Customs Court for due assignment and determination of the proper value or of the proper classification and rate of duty. The decision of the United States Customs Court upon any such appeal or protest shall be final and conclusive upon all parties unless an appeal is taken by either party to the Court of Customs and Patent Appeals, as provided in sections 501 and 515 of this act.

(d) *Inspection of documents.*—In proceedings instituted under the provisions of this section an American manufacturer, producer, or wholesaler shall not have the right to inspect any documents or papers of the consignee or importer disclosing any information which the United States Customs Court or any judge or division thereof shall deem unnecessary or improper to be disclosed to him.

(*b*) The powers and duties of the Secretary under the foregoing sections are conferred and imposed on the Commissioner of Customs by T. D. 44221.

(*c*) All complaints under section 516 and requests for information as to classifications and rates of duty under subdivision (b) thereof shall be submitted to the Commissioner of Customs in triplicate. Complaints may be filed by complainants themselves or by duly authorized attorneys or agents on their behalf. When a complaint is filed by a corporation or an association, it must be signed by an officer thereof. When a complaint is filed by a copartnership, it must be signed by a member thereof. The name of the complainant and his principal place of business and the fact that he is an American manufacturer, producer, or wholesaler must be shown. The complaint shall present in detail the information required by section 516, shall show the class or kind of merchandise manufactured, produced, or sold which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise, and shall contain such information as the complainant may have as to the port or ports at which such merchandise is being imported into the United States. Complaints shall be itemized as to each class or kind of merchandise involved.

(*d*) All decisions of the Commissioner under section 516 (b) showing the classification and rate of duty which he believes to be correct will be published in the weekly Treasury Decisions.

(*e*) Upon notice from the Secretary that a complainant desires to file a protest, the collector, in order to facilitate the presentation of the issue to the United States Customs Court in the event a protest is so filed, shall secure accurate and complete information as to the character and description, together with samples, if practicable, of merchandise of the character covered by the complaint, imported or withdrawn from warehouse after the expiration of 30 days from the publication of the Secretary's decision. All information so secured by the collector shall be made available to the complainant upon application by him to the collector.

(*f*) Notice of the liquidation of the first of the entries to be liquidated shall be given to the complainant by the collector, as required by section 516 (b). If, upon examination of the information secured by the collector as to this entry and inspection of the sample, if any, the complainant believes that the merchandise or the facts surrounding this importation are not sufficient on which to raise the issue involved in the complaint, the collector shall then give the complainant notice of successive liquidations of such entries as will permit the framing of the issue covered by the complaint.

(*g*) If, after issuing notices as to the liquidation of several entries, none of which is satisfactory to the complainant for the purpose of protest, the collector is of the opinion that the complainant is not sincere in his desire to file a protest, the collector shall, before issuing any further notices, refer the matter to the Secretary of the Treasury for his decision.

(*h*) In no case shall a collector permit a complainant to inspect any documents or papers of the consignee or importer lodged in the customhouse except upon instructions of the Commissioner.

(*i*) All appeals to reappraisement and protests filed under this provision of law shall be in triplicate.

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[F. R. Doc. 37-2602; Filed, August 23, 1937; 3:17 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

NER—B-101—Connecticut, Supplement (6) Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—CONNECTICUT, SUPPLEMENT (6)

Revision of Section 2 of Part IV of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101 [1]—Connecticut, as amended by Supplements [2] (1) to (5), inclusive, is hereby further amended by striking out section 2 of Part IV, which reads as follows:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment that would otherwise be made for such farm in the amount of $12.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right reserved herein to make deductions with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.,

and inserting in lieu thereof the following:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm in the amount of $12.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2611; Filed, August 24, 1937; 12:59 p. m.]

NER—B-101—Maine, Supplement (7) Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—MAINE, SUPPLEMENT (7)

Revision of Section 3 of Part IV of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101 [3]—Maine, as amended by Supplements [4] (1) to (6), inclusive, is hereby further amended by striking out Section 3 of Part IV, which reads as follows:

SEC. 3. *Increase in acreage of general soil-depleting crops on farms not in eligible diversion areas.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction, from any payment which would otherwise be made for such farm, at the following county average rate for the county in which the farm is located, for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. In 1937 the Secretary exercises the right reserved herein to make deductions with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the secretary.

County:	*Rate of payment per acre*
Androscoggin	$12.60
Aroostook	17.10
Cumberland	11.70
Franklin	12.10
Hancock	11.70
Kennebec	12.10
Knox	11.20
Lincoln	10.80
Oxford	12.60
Penobscot	14.40
Piscataquis	13.90
Sagadahoc	11.20
Somerset	12.10
Waldo	13.50
Washington	12.60
York	11.70

and inserting in lieu thereof the following:

SEC. 3. *Increase in acreage of general soil-depleting crops on farms not in eligible diversion areas.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm, at the following county average rate for the county in which the farm is located, for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

County:	*Rate of payment per acre*
Androscoggin	$12.60
Aroostook	17.10
Cumberland	11.70
Franklin	12.10
Hancock	11.70
Kennebec	12.10
Knox	11.20
Lincoln	10.80
Oxford	12.60
Penobscot	14.40
Piscataquis	13.90
Sagadahoc	11.20
Somerset	12.10
Waldo	13.50
Washington	12.60
York	11.70

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2612; Filed, August 24, 1937; 12:59 p. m.]

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—MASSACHUSETTS, SUPPLEMENT (7)

Revision of Section 2 of Part IV of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101 [1]—Massachusetts, as amended by Supplements [2] (1) to (6), inclusive, is hereby further amended by striking out section 2 of Part IV, which reads as follows:

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[1] 2 F. R. 242 (DI).
[2] 2 F. R. 404, 748, 1198, 1222, 1397 (DI).
[3] 2 F. R. 159 (DI).
[4] 2 F. R 405, 648, 1199, 1224, 1398 (DI).

[1] 2 F. R. 246 (DI).
[2] 2 F. R. 592, 748, 1200, 1224, 1397, 1522 (DI).

SEC. 2. *Increase in acreage of general soil-depleting crops.*—The secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment that would otherwise be made for such farm in the amount of $12.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right reserved herein to make deductions with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.

and inserting in lieu thereof the following:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm in the amount of $12.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depeling base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2613; Filed, August 24, 1937; 12:59 p. m.]

NER—B-101—New Hampshire, Supplement (5)
Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—NEW HAMPSHIRE—SUPPLEMENT (5)

Revision of Section 2 of Part III of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101—New Hampshire,[1] as amended by Supplements[2] (1) to (4), inclusive, is hereby further amended by striking out section 2 of Part III, which reads as follows:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right to make deductions reserved herein with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.

and inserting in lieu thereof the following:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2614; Filed, August 24, 1937; 12:59 p. m.]

NER—B-101—New Jersey, Supplement (5) Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—NEW JERSEY, SUPPLEMENT (5)

Revision of Section 2 of Part III of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101—New Jersey,[1] as amended by Supplements[2] (1) to (4), inclusive, is hereby further amended by striking out section 2 of Part III, which reads as follows:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right to make deductions reserved herein with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.

and inserting in lieu thereof the following:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2615; Filed, August 24, 1937; 1:00 p. m.]

NER—B-101—New York, Supplement (9) Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—NEW YORK, SUPPLEMENT (9)

Revision of Section 2 of Part III of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and

[1] 2 F. R. 249 (DI).
[2] 2 F. R. 405, 748, 1397, 1552 (DI).

[1] 2 F. R. 237 (DI).
[2] 2 F. R. 405, 748, 1200, 1397 (DI).

Domestic Allotment Act, Bulletin No. 101—New York,[1] as amended by Supplements[2] (1) to (8), inclusive, is hereby further amended by striking out section 2 of Part III, which reads as follows:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment that would otherwise be made for such farm in the amount of $10.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right to make deductions reserved herein with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.

and inserting in lieu thereof the following:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm in the amount of $10.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2616; Filed, August 24, 1937; 1:00 p. m.]

NER—B-101—Pennsylvania, Supplement (15)
Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—PENNSYLVANIA, SUPPLEMENT (15)

Revision of Section 4 of Part V of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101—Pennsylvania[3], as amended by Supplements[4] (1) to (14), inclusive, is hereby further amended by striking out section 4 of Part V, which reads as follows:

SEC. 4. *Increase in acreage of general soil-depleting crops on farms not in eligible general diversion areas.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment which would otherwise be made for such farm, at the following county average rate for the county in which the farm is located, for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right reserved herein to make deductions with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.

County:	*Rate of payment per acre*
Adams	$10.70
Allegheny	10.10
Armstrong	9.60
Beaver	9.60
Bedford	9.70
Berks	11.70
Blair	10.10
Bradford	10.00
Bucks	12.80
Butler	10.60
Cambria	10.30
Cameron	9.40
Carbon	10.40
Centre	10.30
Chester	14.90
Clarion	10.00
Clearfield	9.80
Clinton	10.60
Columbia	10.80
Crawford	10.40
Cumberland	11.20
Dauphin	11.50
Delaware	14.40
Elk	9.60
Erie	10.60
Fayette	10.30
Forest	9.40
Franklin	10.80
Fulton	8.90
Greene	10.20
Huntingdon	8.90
Indiana	10.00
Jefferson	10.10
Juniata	10.10
Lackawanna	10.40
Lancaster	15.90
Lawrence	10.40
Lebanon	12.70
Lehigh	11.80
Luzerne	10.80
Lycoming	11.00
McKean	9.00
Mercer	10.40
Mifflin	10.70
Monroe	9.70
Montgomery	13.10
Montour	10.80
Northampton	12.10
Northumberland	10.80
Perry	9.70
Philadelphia	13.30
Pike	9.40
Potter	9.10
Schuylkill	10.90
Snyder	10.30
Somerset	10.70
Sullivan	9.90
Susquehanna	10.70
Tioga	9.30
Union	11.20
Verango	10.10
Warren	10.10
Washington	10.60
Wayne	10.50
Westmoreland	10.80
Wyoming	10.10
York	13.30

and inserting in lieu thereof the following:

SEC. 4. *Increase in acreage of general soil-depleting crops on farms not in eligible general diversion areas.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm, at the following county average rate for the county in which the farm is located, for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

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[1] 2 F. R. 309 (DI).
[2] 2 F. R. 577, 764, 941, 1015, 1200, 1224, 1397, 1533 (DI).
[3] 2 F. R. 312 (DI).
[4] 2 F. R. 406, 593, 648, 749, 917, 960, 977, 1109, 1200, 1201, 1225, 1359, 1398, 1553 (DI).

County:	*Rate of payment per acre*
Adams	$10.70
Allegheny	10.10
Armstrong	9.60
Beaver	9.60
Bedford	9.70
Berks	11.70
Blair	10.10
Bradford	10.00
Bucks	12.80
Butler	10.60
Cambria	10.30
Cameron	9.40
Carbon	10.40
Centre	10.30
Chester	14.90
Clarion	10.00
Clearfield	9.80
Clinton	10.60
Columbia	10.80
Crawford	10.40
Cumberland	11.20
Dauphin	11.50
Delaware	14.40
Elk	9.60
Erie	10.60
Fayette	10.30
Forest	9.40
Franklin	10.80
Fulton	8.90
Greene	10.20
Huntingdon	8.90
Indiana	10.00
Jefferson	10.10
Juniata	10.10
Lackawanna	10.40
Lancaster	15.90
Lawrence	10.40
Lebanon	12.70
Lehigh	11.80
Luzerne	10.80
Lycoming	11.00
McKean	9.00
Mercer	10.40
Mifflin	10.70
Monroe	9.70
Montgomery	13.10
Montour	10.80
Northampton	12.10
Northumberland	10.80
Perry	9.70
Philadelphia	13.30
Pike	9.40
Potter	9.10
Schuylkill	10.90
Snyder	10.30
Somerset	10.70
Sullivan	9.90
Susquehanna	10.70
Tioga	9.30
Union	11.20
Venango	10.10
Warren	10.10
Washington	10.60
Wayne	10.50
Westmoreland	10.80
Wyoming	10.10
York	13.30

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2617; Filed, August 24, 1937; 1:00 p. m.]

NER—B-101—Rhode Island, Supplement (8)
Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—RHODE ISLAND, SUPPLEMENT (8)

Revision of Section 2 of Part III of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101, Rhode Island[1] as amended by Supplement[2] (1) to (7), inclusive, is hereby further amended by striking out Section 2 of Part III, which reads as follows:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right to make deductions reserved herein with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.

and inserting in lieu thereof the following:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

Done at Washington, D. C., this 23rd day of August 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2618; Filed, August 24, 1937; 1:01 p. m.]

NER—B-101—Vermont, Supplement (4) Issued August 23, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—NORTHEAST REGION

BULLETIN NO. 101—VERMONT, SUPPLEMENT (4)

Revision of Section 2 of Part III of Bulletin No. 101

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101—Vermont,[3] as amended by Supplements[4] (1) to (3), inclusive, is hereby further amended by striking out Section 2 of Part III, which reads as follows:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—The Secretary reserves the right in the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres to make a deduction from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-depleting base which can be established for such farm. If in 1937 the Secretary exercises the right to make deductions reserved herein with respect to such farms, the procedure to be followed for the establishment of bases shall be in accordance with such instructions as may be issued by the Secretary.

and inserting in lieu thereof the following:

SEC. 2. *Increase in acreage of general soil-depleting crops.*—In the case of any farm which in 1937 has an acreage of general soil-depleting crops in excess of 20 acres, a deduction shall be made from any payment that would otherwise be made for such farm in the amount of $11.50 for each acre by which such 1937 acreage of general soil-depleting crops exceeds the general soil-

[1] 2 F. R. 240 (DI).
[2] 2 F. R. 593, 643, 803, 869, 1109, 1202, 1397 (DI).
[3] 2 F. R. 79 (DI).
[4] 2 F. R. 406, 748, 1397 (DI).

depleting base which can be established for such farm, if the County Committee finds that such increase tends to defeat the purpose of the 1937 Agricultural Conservation Program by substantially contributing to soil erosion or depletion. Such cases of excess acreage shall be subject to review by the Director (or in his absence the Acting Director) of the Northeast Division, who shall, when he finds the facts in the case so warrant, revise the finding or lack of finding of the County Committee. If there is no indication on or attached to the application that there has been such revision, it shall be assumed that the finding of the County Committee is approved by such Director. The general soil-depleting base means the number of acres established for the farm by the County Committee as the acreage normally used for the production of all soil-depleting crops except tobacco.

Done at Washington, D. C., this 23rd day of August, 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 37-2610; Filed, August 24, 1937; 12:42 p. m.]

DEPARTMENT OF LABOR.

Division of Public Contracts.

BULLETIN RI-1 CONTAINING REGULATIONS, RULINGS AND INTERPRETATIONS FOR ADMINISTRATION OF THE ACT OF JUNE 30, 1936.

AUGUST 23, 1937.

The enclosed Bulletin issued pursuant to and by virtue of the authority conferred by Section 4 of the Act of June 30, 1936 (49 Stat. 2038; U. S. Code, title 41, section 38), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", is an official document containing the rulings on and interpretations of the provisions of the regulations of the Secretary of Labor issued under said Act.

[SEAL] FRANCES PERKINS, *Secretary.*

[Bulletin RI-1]

RULINGS AND INTERPRETATIONS UNDER THE WALSH-HEALEY PUBLIC CONTRACTS ACT [1]

TABLE OF CONTENTS

[1] Public, No. 846, 74th Congress (49 Stat. 2036).

SECTION 14—DEFINITIONS

Custodial employees.
Manufacturer.
Open-market purchases.
Person.
Regular dealer.
The Secretary.
The Act.

NOTICE

JULY 6, 1937.

The following document represents an analysis of Public Act No. 846, Seventy-fourth Congress, of the Regulations of the Secretary of Labor, issued pursuant thereto and of the opinions of the Comptroller General on that Act, as well as a collection of the major rulings and interpretations adopted under the Act as of the date hereof. All prior rulings and interpretations inconsistent herewith are superseded by these. From time to time, amendments or additions to this statement will be released through the office of the Administrator of the Division of Public Contracts, Department of Labor.

While all such rulings and interpretations may be quoted for official use, all requests for further rulings and interpretations must be submitted to the Division of Public Contracts, Department of Labor, Washington, D. C.

BASIS LABOR STANDARDS REQUIRED BY THE PUBLIC CONTRACTS ACT

The Public Contracts Act sets standards of minimum wages, maximum hours, child labor, convict labor, and safety and health for the performance of Government contracts in excess of $10,000.

The minimum wages required are those which have been determined by the Secretary of Labor for specific industries. As these determinations are made, they will be mentioned in the specifications and invitations for bids. Unless so mentioned, no minimum wage is required.

The basic hours of work are 8 in any 1 day or 40 in any 1 week. Overtime, however, is permitted provided that time and one-half is paid. An employee engaged on Government work is entitled to time and one-half for all overtime in excess of 8 hours in any 1 day or 40 hours in any 1 week, even though part of those periods and all of the overtime are devoted to commercial work.

Child labor of boys under 16 and girls under 18 years of age is prohibited.

All convict labor is prohibited.

Conditions of safety and health are required. The approval of the State inspector is prima-facie evidence of compliance with this requirement.

RULINGS AND INTERPRETATIONS UNDER THE WALSH-HEALEY PUBLIC CONTRACTS ACT

SECTION 1—CONTRACTS

1. Coverage

The Public Contracts Act applies to "any contract made and entered into by any executive department, independent establishment, or other agency or instrumentality of the the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States (all the foregoing being hereinafter designated as agencies of the United States), for the manufacture or furnishing of materials, supplies, articles, or equipment in any amount exceeding $10,000."—The Act, section 1.

2. Assembling

A contract for an article which is produced by assembling miscellaneous parts purchased by the contractor from others is a contract to manufacture an article in the sense in which that term is used in the Public Contracts Act.

3. Construction

a. General.—Construction contracts are not subject to the Public Contracts Act.

b. Erection or installation.—Contracts for the erection or installation of materials and equipment may be either construction contracts or manufacturing contracts, depending largely upon the place where the work is performed. If most of the work is done at the site of the erection or installation, the contract should be regarded as a construction contract; however, if most of the work is done in a shop or factory away from the place of use, the contract should be regarded as a manufacturing contract. If there is any doubt concerning the classification of such contracts, the matter should be referred to the Department of Labor for decision.

c. Boats.—Contracts for the production or repair of vessels or large floating stock are not subject to the Act. However, contracts to manufacture or furnish small unregistered boats such as canoes, rowboats, and launches are contracts for the furnishing of equipment and therefore subject to the Act.

4. Personal Services

A contract exclusively for personal services is not covered by the Act; however, a contract in which services are incidental to or are an integral part of the manufacture or furnishing of materials, supplies, articles, or equipment is subject to the Act.

The following contracts have been held to be outside the Act:

(*a*) Laundry and dry cleaning contracts.

The following contracts have been deemed to fall within the provisions of the Act:

(*a*) Contracts for photographic reproductions of patent designs.

(*b*) Contracts for the tabulation of social-security records.

(*c*) Contracts for books, periodicals, magazines, newspapers, and the printing of briefs.

5. Rental Contracts

Contracts for the rental of personal property such as calculating machines and furniture are subject to the Act. Contracts for the rental of real property such as lands and offices are not.

Contracts strictly for the lease of a particular article should be distinguished from contracts for the doing of particular work in which the contractor is to employ his own equipment. The former contract is within the terms of the Act, while the latter is essentially a service contract and is exempt from the Act.

6. Specific Industries

a. Books and printing.—Contracts for books, periodicals, magazines, newspapers, and printing of briefs come within the provisions of the Act unless the purchase may be made by the Government on the open market.

7. Money Involved

a. In excess of $10,000—(1) *Indefinite amount.*—All contracts which may exceed $10,000 should include the stipulations required by the Act unless the contracting officer knows in advance that the total amount of the contract will not exceed $10,000 in any event.

(2) *Reduction for prompt payment.*—In the event that a contract were to be awarded in excess of $10,000 the stipulations required by the Act should be included, notwithstanding the fact that prompt payment would reduce the actual expenditure below the $10,000 limit. "The total price named in the contract is the contract price insofar as application of the said act is concerned, any reduction therein being dependent upon a condition subsequent to the contract."—16 Comp. Gen. 583; 16 Comp. Gen. 605.

(3) *Trade-in allowance.*—Trade-in allowances should not be deducted from the bid price in determining whether the contract is in excess of $10,000. The contract price rather than the means of payment is the controlling factor.—16 Comp. Gen. 605.

(4) *Installment delivery.*—Indefinite contracts which may exceed $10,000 come within the Act irrespective of whether the material is delivered in installments or in one lot.

b. Less than $10,000.—(1) *Contracts for separate items.*—When an invitation is issued for bids on a variety of items totaling $10,000, subject to the Act, and bidders are permitted to bid on any one or more of the items amounting to less than $10,000; awards made to different bidders for less than $10,000 are exempt from the terms of the Act.

(2) *Low bid on a few items.*—When a person bids on several items of equipment of an aggregate value in excess of $10,000 and is the low bidder on only a few items of an aggregate value below $10,000, his contract for those few items is not subject to the Act.—16 Comp. Gen. 744.

(3) *Manufacturer under regular dealer.*—Manufacturers, producing under a contract awarded to a regular dealer subject to the Public Contracts Act and delivering directly to the Government, are also subject to the Act even though they are supplying goods amounting to less than $10,000.

8. Place of Performance

Contracts which are to be performed outside the United States are exempt from the provisions of the Act except where such performance requires a shipment from within the geographic limits of the United States, its Territories, and the District of Columbia.

SECTION 2.—CONTRACTORS

1. Primary Contractors

a. The Act.—The Public Contracts Act requires that every contractor be "a manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract."—The Act, section 1 (a).

b. Manufacturer.—A "manufacturer" is a person who owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.—Regulations, article 101 (a).

(1) *Assembler.*—A contractor who produces an article by assembling miscellaneous parts, all or some of which may have been purchased from others, is a manufacturer within the contemplation of the Act.

c. Regular dealer.—(1) *Definition.*—"A regular dealer is a person who owns, operates, or maintains a store, warehouse, or other establishments in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business."—Regulations, article 101 (b).

(2) *Brokers.*—A broker who does not possess the qualifications of a "regular dealer" as defined in the Regulations of the Secretary is not entitled to the award of a Government contract under the Act, unless he bids in the name of his principal.

2. Secondary Contractor

a. Subcontractor under manufacturer.—If a contract is awarded to a manufacturer subject to the Act and in the normal course of business, the manufacturer purchases supplies or materials which are used in manufacturing the commodity required by the Government, the work performed by the vendor of such supplies and materials and his employees is not subject to the Act.

The one exception to this rule is that under section 1 (e) of the Public Contracts Act the manufacturer agrees that any part of the work performed under the contract will not be under working conditions which are insanitary or hazardous or dangerous to the health and safety of the employees involved.

b. Substitute manufacturer.—When a manufacturer undertakes a contract subject to the Act he assumes an obligation to produce the commodities required under the labor standards of that Act. He may not relieve himself of this obligation merely by shifting the work to another.

c. Manufacturer under regular dealer.—"Whenever a dealer, to whom a contract within the Act and Regulations has been awarded, causes a manufacturer to deliver directly to the Government the materials, supplies, articles, or equipment required under the contract, such dealer will be deemed the agent of the manufacturer in executing the contract. As the principal of such agent the manufacturer will be deemed to have agreed to the stipulations contained in the contract."—Regulations, article 104.

(1) If a contract for several items aggregating more than $10,000 is awarded to a regular dealer subject to the Public Contracts Act and he arranges with a manufacturer to produce and ship directly to the Government an item involving less than $10,000, the manufacturer will still be bound by the stipulations contained in the regular dealer's contract.

SECTION 3.—EMPLOYEES

1. General Rulings and Interpretations

a. The Regulations.—"The stipulations shall be deemed applicable only to employees engaged in or connected with the manufacture, fabrication, assembling, handling, supervision, or shipment of materials, supplies, articles, or equipment required under the contract and shall not be deemed applicable to office or custodial employees."—Regulations, article 102.

b. General interpretation.—The employees not covered by the provisions of the Act fall within three groups:

(*a*) Those who are not engaged in the performance of the Government contract.

(*b*) Those engaged exclusively in office work, and

(*c*) Those engaged exclusively in custodial work.

The following constructions placed upon classes of employees must not be regarded as applicable to all industries or to all employees bearing a certain title. The status of each employee must be judged separately from the particular work performed by him. The determination as to whether or not a specific employee falls within an exempt classification is a question for decision by the Department of Labor in the light of the specific circumstances surrounding the employment of the given individual.

c. Workers not engaged on Government work.—The following employees have been construed to be outside the Act:

(*a*) Employees on commercial work when such employees are actually segregated and when separate records are kept for employees on Government work.

(*b*) Research workers engaged in general experiments not specifically involved in the productive process.

(*c*) Such employees as foremen, performing no manual operation and having no direct contact with goods or equipment involved in the performance of the Government contract.

(*d*) Outside crews.

(*e*) Service and repair men.

(*f*) Instructors who do not handle the machines or materials involved in the production of the Government goods.

d. Workers engaged on Government work.—The following employees have been construed to be employees engaged in or connected with the Government contract:

(*a*) Apprentices and learners employed on Government work.

(*b*) If no separate records for employees engaged on Government work are maintained, all employees in the plant are presumed, until affirmative proof is presented to the contrary, to be engaged on Government work.

(*c*) Technical workers, such as laboratory technicians and draftsmen, closely associated with the productive processes involved in the manufacture of goods or commodities required by the Government.

e. Office employees.—Office employees are those engaged exclusively in office work relating generally to the operation of the business and not engaged in the production of the

materials, supplies, articles, or equipment required by the Government contract.

f. Custodial employees.—Custodial employees are those whose duties are directed to the maintenance of the plant and equipment and who do not perform work on the commodities required by the Government.

(1) The following employees have been construed to be custodial employees:

(*a*) Electricians.
(*b*) Engineers.
(*c*) Firemen.
(*d*) Repair shop crews.
(*e*) Watchmen.
(*f*) Maintenance men.

(2) The following employees have been construed not to be custodial employees:

(*a*) Shipping crews.

2. Specific Industry Rulings and Interpretations

a. Drug clerks and dye mixers.—Drug clerks or employees engaged in mixing the formulas which form the mixture for the dyes which go into the printing of fabrics under Government contracts are employees manually engaged in manufacture. Since their duties are so directly connected with the processing of the finished materials, they must be classed as productive employees rather than office or custodial employees, and consequently are subject to the provisions of the Public Contracts Act.

b. Service-station operators.—The Public Contracts Act does not apply to distributors and operators of service stations not owned by the company who fall within the category of independent contractors and who make delivery of an oil company's products to governmental agencies for the company's account.

c. Crude-oil production.—In contracts for the delivery of crude oil where the contractor is a producer, the Act covers the employees engaged in extracting the oil and preparing it for shipment.

d. Refined-oil production.—In contracts for gasoline, kerosene, benzine, fuel oil, and other petroleum products in which the contractor is a refiner, the Act applies to employees engaged in manufacturing; i. e., the employees at the refinery engaged in the refining processes and preparing the oil for shipment.

e. Oil-dealer's employees.—Where the contractor is a dealer the Act applies to employees at terminals, warehouses, and bulk storage tanks, including warehousemen, compounders, and chemists testing the lot out of which the Government order is filled, and the crews engaged in loading the material in vessels, tank cars, or tank wagons for shipment.

f. Cotton-textile employees.—In the case of contractors who are manufacturers in the cotton-textile industry, the following groups of employees: repair shop crews, engineers, electricians, firemen, office and supervisory staffs, shipping, watching, outside crews, cleaners, and employees engaged in the operation of such machines as dyeing, bleaching, drying, and mercerizing machines, when used only as a part of continuous chemical processes where the goods would be jeopardized by interruption are not subject to the Act.—Secretary of Labor's decision, October 15, 1936.

g. Motor truck and tractor employees.—When the contractor is a manufacturer of trucks the Act does not apply to those employees engaged in the distribution of the product such as employees in branch warehouses and service stations engaged in maintaining stocks for repairs and in performing repair services for trucks.

SECTION 4.—WAGES

1. General Provisions

"All persons employed by the contractor in the manufacture or furnishing of the materials, supplies, articles, or equipment used in the performance of the contract will be paid, without subsequent deduction or rebate on any account, not less than the minimum wages as determined by the Secretary of Labor to be the prevailing minimum wages for persons employed on similar work or in the particular or similar industries or groups of industries currently operating in the locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under the contract: *Provided, however,* That this stipulation with respect to minimum wages shall apply only to purchases or contracts relating to such industries as have been the subject matter of a determination by the Secretary of Labor."—Regulations, article 1 (b).

"Until a determination of the prevailing minimum wage for a particular industry or group of industries has been made by the Secretary of Labor prior to the invitation for bids, the stipulation with respect to wages in section 1 (b) of the Act will be inoperative, as provided in article 1 (b) of these Regulations.

"Determinations of prevailing minimum wages or changes therein will be published in the Federal Register and sent to contracting officers through circular letters of the Procurement Division of the Treasury. Such determinations will be effective upon the dates fixed therein."—Regulations, article 1101.

2. Government and Private Contracts

An individual engaged in the performance of a Government contract subject to the Public Contracts Act is entitled to the required minimum wage for the week in which any Government work was performed by him even though he may have been assigned to commercial work during part of that period.

3. Wages Determined

a. Work-garment industry.—It is my determination, pursuant to the provisions of the section 1 (b) of the Public Contracts Act, that the minimum wage for employees of contractors with the Government engaged in the manufacture of overalls, unionalls, service uniforms, work pants, and work coats made of khaki, denim, drills, twills, cottonades, ducks, corduroys, or other fabrics in whole or in part of cotton under contracts subject to the provisions of the Public Contracts Act of June 30, 1936, shall be $15 per week for a week of 40 hours, or 37½ cents per hour. This determination shall be effective and the minimum wage hereby established shall be included in all contracts of this class invitations to bid on which are issued on or after 10 days from the date hereof—(Signed) Frances Perkins, January 30, 1937.[1]

4. Overtime

a. General regulations.—"Employees engaged in or connected with the manufacture, fabrication, assembling, handling, supervision, or shipment of materials, supplies, articles, or equipment used in the performance of the contract may be employed in excess of 8 hours in any 1 day or in excess of 40 hours in any 1 week, provided such persons shall be paid for any hours in excess of such limits the overtime rate of pay which has been set therefor by the Secretary of Labor.

"Until otherwise set by the Secretary of Labor the rate of pay for such overtime shall be one and one-half times the basic hourly rate or piece rate received by the employee.

"If in any 1 week or part thereof an employee is engaged in work covered by the contractor's stipulations, his overtime shall be computed after 8 hours in any 1 day or after 40 hours in any 1 week during which no single daily total of employment may be in excess of 8 hours without payment of the overtime rate."—Regulations, article 103.

b. On Government plus commercial work.—(1) When an employee is engaged on Government work subject to the provisions of the Public Contracts Act, he is entitled to time and a half for all overtime in excess of 8 hours in any 1 day

[1] 2 F. R. 280 (DI).

or 40 hours in any 1 week, even though part of those periods was devoted to commercial work.

(2) If an employee works Monday morning on a Government contract subject to the Act, he is entitled to time and a half for all time in excess of 8 hours on that Monday or in excess of 8 hours on any of the 6 succeeding days, or in excess of 40 hours in the 7-day period commencing Monday morning, regardless of the kind of work performed during the remainder of that week.

(3) If a pay-roll period runs from Monday through Sunday and an employee starts on Government work subject to the Act Wednesday morning, the employer may elect to follow his usual pay-roll week or to adopt a new week commencing Wednesday morning and ending Tuesday evening. In either event all time over 40 hours in the accepted work week must be considered overtime.

c. On weekly or monthly salaries.—The fact that certain employees are paid on a weekly or monthly basis does not affect their right to overtime payment at one and one-half times their basic hourly rate.

SECTION 5.—DEDUCTIONS AND REBATES

1. General

Section 1 (b) of the Public Contracts Act requiring the payment of the minimum wages prescribed by the Secretary of Labor "without subsequent deduction or rebate on any account" forbids any practice reducing the net wage below the established minimum. This includes among others deductions for:

(*a*) Community-chest contributions.
(*b*) Group-insurance premiums.
(*c*) "Kick-backs."
(*d*) Medical expenses.
(*e*) Rent.

The Act, however, does not forbid these deductions as long as the net wage of the employee does not fall below the established minimum wage.

2. Social Security and Taxes

Deductions required by the Federal Social Security Act and other taxing laws are not rebates of the kind referred to in article 1 (b) of the Act, since these deductions are made pursuant to law through employers as collecting agents.

3. Garnishments

There being a wide variation in the garnishment laws of the several States, no comprehensive statement can be made applicable to all of those laws. Inasmuch as the Public Contracts Act may be construed to guarantee a payment of minimum wages to employees affected, in the case of garnishment proceedings the correct procedure is probably for the garnishee to hold aside the funds, file an answer, and at the same time file a special plea, setting out the circumstances in detail and the condition in which he is placed by the Public Contracts Act. It will then be for the local court to determine the employer's responsibility.

SECTION 6.—HOURS

1. Regular Day and Week

a. Time of commencement.—The work day and week of an employee engaged on governmental work subject to the Act may be deemed to start at any time when the employee commences to work on the Government contract. However, if the contractor desires to maintain his usual time-keeping and pay-roll procedure, he may elect to calculate the hours of work from the first hour of his usual work week rather than from the hour of the commencement of work on the Government contract.

b. Days of the week.—The Act merely requires that persons directly connected with Government-contract work shall not work more than 8 hours in any 1 day or 40 hours in any 1 week but does not specify which days may be work days. There is no prohibition in the Act against work on Sundays or holidays; other Federal, State, and local laws pertaining to Sunday or holiday work, however, may be applicable.

c. Period of instruction.—Generally, in the employment of apprentices, the period of instruction must be considered in the computation of hours of employment. If the apprentice is employed on Government-contract work under the Public Contracts Act, he is entitled to overtime pay for all the time his attendance and effort are required in excess of 8 hours in any 1 day or 40 hours in any 1 week.

2. Overtime

Overtime shall be computed as all time worked in excess of 8 hours in any 1 day or 40 hours in any 1 week.

SECTION 7.—CHILD LABOR

1. In General

"No male person under 16 years of age, and no female person under 18 years of age will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in the contract."—The Act, section 1 (d).

2. Partial Exemption in Cotton-Textile Manufacturing

I hereby grant, until further ordered, an exemption from the application of section 1 (d) and section 2 of the Public Contracts Act, Public, No. 846, Seventy-fourth Congress, and from the relevant regulations prescribed by me in part 1, article 1, paragraphs (d) and (f) of the Regulations dated September 14, 1936, with respect to the employment by contractors who are manufacturers in the cotton-textile industry of girls between the ages of 16 and 18 years subject to the following conditions:

1. That no girl under 16 years of age shall be employed.
2. That no girl under 18 years of age not in the employ of the contractor on October 15, 1936, shall be employed during the term of the contract.
3. That no girl under 18 years of age shall be employed between the hours of 7 p. m. and 6 a. m.
4. That no girl under 18 years of age shall be employed at any operation or occupation hazardous in nature or dangerous to health.
5. That for every girl under the age of 18 years now employed, the contractor shall obtain and keep on file evidence showing that the girl is at least 16 years of age.
6. That a specific and positive luncheon period of at least 30 minutes be established for women workers under 18 years of age.—Secretary of Labor's Decision, May 4, 1937.

SECTION 8.—CONVICT LABOR

1. The Act

"No convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in the contract."—The Act, section 1 (d).

SECTION 9.—SAFETY AND HEALTH

1. Insanitary, Hazardous, and Dangerous Conditions

"No part of such contract will be performed nor will any of the materials, supplies, articles, or equipment to be manufactured or furnished under said contract be manufactured or fabricated in any plants, factories, buildings, or surroundings or under working conditions which are insanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of said contract."—The Act, section 1 (e).

2. Compliance, Prima Facie

"Compliance with the safety, sanitary, and factory inspection laws of the State in which the work or part thereof is to be performed shall be prima facie evidence of compliance with this (Sec. 1 (e)) subsection."—The Act, section 1 (e).

SECTION 10.—POSTING, RECORDS AND REPORTS

1. Posting

"The contractor shall post a copy of the stipulations in a prominent and readily accessible place at the site of the contract work and shall keep such employment records as are required in the regulations under the Act available for inspection by authorized representatives of the Secretary of Labor."—Regulations, article 1 (g).

2. Records

"Art. 501. Every contractor subject to the provisions of the Act and these Regulations shall maintain the following records of employment, which shall be available for the inspection and transcription of authorized representatives of the Secretary of Labor:

(*a*) Name, address, sex, and occupation of each employee covered by the contract stipulations.

(*b*) Date of birth of each such employee under 21 years of age.

(*c*) Wage and hour records for each such employee, including the rate of wages and the amount paid each pay period, the hours worked each day and each week, and the period during which each such employee was engaged on a Government contract, with the number of such contract. Compliance with this subsection shall be deemed complete if wage and hour records for all employees in the plant are maintained during the period between the award of any Government contract and the date of delivery of the materials, supplies, articles, or equipment: *Provided*, That where no separate records for employees engaged on Government contracts are maintained, it shall be presumed until affirmative proof is presented to the contrary that all employees in the plant, from the date of award of any such contract until the date of delivery of the materials, supplies, articles, or equipment, were engaged on such Government contract.

"Such records shall be kept on file for at least 1 year after the termination of the contract."—Regulations, article 501.

3. No Special Record Keeping Systems Required

It is not necessary for a contractor subject to the Public Contracts Act to maintain any separate and distinct records for the purposes of the Act if his usual records present the required information.

SECTION 11.—ADVERTISEMENT AND BIDS

1. Advertisements

"When it is anticipated that invitation for bids will develop contracts in excess of $10,000 in amount it is proper that the advertisement give notice to bidders that the Act of June 30, 1936, will be applicable to such contracts."—16 Comp. Gen. 583.

"The statute is mandatory, and its manifest purpose is that recipients of Government contracts coming within its terms shall be subject to its requirements."—16 Comp. Gen. 583.

2. Qualified Bids

a. In general.—All contracts to which the statute is applicable must include the prescribed regulations and stipulations in every instance without any qualification whatever, and any bid which, by qualification, undertakes to avoid compliance with the statute in any way, or by any means, will be subject to rejection.—16 Comp. Gen. 583.

b. Exempting manufacturer.—A reservation in a bid submitted by a dealer attempting to exempt a manufacturer who is to deliver directly to the Government from compliance with the Act or Regulations would require the rejection of such a bid.—16 Comp. Gen. 583.

c. Refusing records.—The Regulations of the Secretary concerning the keeping of records are obligatory upon contractors subject to the Act. The taking of an exception to this requirement in a bid for a contract under the Act invalidates the bid.—16 Comp. Gen. 590.

d. On items less than $10,000.—When a bidder who specifically takes exception to the requirements of the Act or Regulations is the lowest bidder on some of the items advertised in an aggregate value below $10,000, the exceptions in the bids may properly be disregarded and no readvertisement is necessary, provided that the terms of the invitation permit bids for individual items to be received.

SECTION 12.—ENFORCEMENT METHODS

1. Cancelation of Contracts

"That any breach * * * shall render the party responsible therefor liable to the United States of America * * *. The agency of the United States entering into such contract shall have the right to cancel the same and to make open market purchases or enter into other contracts for the completion of the original contract, charging any additional costs to the original contractor."—The Act, section 2.

2. Civil Action

"Any sums of money due to the United States of America may be recovered in suits brought in the name of the United States of America by the Attorney General thereof."—The Act, section 2.

3. Complaints

"Whenever any officer or employee of the United States Government or of any agency thereof has any knowledge of or receives any complaint with respect to a breach or violation of the stipulations required under article 1, he shall transmit such complaint according to the usual practice in his department to the Department of Labor, together with such other information as he has in his possession."—Regulations, article 1202.

4. Liquidated Damages

"Any breach or violation of any of the representations and stipulations in any contract for the purposes set forth in section 1 hereof shall render the party responsible therefor liable to the United States of America for liquidated damages in addition to damages for any other breach of such contract, the sum of $10 per day for each male person under 16 years of age or each female person under 18 years of age, or each convict laborer knowingly employed in the performance of such contract * * *."—The Act, section 2.

5. Punishment for Contempt

"In case of contumacy, failure, or refusal of any person to obey such an order, any District Court of the United States or of any Territory or possession or the Supreme Court of the District of Columbia, within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person who is guilty of contumacy, failure, or refusal is found, or resides, or transacts business, upon the application by the Secretary of Labor or representative designated by him, shall have jurisdiction to issue such person an order requiring such person to appear before him, or representative designated by him, to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof."—The Act, section 5.

6. Withholding of Sums

"Any sums of money due to the United States of America by reason of any violation * * * may be withheld from any amounts due on any contract."—The Act, section 2.

7. Ineligible List

The Secretary of Labor may direct and authorize the Comptroller General to distribute a list to all agencies of the United States containing the names of persons or firms found by the Secretary of Labor to have breached any of the

agreements or representations required by this Act. Unless the Secretary of Labor otherwise recommends, no contracts shall be awarded to such persons or firms or to any firm, corporation, partnership, or association in which such persons or firms have a controlling interest until 3 years have elapsed from the date the Secretary of Labor determines such breach to have occurred.—The Act, section 3.

SECTION 13.—EXCEPTIONS AND EXEMPTIONS

1. Agricultural or Farm Products

a. In general.—"The Act does not apply to agricultural or farm products including those processed for first sale by the original producers."

b. Raw unprocessed cotton.—Contracts entered into by Government agencies for the purchase of raw unprocessed cotton are not subject to the provisions of the Act.

c. Canned goods.—When the contractor raises and cans his own fruit or vegetable products, the canning by him is exempt from the provisions of the Act as an agricultural product processed for first sale by the original producer.

d. Processed hemp.—A farmer processes hemp for himself and other farmers and the sale price is divided equally on each lot. If he processes and sells the hemp to the Government as agent for the farmers, the contract is exempt from the Act. If the farmers sell their hemp to him for half of the resale price and he sells to the Government on his own account, his contract with the Government will not be a first sale and will be subject to the Act.

2. Open-Market Purchases

a. The Act.—"This Act shall not apply to purchases of such materials, supplies, articles, or equipment as may usually be bought in the open market."—The Act, section 9.

(1) This exception is restricted to materials which *Government agencies* are authorized by law to purchase in the open market and does not comprehend all of such particular classes of material or equipment as are usually available for purchases by the general public in the open market.—Letter Comptroller General to Representative McMillan, March 24, 1937, 81 Congressional Record 3546, daily Record.

b. The Regulations.—When the contracting officer is authorized by statute or otherwise to purchase in the open market without advertising for proposals the inclusion of the stipulations is not required.—Regulations, article 2.

c. The General Purchasing Act.—"Except as otherwise provided by law, all purchases and contracts for supplies or services, in any of the departments of the Government, and purchases of Indian supplies, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold, or such services engaged, between individuals."—United States Code, title 41, section 5; 36 Statutes 861.

3. Perishables

a. The Act.—This act shall not "apply to perishables, including dairy, livestock, and nursery products."—The Act, section 9.

b. The Regulations.—"Perishables cover products subject to decay or spoilage and not products canned, salted, smoked, or otherwise preserved."—Regulations, article 2 (b).

c. Approved perishables.—In calling for bids for meats and other food products, the contracting officer shall be guided by an advisory opinion of the Provisions Committee of the Federal Specifications Executive Committee classifying certain items as perishables or nonperishables. This list of commodities, however, is not intended to be a complete list of perishable items for there are many items purchased by the Government which were not considered by the committee. The contracting officer should decide whether or not a commodity is a perishable before publishing his invitation for bids. If he decides that the commodity is a perishable, he will omit the stipulations required in contracts subject to the Act. If the contracting officer should determine that a particular commodity which does not appear upon the list of perishables is in fact perishable, he should immediately notify the Administrator of the Division of Public Contracts, through the regular departmental channels, of his determination in order that the Administrator may be advised of the nature of the determinations made and in order that the list of perishables may be augmented from time to time.

The committee has classified the following items as perishables:

Apples, evaporated (for organizations), F. S. Z–A–613.
Apricots, evaporated (for organizations), F. S. Z–A–636.
Bacon, Canadian (sales).
Bacon, dry salt (ration overseas), Type 2, F. S. PP–B–81.
Bacon (ration in U. S.), Type 1, Grade 2, F. S. PP–B–81.
Bacon, sliced or slabs, fancy grade (sales).
Beef, corned, bulk.
Beef, dried, sliced, bulk.
Beef, fresh or frozen (ration), Type 1 or 2, Class 1, Grade B, F. S. PP–B–221.
Beef, fresh or frozen, wholesale market cuts, Type 3 or 4, Class 1, Grade B, F. S. PP–B–221.
Beef tenderloin, fresh frozen.
Brains, calf (for organizations only), F. S. PP–B–656.
Brains, hog (for organizations only), F. S. PP–B–661.
Bread, soft, Rye, Type D, F. S. EE–B–671.
Bread, soft Vienna style, Type B, F. S. EE–B–671.
Bread, soft, wheat, Type A, F. S. EE–B–671.
Butter (ration), Grade C (score 90), F. S. C–B–801.
Butter (sales), Grade A (score 94), or B (score 92), F. S. C–B–801.
Buttermilk, Type A or B, F. S. C–B–816.
Calves head and feet, fresh frozen.
Cheese, fresh (ration), Grade B, F. S. C–C–271.
Cheese (sales), including packages of 3 to 16 ounces (not to exceed 8 kinds).
Chickens, broilers, Class B–1a, Grade A or B, F. S. PP–C–251a.
Chickens, fryers, Class B–1b, Grade A or B, F. S. PP–C–251a.
Chickens, roasters (sales), Class B–1c, Grade A, F. S. PP–C–251a.
Chickens, roasters (ration), Class B–1c, Grade B, F. S. PP–C–251a.
Clams, fresh, F. S. PP–C–401.
Crabmeat, fresh, F. S. PP–C–656.
Cranberries, fresh (in season) (for organizations only).
Cream, fresh, Types 1 and 3, F. S. C–C–671 (for organizations only).
Ducks, dressed, F. S. PP–D–741.
Eggs (ration) in crates, Class A or B (U. S.), Class A, B, or C (oversea), Grade B–3 (2) F. S. C–E–271.
Eggs (sales) in cartons, Class A or B (U. S.), Class A, B, or C (oversea), Grade B–3 (2) or B–3 (3), F. S. C–E–271.
Fish, fresh, F. S. PP–F–381.
Fish, salted or smoked, F. S. PP–F–401.
Fowl, dressed (fricasse), F. S. PP–F–611a.
Fruits, evaporated, in cartons or tins.
Fruits, fresh (Philippine Department and transports only).
Ham, boiled, pressed, or rolled.
Ham, smoked, sweet-pickle cured, fancy grade.
Headcheese, F. S. PP–H–191.
Hearts, beef, fresh, F. S. PP–H–201.
Ice cream, bulk or brick, F. S. EE–I–116 (for organizations only).
Kidneys, beef, fresh, F. S. PP–K–351.
Kidneys, lamb, fresh.
Lamb, fresh, carcass or wholesale market cuts, Grade A or B, F. S. PP–L–91.

or B, F. S. PP–L–91.
Lamb loins, fresh frozen.
Lamb tongues, pickled.
Lard, Type 1 or 2, F. S. PP–L–101.
Lard substitute (ration), Type 1 or 2, F. S. EE–L–101.
Lard substitute or shortening (sales).
Liver, fresh, calf, Class A, Type 1 or 2, F. S. PP–L–351.
Liver, fresh, beef, Class B, Type 1 or 2, F. S. PP–L–351.
Luncheon loaf.
Milk, fresh (ration), F. S. C–M–381a (for organizations only).
Mutton, fresh, carcass or wholesale market cuts, Grade A, F. S. PP–M–791.
Onions (ration) Type A or B, F. S. HHH–O–531.
Oxtails, fresh.
Oysters, fresh, Grade B or C, F. S. PP–C–956a.
Peaches, evaporated (for organizations), F. S. Z–P–193.
Pig's feet, Types B–1a, B–1b, and B–c, F. S. PP–P–371.
Pork, bellies, clear seedless, dry salt cured, 18–22 pounds.
Pork, fatbacks, dry salt cured, F. S. PP–F–81.
Pork, fresh, carcass or wholesale market cuts, F. S. PP–P–571.
Pork, fresh, hams (ration) F. S. PP–P–571.
Pork spareribs, corned.
Potato chips.
Potatoes, Irish (ration) F. S. HPH–P–611.
Potatoes, sweet, fresh, F. S. HHH–P–621.
Prunes, evaporated (for organizations) F. S. Z–P–681a.
Reindeer meat (for organizations only) (to be slaughtered and handled by approved processors).
Sausage, Bologna style, F. S. PP–S–71.
Sausage, Frankfurter style, F. S. PP–S–81.
Sausage, liverwurst, F. S. PP–S–86.
Sausage, pork, fresh, F. S. PP–S–91.
Sausage, summer, all kinds.
Scrapple (for organizations) F. S. PP–S–141.
Sweetbreads (for organizations) F. S. PP–S–871.
Tongue, fresh or smoked.
Tripe (for organizations).
Turkey, fresh (ration) Grade B, F. S. PP–T–791a.
Turkey, fresh (sales) Grade A, F. S. PP–T–791a.
Veal, fresh carcass or wholesale market cuts, F. S. PP–V–191.
Veal loaf, not canned.
Vegetables, fresh (Philippine Department only).
Yeast, compressed, Type A, F. S. EE–Y–181.

d. Dairy, livestock, and nursery products.—Section 9 of the Act does not provide that all dairy, livestock, and nursery products are perishable per se for the purpose of the Act but to the contrary the provision exempts only dairy, livestock, and nursery products which are perishable in fact.

4. Public Utilities

Contracts for public-utility services, including electric light and power, water, steam, and gas are exempt from the application of the Act.—Regulations, article 603.

The Act does not apply to contracts "for the furnishing of service by radio, telephone, telegraph, or cable companies subject to the Federal Communications Act of 1934."—Regulations, article 2 (f).

5. Contracts to Overcome Default

Contracts covering purchases against the account of a defaulting contractor where the stipulations required herein were not included in the defaulted contract are exempt from the application of the Act.—Regulations, article 603.

6. Foreign Contracts

Contracts which are to be performed outside the geographical limits of the United States, its Territories, and the District of Columbia are exempt from the application of the Act, except where such performance requires a shipment from within such geographic limits.—Regulations, article 603 (b).

7. Contracts by Secretary of Agriculture

The Public Contracts Act does not apply to "any contracts made by the Secretary of Agriculture for the purchase of agricultural commodities or the products thereof."—The Act, section 9.

8. Contracts for Transportation

The Public Contracts Act does not apply to contracts for the "carriage of freight or personnel by vessel, airplane, bus, truck, express, or railway line where published tariff rates are in effect."—The Act, section 9.

9. Past Work

The Public Contracts Act does not operate retroactively and applies only to work performed after the opening of the bids.

10. Procedure for Exemptions

a. The Regulations.—"Requests for the exception or exemption of a contract or class of contracts from the inclusion or application of one or more of those stipulations required by article 1 must be made by the head of a contracting agency or department and shall be accompanied with a finding by him setting forth reasons why such inclusion or application will seriously impair the conduct of Government business."—Regulations, article 601.

"Request for the exception or exemption of a stipulation respecting minimum rates of pay and maximum hours of labor contained in an existing contract must be made jointly by the head of the contracting agency and the contractor and shall be accompanied with a joint finding by them setting forth reasons why such exception or exemption is desired."—Regulations, article 601.

"Decisions concerning exceptions or exemptions shall be in writing and approved by the Secretary of Labor or officer prescribed by him, originals being filed in the Department of Labor and certified copies shall be transmitted to the Department or agency originating the request, to the Comptroller General, and to the Procurement Division of the Treasury."—Regulations, article 602.

SECTION 14.—DEFINITIONS

1 Custodial Employees

"Custodial employees as referred to in article 102 of the Regulations means those employees whose duties are directed to the maintenance of the plant such as watchmen and janitors rather than to those who perform work on the commodities required by the Government."

2. Manufacturer

A "manufacturer" is a person who owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.—Regulations, article 101 (a).

3. Open-Market Purchases

Open-market purchases are those purchases which are authorized by statute, or otherwise, to be made in the open market without advertising for bids.

4. Person

Whenever used in this Act, the word "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.—The Act, section 7.

5. Regular Dealer

A regular dealer is a person who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.—Regulations, article 101 (b).

6. The Secretary

"The Secretary" means the Secretary of Labor.

7. The Act

"The Act" means Public Act No. 846, 74th Congress, approved June 30, 1936, commonly referred to as the Walsh-Healey Act, or the Public Contracts Act.

[In the original document, here follows the text of Public No. 846, 74th Congress (49 Stat. 2036); and the text of regulations prescribed by the Secretary of Labor under Public 846, 74th Congress (Series A) (1 F. R. 1405, 1634, 2049).]

[F. D. Doc. 37-2606; Filed, August 24, 1937; 10:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of August, 1937.

[File No. 1-1656]

IN THE MATTER OF CENTRAL OHIO STEEL PRODUCTS COMPANY, COMMON STOCK, $1 PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Central Ohio Steel Products Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its Common Stock, $1 Par Value, from listing and registration on the Pittsburgh Stock Exchange; and

After appropriate notice a hearing[1] having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on September 4, 1937.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2625; Filed, August 25, 1937; 12:35 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1937.

[File Nos. 47-15 and 43-73]

IN THE MATTER OF PUBLIC SERVICE CORPORATION OF TEXAS

[Public Utility Holding Company Act of 1935—Sections 10 and 7]

NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by Public Service Corporation of Texas, a registered holding company, pursuant to Sections 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935, for approval of the acquisition by it of the assets and properties of Mobeetie Gas Company, all of the issued and outstanding capital stock of which is owned by the applicant; an order having been duly entered providing for a hearing on such matter on July 30, 1937, which hearing was on that date duly continued subject to call; and

A declaration having been duly filed with this Commission by said Public Service Corporation of Texas pursuant to Section 7 of said Act regarding the assumption by it of liability on a demand note in the amount of $56,234.90 executed by said Mobeetie Gas Company in favor of the Keystone Pipe & Supply Company; and

It appearing to the Commission that these related matters should be heard and considered together:

It is ordered, That a hearing on such matters be held on September 14, 1937, at ten o'clock in the forenoon of that day at Room 1102, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1937.

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2626; Filed, August 25, 1937; 12:35 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1937.

[File No. 30-61]

IN THE MATTER OF PUBLIC SERVICE CORPORATION OF TEXAS

[Public Utility Holding Company Act of 1935—Section 5 (d)]

NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by Public Service Corporation of Texas, a registered holding company, pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935, for an order declaring that it has ceased to be a holding company, such application being subject to completion of the proposed acquisition by applicant of the assets and properties of its subsidiary, Mobeetie Gas Company, as to which an application (File No. 47-15) pursuant to Section 10 of said Act is pending before this Commission:

It is ordered that a hearing on such matter be held on September 14, 1937, at ten o'clock in the forenoon of that day at Room 1102, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party

[1] 2 F. R. 1372 (DI).

to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1937.

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-2627; Filed, August 25, 1937; 12:35 p. m.]