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TEMPORARY IMPORTATION OF ARTICLES FOR REPAIRS, ALTERATION, OR PROCESSING

APRIL 28, 1958.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 9923]

The Committee on Finance, to whom was referred the bill (H. R. 9923) to amend the Tariff Act of 1930 to permit temporary free importation under bond for exportation, of articles to be repaired, altered, or otherwise processed under certain conditions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H. R. 9923 is to amend section 308 of the Tariff Act of 1930, as amended, so as to allow imported merchandise to be entered under a section 308 import-export bond for use in the manufacture or production of articles solely for export, upon compliance with specified conditions designed to safeguard the revenue, except that such merchandise cannot be processed into an article manufactured or produced in the United States if such article is alcohol, distilled spirits, wine, beer, or any dilution or mixture of any or all of the foregoing, a perfume or other commodity containing ethyl alcohol (whether or not such alcohol is denatured), or a product of wheat.

GENERAL STATEMENT

Under the present provisions of section 308 (1) of the Tariff Act, articles may be entered, temporarily free of duty under bond for exportation, for repair, alteration, or processing. However, if the processing would be such as to result in articles manufactured or produced in the United States, entry under section 308 (1) bond is not allowed. For example, this bond procedure is not available to an importer who brings in a shipment of airplane parts for use in the manufacture by him in this country of an airplane which will be

exported. This is because the airplane would be considered to be an article manufactured or produced in the United States. In order for the importer to do this under present law, he must file a consumption entry, pay duty on the merchandise, file an application for drawback pursuant to section 313 (a) of the Tariff Act, prepare a drawback entry to cover the exported product, and await the payment of drawback of 99 percent of duties paid on the imported merchandise used. This procedure is costly and time consuming to both the importer and the Government.

H. R. 9923 would amend the relevant provisions of the Tariff Act so as to permit operations such as the one described above to be carried out under import-export bond, even though the article as exported would have been processed to such a degree as to be considered an "article manufactured or produced in the United States." The bill contains specified conditions designed to safeguard the revenue and the substantive purposes of the Tariff Act. A complete accounting would be required, to the Customs Service.

Articles entered under section 308 under bond for reexport and compliance with the other provisions of the statute are subject to the payment of the liquidated damages provided for in the bond (ordinarily measured by 125 percent of the estimated duties) in the event exportation is not effected within the statutory period. Under this provision duties as such are not collected.

Adoption of the provisions contained in the bill (designed to supplement the drawback procedures, which are the only ones available under existing law) would result in a substantial reduction of time-consuming work to the Customs Service and would enable many importers who manufacture solely for export to avoid having their money tied up for extended periods awaiting the processing of their claims for drawback.

The Department of Commerce has advised that—

the proposed legislation would have the advantage of increasing the opportunity for a producer to bring in foreign materials for embodiment in goods being prepared solely for export, inasmuch as it would make unnecessary the payment of duty and later filing for drawback. Without changing the tariff position, it simply eliminates the attendant tie-up of money and delays involved in such procedures.

The Department of Labor has stated that "as this bill would facilitate the importation of articles for repair, alteration, or processing, its enactment should have the effect of increasing employment opportunities" and that, therefore, from the standpoint of labor-market considerations, the Department of Labor approves the basic purposes of this legislation. The Treasury Department has recommended enactment of this legislation and a favorable report was made by the State Department.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TARIFF ACT OF 1930
TITLE II—FREE LIST

Section 201. That on and after the day following the passage of this Act, except as otherwise specially provided for in this Act, the articles mentioned in the following paragraphs, when imported into the United States or into any of its possessions (except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam), shall be exempt from duty:

PAR. 1615. (a) Articles, the growth, produce, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means; and articles, previously imported, with respect to which the duty was paid upon such previous importation, if (1) reimported, without having been advanced in value or improved in condition by any process of manufacture or other means, after having been exported under lease to a foreign manufacture, and (2) reimported by or for the account of the person who imported them into, and exported them from, the United States.

(b) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers of domestic or foreign manufacture, exported empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise, including shooks and staves produced in the United States when returned as boxes or barrels in use as the usual containers of merchandise.

(c) Photographic dry plates and films of the manufacture of the United States (except moving-picture films to be used for commercial purposes), exposed abroad, whether developed or not.

(d) Photographic films light struck or otherwise damaged, or worn out, so as to be unsuitable for any other purposes than the recovery of the constituent materials, provided in the basic films are of the manufacture of the United States.

(e) The foregoing provisions of this paragraph shall not apply to—

(1) Any article upon which an allowance of drawback has been made under section 1313 of this title or a corresponding provision of a prior tariff Act, unless such article is in use at the time of importation as the usual container or covering of merchandise not subject to an ad-valorem rate of duty;

(2) Any article of a kind with respect to the importation of which an internal-revenue tax is imposed at the time such article is entered for consumption or withdrawn from warehouse for consumption, unless such article was subject to an internal-revenue tax imposed upon production or importation at the time of its exportation from the United States and it shall be proved that such tax was paid before exportation and not refunded;

(3) Any article (A) manufactured or produced *in the United States* in a customs bonded warehouse [in the United States] or under section 308 (1) of this Act, and (B) exported under any provision of law; or

(4) Any article made dutiable under the provisions of paragraph 1606 (c).

(f) Upon the entry for consumption or withdrawal from warehouse for consumption of any article previously exported, which is excepted from free entry under this paragraph by the foregoing subparagraph (e) and is not otherwise exempted from the payment of duty, there shall be levied, collected, and paid thereon, in lieu of any other duty or tax, a duty equal to the total duty and internal-revenue tax, if any, then imposed with respect to the importation of like articles not previously exported from the United States, but in no case in excess of the sum of customs drawback, if any, proved to have been allowed upon the exportation of such article from the United States plus the amount of the internal-revenue tax, if any, imposed at the time such article is entered for consumption or withdrawn from warehouse for consumption upon the importation of like articles not previously exported from the United States. Manufactured tobacco subject to duty hereunder shall be retained in customs custody until internal-revenue stamps in payment of any part of the legal duties measured by a rate or amount of internal-revenue tax shall have been placed thereon. When because of the destruction of customs records or for other cause it is impracticable to establish whether drawback was allowed, or to determine the amount of drawback allowed, on a reimported article excepted under subparagraph (e) of this paragraph, there shall be assessed thereon an amount of duty equal to the estimated drawback and internal-revenue tax which would be allowable or refundable if the imported merchandise used in the manufacture or production of the reimported article were dutiable or taxable at the rate applicable to such merchandise on the date of importation, but in no case more than the duty and tax that would apply if the article were originally imported. In order to facilitate the ascertainment and collection of the duty provided for in this subparagraph, the Secretary of the Treasury is authorized to ascertain and specify the amounts of duty equal to drawback or internal-revenue tax which shall be applied to articles or classes or kinds of articles, and to exempt from the assessment of duty articles or classes or kinds of articles excepted under subparagraph (e) of this paragraph with respect to which the collection of such duty involves expense and inconvenience to the Government which is disproportionate to the probable amount of such duty.

(g) (1) Any article exported from the United States for repairs or alterations may be returned upon the payment of a duty upon the value of the repairs or alterations at the rate or rates which would apply to the article itself in its repaired or altered condition if not within the purview of this subparagraph.

(2) If—

(A) any article of metal (except precious metal), manufactured in the United States or subjected to a process of manufacture in the United States is exported for further processing; and

(B) the exported article as processed outside the United States, or the article which results from the processing outside the United States, as the case may be, is returned to the United States for further processing,

then such article may be returned upon the payment of a duty upon the value of such processing outside the United States at the rate or rates which would apply to such article itself if it were not within the purview of this subparagraph.

- (3) This subparagraph shall not apply to any article exported—
- (A) from bonded warehouse or from continuous customs custody elsewhere than bonded warehouse with remission, abatement, or refund of duty;
 - (B) with benefit of drawback through substitution or otherwise; **[or]**
 - (C) for the purpose of complying with any law of the United States or regulation of any Federal agency requiring exportation **[.]**; or
 - (D) after manufacture or production in the United States under section 308 (1) of this Act.

(4) For the purposes of this subparagraph, the value of repairs, alterations, or processing outside the United States shall be considered to be—

- (A) the cost to the importer of such repairs, alterations, or processing; or
 - (B) if no charge is made, the value of such repairs, alterations, or processing,
- as set out in the invoice and entry papers; except that, if the Secretary of the Treasury concludes that the amount so set out does not represent a reasonable cost or fair value, as the case may be, then the value of the repairs, alterations, or processing shall be determined in accordance with section 1402 of this title. No appraisal of the imported article in its repaired, altered, or processed condition shall be required unless necessary to a determination of the rates or rates of duty applicable to such article.

(b) The allowance of total or partial exemption from duty under any provision of this paragraph shall be subject to such regulations as to proof of identity and compliance with the conditions of this paragraph as the Secretary of the Treasury may prescribe.

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SEC. 308. TEMPORARY FREE IMPORTATION UNDER BOND FOR EXPORTATION.

The following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty, under bond for their exportation within one year from the date of importation, which period, in the discretion of the Secretary of the Treasury, may be extended, upon application, for one or more further periods which, when added to the initial one year, shall not exceed a total of three years;

[(1) Articles to be repaired, altered, or otherwise changed in condition by processes which do not result in articles manufactured or produced in the United States;]

(1) Merchandise imported to be repaired, altered, or processed (including processes which result in articles manufactured or produced in the United States); but merchandise may be admitted into the United States under this subdivision only on condition that—

(A) such merchandise will not be processed into an article manufactured or produced in the United States if such article is—

(i) alcohol, distilled spirits, wine, beer, or any dilution or mixture of any or all of the foregoing,

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(ii) a perfume or other commodity containing ethyl alcohol (whether or not such alcohol is denatured), or

(iii) a product of wheat; and

(B) if any processing of such merchandise results in an article (other than an article described in clause (A) of this subdivision) manufactured or produced in the United States—

(i) a complete accounting will be made to the Customs Service for all articles, wastes, and irrecoverable losses resulting from such processing, and

(ii) all articles and valuable wastes resulting from such processing will be exported or destroyed under customs supervision within the bonded period.

